



राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
(भारत के संविधान के अनुच्छेद 338क के अंतर्गत एक संवैधानिक निकाय)
(A Constitutional body under Article 338A of the Constitution of India)

F. No.NCST/SER-1104/MFIN/17/2023-SSW

Dated:- 12.09.2024

To,

Shri Sanjay Kumar Agarwal
Chairman,
Central Board of Indirect Taxes & Customs,
Department of Revenue,
North Block- 110001
Email Id: chmn-cbic@gov.in, Tel. No: 01123092849

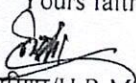
Sub:- Denial of promotion to ST Employees by Central Board of Indirect Taxes and Customs - a representation dated 18/09/2023 received from Shri Prashant Kanwat, Tax Assistant & eight Others, D/o CBIC, New Delhi.

महोदय,

I am directed to refer to subject cited above and to enclose herewith a copy of minutes of the sitting held under the Chairmanship of Shri Jatothu Hussain, Hon'ble Member, National Commission for Scheduled Tribes (NCST) on 02.09.2024 at 3:30 PM in NCST, New Delhi.

It is requested that action taken / to be taken in the matter may be submitted to NCST within stipulated time for placing it before the Commission.

Yours faithfully


(एच.आर.मीणा/H.R.Meena)
अनुसंधान अधिकारी / Research Officer
Telephone No. : 24641640

Copy to:-

Shri Prashant Kanwat and others,
Flat No.104
Rps Colony, Khanpur,
New Delhi - 110062,
Mobile No: 9999261126

Copy for information to:-

1. PS to Hon'ble Member (Shri J. Hussain)
2. NIC, NCST for uploading on the website of the Commission

National Commission for Scheduled Tribes

Minutes of the Sitting held under the Chairmanship of Shri Jatothu Hussain, Hon'ble Member, National Commission for Scheduled Tribes at Lok Nayak Bhawan, New Delhi, regarding denial of promotion due to non creation of extended zone of consideration in the case of Shri Prashant Kanwat, Tax Assistant, and 10 others, Mumbai Customs Zone.

File No: NCST/SER-1104/MFIN/17/2023-SSW

Date of the Sitting: 02/09/2024, 03:30PM


Participants in the Sitting: As per Annexure

Shri Prashant Kanwat, Tax Assistant and 10 others, Mumbai Customs Zone vide their representation dated 18/09/2023 has stated that the RR rules for promotion to the post of Executive Assistant (EA) from the post of Tax Assistant was amended in 2015 and 2022 wherein the qualifying service for promotion to the post of EA (then STA) was changed from 3 years to 10 years. Due to this change in the qualifying service, no. of promotion quota vacancies remained unfilled and piled on as no officer was eligible to be considered for promotion. Further, with the approval of DoPT and UPSC, one time relaxation was granted for promotion from Tax Assistant to Executive Assistant by relaxing the criteria from 10 years to 6 years and also for 4 years (in case a junior officer is considered for promotion then relaxation may be given to senior officer may be given to 4 years). But only Unreserved candidates were promoted under this while SC/STs were not given this benefit.

NCST vide notice dated 09.11.2023 had referred the matter to Chairman, Central Board of Indirect Taxes and Customs for furnishing the facts and comments within 30 days of the receipt of the notice. The CBIC, New Delhi vide letter dated NIL November 2023 referred the matter to the Chief Commissioner of Customs, Mumbai for providing a suitable reply to NCST.

The O/o Principal Commissioner of Customs (General) vide reply dated 12.12.2023 stated that

- The promotions were based on a "One Time Relaxation" (OTR) scheme that required officers to be in their position as of 28.09.2015 and to have completed more than six years of regular service by 01.01.2022.
- The senior-junior clause was implemented, which ensured that senior officers with at least 4 years of qualifying service were considered for promotion, if their juniors were eligible under OTR.
- Two Departmental Promotion Committees (DPCs) were conducted to consider eligible candidates under the OTR scheme. The first DPC was on 30.12.2022 (for 185 vacancies – UR 143, SC 29 and ST 13) and a review DPC on 08.06.2023 (for 188 vacancies – UR 143, SC 29, ST 13 and anticipated vacancies being 3) extended the OTR benefits to those initially left out due to the non-implementation of the Senior-Junior clause.
- For the vacancy year 2022, there were 188 vacancies (UR-143, SC-29, ST-13), but only 157 officers were promoted due to the lack of eligible SC/ST candidates.
- The petitioners, including Shri Prashant Kanwat, were not eligible for promotion as they were not in position on 28.09.2015 and had not completed six years of service by 01.01.2022. No junior officers to them were promoted.
- A junior officer, Shri Indrajeet Mohite, was considered for promotion in the 2023 vacancy year after completing 10 years of service (without using relaxation criteria), and since he wasn't promoted in 2022, his seniors were also not considered in 2022.
- The representation of the petitioners was examined, and it was concluded that there was no undue or unjust denial of promotion. All eligible SC/ST officers were promoted based on merit and available reserved vacancies, following the rules and guidelines.


जाटोतु हुसेन / Jatothu Hussain
सदस्य / Member
भारत सरकार / Government of India
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
नई दिल्ली / New Delhi

The petitioner vide letter dated 19.01.2024 had refuted the facts / comments and requested for a hearing. This was forwarded to O/o Principal Commissioner of Customs, Mumbai vide NCST letter dated 11.03.2024.

Principal Commissioner of Customs (General) vide reply dated 18.04.2024 stated that Shri Indrajeet Mohite had been considered in 1st DPC held 08.12.2022 but later after implementation of senior junior clause he was not considered. Since he was not considered, his seniors also cannot be considered as per senior junior clause.

The Commission has decided to discuss the issue with Chairman, Central Board of Indirect Taxes and Customs, Department of Revenue, New Delhi and the petitioner on 02.09.2024. This was communicated vide NCST sitting notice dated 28.08.2024. The petitioner was also informed to attend the sitting.

In the meeting, the Principal Commissioner of Customs, Mumbai Zone and Joint Secretary, Central Board of Indirect Taxes and Customs were present. Joint Secretary, CBIC informed that the CBIC was committed to promoting employees as per rules and filling the vacancies and this is the reason that One Time Relaxation scheme was brought. The Principal Commissioner further informed that the petitioners were not in position by 28.09.2015 and had also not completed 6 years of service by 01.01.2022. Their junior, Shri Indrajeet Mohite had also not been promoted per OTR hence the petitioners could not be given the benefit of Senior Junior clause either. The petitioners stated that 13 vacancies still remained vacant and the department should have constituted extended zone of consideration. They stated that other zones have constituted extended zone of consideration and if Mumbai zone had followed the same procedure, they would have been promoted.

After hearing both the sides, the Commission recommends the following and suggested that Action Taken Report may be submitted within 30 days –

- Petitioners were advised to provide a copy of the action taken by the other zones of the CBIC for granting the benefits of extended zone of consideration to ST employees, as shown in the Sitting.
- CBIC may re-examine the issue of promotion to the petitioners, as per law.
- Special Leave and Travelling Allowance may be provided to all the petitioners, who were present in the sitting.

(Jatohu Hussain)
Member
National Commission for Scheduled Tribes
Govt. of India
New Delhi

जाटोतु हुसेन / Jatohu Hussain
सदस्य / Member
भारत सरकार / Government of India
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
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List of participants of the sitting held on 02.09.2024 at 3:30 PM under the Chairmanship of Shri J. Hussain, Hon'ble Member, NCST in the case of Shri Prashant Kanwat and 10 others, Tax Assistant, Mumbai Customs Zone regarding denial of promotion to ST employees by Central Board of Indirect Taxes and Customs.

I	<u>Central Board of Indirect Taxes & Customs</u>
1.	Shri Rajan Chowdhary, Principal Commissioner, Mumbai Customs Zone
2.	Smt. Himabindu Mudumbai, Joint Secretary (Admin), CBIC
II	<u>Petitioner</u>
	Shri Prashant Kanwat and others