

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**File No. YDN/7/2011/MDEF2/SEPROM/RU-IV**  
**File No.RSM/8/2011/MDEF2/SEPROM/RU-IV**

**Proceedings of the Sitting taken by the Vice-Chairperson, NCST on 02.09.2015 in the case of S/Shri Y.D Negi, R.S. Meena, Dy. Directors and 21 others M/o Defence (GSGS) regarding fixation of seniority on promotion by virtue of reservation.**

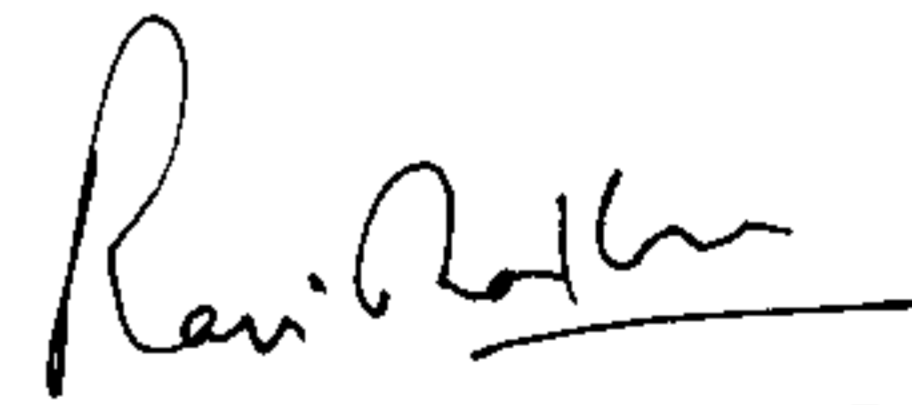
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Date of sitting: 02.09.2015

List of the officers present: (Annex - I)

In pursuance of Sitting held on 21.07.2015 the Hon'ble Vice-Chairperson advised the Ministry of Defence to submit rosters for the post of Assistants, Section Officer (erstwhile ACSO) and Deputy Director, promotion list, DPC Minutes etc maintained since 1990 till 2015 positively by 28.07.2015. Vacancy position, details of SC/ST employees who got selected on promotion as per eligibility etc., to be provided by the Ministry by 28.07.2015 so as to examine the above documents/records by the Consultant of the Commission.

2. As directed by the Hon'ble Vice-Chairperson Consultant gave his report on 11.08.2015 (Annexure- II).
3. Reference Note of Hon'ble Vice-Chairperson, the officers of Defence came for discussion on 02.09.2015.
4. The petitioner Shri R.S. Meena and others were heard who it appears were not satisfied on the report of the Consultant. The Hon'ble Vice-Chairperson said the Commission will examine the report and put up for further action.

  
रवि ठाकुर/RAVI THAKUR  
उपाध्यक्ष/Vice Chairperson  
राष्ट्रीय अनुसूचित जनजाति आयोग  
National Commission for Scheduled Tribes  
भारत सरकार/Govt. of India  
नई दिल्ली/New Delhi



# NATIONAL COMMISSION FOR SCHEDULED TRIBES

## Annexure-1

### List of participants

#### NCST

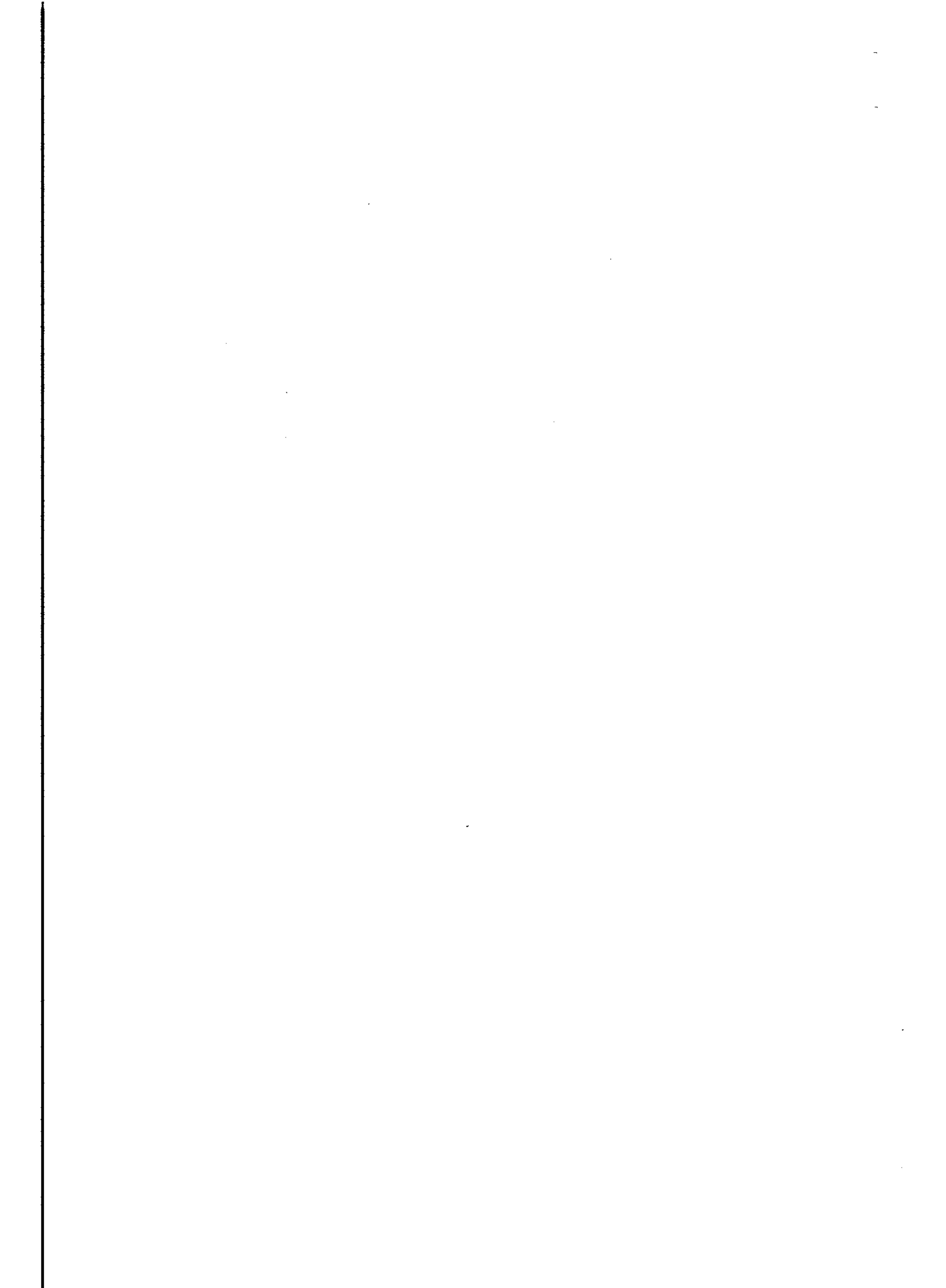
1. Shri Ravi Thakur, Hon'ble Vice Chairperson (In chair)
2. Mrs. K.D. Bhansor, Director
3. Shri S.P. Meena, Assistant Director

#### Officers of Ministry of Defence

1. Ms. J Galgotia, Director, HR, CAO
2. Shri A.N. Sinha, Dy CAO (MPR)
3. Smt. Shyamala Parsheera, Dy. Director
4. Shri V.S. Chandra Mohanan, AO, CAD

#### Petitioners

1. Shri R.S. Meena
2. Shri K.C. Meena
3. Shri R.P. Meena
4. Shri A.S. Meena
5. Shri U.S. Meena



**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**Sub: Representation of S/Shri Y.D Negi, R.S. Meena, Dy. Directors and 21 other M/o Defence (AFHQ Cadre) employees regarding fixation of seniority on promotion by virtue of reservation orders.**

A Sitting in this case was held on 20.9.2013 in the Commission with the officers of Ministry of Defence. The Commission sought documents for examination relating to fixation of seniority and promotion etc. as per discussions held on 20.9.2013. Observations of the Commission, after examination of the records, were communicated to Ministry of Defence for furnishing requisite information and related documents. The matter was again taken up with the Secretary, Ministry of Defence, New Delhi vide NCST letter dated 07.05.2015. As no report/ reply was received from the Ministry of Defence another Sitting was held on 21.07.2015 by Shri Ravi Thakur, Hon'ble Vice Chairperson, National Commission for Scheduled Tribes. Various issues raised by the petitioners were discussed, particularly application of reservation for Scheduled Tribes in promotion while holding review DPC Meetings for revising the seniority list of DR and DP Assistants in Ministry of Defence.

2. Officers of the Ministry of Defence were advised to bring the records and registers relating to DPC Meetings, seniority lists of Assistant grade and SO grade officers and the rosters of recruitments made since 1990, for examination and discussion on 28/07/2015. Smt. Jayshree Galgotia, Director (HR), Shri Naresh Viridi, Deputy CAO (P&I) and Shri Amar Nath Sinha, Deputy CAO (MPR) and Liaison Officer for SCs and STs, Ministry of Defence brought rosters and seniority lists for discussion on 28/07/2015. Since the matter related to appointment by promotion before 02/07/1997, when vacancy based rosters were replaced by the Post Based Rosters and also about the application of rule of reservation for Scheduled Tribes in the matter of promotion, it was necessary to look into the papers relating to DPC Meetings held for appointment since 1987-88 onwards so as to ensure that the names of the ST petitioners were duly considered, by the DPC as per Government instructions. Accordingly it was decided that the officers of the Ministry of Defence may bring all requisite papers and documents on 10/08/2015 for further detailed examination.

3. Smt. Jayshree Galgotia, Director (HR), Shri Amar Nath Sinha, Deputy CAO (MPR) and Liaison Officer for SCs and STs, and Ms. Shyamala Parsheera, Ministry of Defence visited the Commission along with all relevant records. Petitioner Shri R. S. Meena was also present and participated in the discussion while examination of the records. Shri Chetan Sharma, Investigator accompanied me for the examination and discussion. Following is our observations and findings in this case.

- (i) Recruitment Rules for the post of Assistant Civilian Staff Officer (ACSO), now renamed as Section Officer have the following provision:

**Substantive Vacancies**

- (a) Substantive appointments to 75% of substantive vacancies in the Grade, who have completed the period of probation

satisfactorily, subject to the rejection of the unfit.

(b) 25% of the substantive vacancies shall be filled by direct recruitment on the basis of combined competitive examination held by the Commission for recruitment to the Central Services, Group 'A' / Group 'B', Assistant Civilian Staff Officers so recruited shall be confirmed in the manner as indicated in rule 14.

The relative seniority of the above categories of officers shall be determined according to the rotation of vacancies between departmental promotees and direct recruits which shall be based on the quotas of vacancies reserved for promotion and direct recruitment.

Note (1) Reservation of vacancies, against the quota reserved for direct recruitment, for Scheduled Castes and Scheduled Tribes and released Emergency Commissioned Officers and Short Service Regular Commissioned Officers shall be in accordance with the rules and orders issued by the Government from time to time.

(2) Substantive vacancies at (b) may be filled **temporarily** by promotion from amongst Assistants on the basis of selection. Such promotions shall be terminated when the nominees of the Commission become available to fill the substantive vacancies.

#### **Temporary Vacancies**

Temporary vacancies in the Grade of Assistant Civilian Staff Officer shall be filled by temporary promotion from amongst Assistants on the basis of selection:

Provided that if any person in the Grade of Assistant is considered for promotion to the Grade of Assistant Civilian Staff Officer, all persons senior to him in the Grade of Assistant and belonging to Scheduled Tribes who have rendered not less than three years approved service in that Grade shall also be considered for promotion. Minimum 5 years continuous approved service as Assistant or in an equivalent existing Grade.

Note:- In the case of persons included in the select list for the grade of Assistant, approved service for the purpose of promotion to the Grade of Assistant Civilian Staff Officer shall count from 1<sup>st</sup> October of the year for which the select list is prepared. In the case of direct recruits to the grade of Assistants, approved service shall count from the 1<sup>st</sup> October of the year following the year of examination on the results of which they have been recruited.

- (ii) Thus the promotion process is in two stages. Initially, Assistants with five years regular service are considered for temporary promotion against the available vacancies as well as anticipated vacancies during the recruitment years. Prescribed procedure for selecting requisite number of ST candidates has been followed by extending the Zone of consideration to five times the total number of vacancies. These vacancies include (i) vacancies earmarked for promotion quota (ii) DR vacancies which are unfilled pending nomination of regular candidates through the UPSC and (iii) vacancies which are created due to temporary promotion or proceeding on deputation etc..
- (iii) Thus all the vacancies against which temporary promotions are made do not fall in the category of clear vacancies for the year

against which substantive promotions are made in the second stage. As, clear vacancies available for regular promotion are less than the total temporary promotions made during a year, the size of regular promotee will be much less than the number promoted on temporary basis during the year. This leads to continuous increase in waiting list for regular promotion against substantive vacancies.

- (iv) The number of substantive vacancies for regular promotion being less the extended Zone of consideration for ST employees (which is five times the number of vacancies) will be smaller than the ZoC for the total temporary vacancies. If no ST candidate is available even within the extended ZoC, no ST employee will be empanelled in the list of promotees to substantive vacancies, as per the instructions on the subject. Thus every employee in the Assistant grade has to wait for regular promotion till his turn in the seniority list matures in relation to the number of substantive vacancies occurring during a recruitment year.
- (v) It was confirmed from the records, and also by the petitioner Shri R. S. Meena, that no general candidate or non-ST candidate, recruited as Assistant along with Shri R. S. Meena has superseded Shri Meena. In-fact all other candidates got selected much later than Shri Meena as Shri Meena had got the benefit of extended ZoC prescribed for Scheduled Tribes in the matter of promotion. Same was the position with regard to other petitioners who are party to the representation under consideration.
- (vi) As the cadre is very large and assessment of clear vacancies (substantive vacancies) for regular promotion and collection of requisite details and documents in respect of each eligible candidate takes time and this causes delay in regular promotion. However, the provision for temporary promotion made in the Recruitment Rules ensures that each Assistant get the benefit of higher pay and experience in the higher grade of ACSO through the process of temporary promotion without waiting for regular promotion.
- (vii) The petitioners had no further grievance in regard to promotion from the post of ACSO to Deputy Director.
- (viii) Same is the position in the cadres belonging to other Ministries and Departments. Candidates are initially promoted on ad-hoc basis and regular promotions takes place much later and the seniority position of each promoted employee is fixed according to the date of regular promotion.

In view of above, it is confirmed that the Government instructions relating to reservation for Scheduled Tribes have been followed by AFHQ (Ministry of Defence) in the matter of promotions of Assistants to the posts of ACSO and higher grade in the CS cadre of AFHQ. The directions given by the Supreme Court of India in the Court cases mentioned in the representation and also referred during the discussions have been followed.

4. An important issue which is perhaps the root cause of the grievance of the ST candidate which was explained by the Ministry of Defence during the discussion is that adequate number of ST candidates in Assistant grade were not provided by the recruiting agency (Staff Selection Commission and previously UPSC) during each recruitment year. Consequently, the seniority of ST candidates, whenever recruited and provided to the AFHQ

cadre would be very low as compare to UR candidates. Since Rules provided for exchange of vacancies from ST to SC and vice-versa before 2/07/1997 and ST candidates were not available, the unfilled ST reserved vacancies were being filled from SC candidates and no ST reserved point was carried forward for being filled from ST candidates later. As requisite number of ST candidates was not available even within the prescribed extended Zone of consideration, the benefit of reservation for Scheduled Tribes was not possible to be ensured. Officials from the Ministry of Defence assured that a detailed note on the subject along with a statement number of posts reserved for Scheduled Tribes and the number of ST candidates sponsored by the recruiting agency will be furnished to the National Commission for Scheduled Tribes in confirmation to their statement that adequate number of ST candidates were not sponsored by the recruiting agency.

5. Submitted for kind perusal and consideration of Hon'ble Vice Chairperson, National Commission for Scheduled Tribes. Director (RU-IV) may also please see.

*[Signature]*  
 RC Durga  
 Consultant  
 11/08/2015

Director (KDB)

*U.K. Singh  
 ses  
 present*  
 to RU IV *[Signature]*  
 11/8/2015