

Minutes of the Sitting held on 23.6.2014 under the chairmanship of Hon'ble Vice Chairperson, National Commission of Scheduled Tribes regarding representation from Shri Gajendra Singh, Executive Director, GAIL (India) Limited, New Delhi on Harassment and Discrimination committed against him

List of participants is enclosed.

2. At the outset, Hon'ble Vice Chairperson introduced representatives of NCST Commission and desired the representatives from PESB, GAIL and Petitioner to introduce themselves.

3. Petitioner Shri Gajendra Singh was asked by the Chair to present his case.

(i) **Petitioner submission:** Shri Gajendra Singh thanked the Chair for giving an opportunity of personal hearing to represent his case of harassment and discrimination during the process of selection of Board level positions in GAIL (India) Limited.


It was informed by him that in 1986, he has been recruited in GAIL against the notified position and qualification of *"Degree in Electronics / telecommunications Engineering or Master's Degree in Physics with Electronics as a special subject or equivalent"*. Since then, he has been considered at par with Engineering graduates and promoted to Executive Director level. PESB has also considered this qualification in 2009, 2010 and 2012 at par with Engineering.

Shri Singh further informed that in 2013 and 2014, his qualification was deliberately considered under 'relaxed' qualification criteria and PESB started asking targeted questions to isolate him from competition and not giving an equal opportunity.

(ii) **GAIL's view:** Shri B C Tripathi, CMD, GAIL informed that since Gajendra Singh who has Master's Degree in Physics with Electronics as a special subject, meets the notified induction level qualification, hence, GAIL treat his qualification at par with Engineering graduates and accordingly he has been promoted on time and on fast track basis and currently he has been given the responsibility of two departments. Further, CMD GAIL endorsed the views of Shri Gajendra Singh regarding equivalence of his qualification.

He further informed that currently in fresh recruitment Masters Degree in Physics is not being considered equivalent to Engineering Degree.

(iii) **PESB's view:** The representative of PESB informed that under Qualification, the criteria was either (a) Engineering Graduate or (b) equivalent qualification and (c) minimum qualification is relaxable in case of internal candidates. PESB has considered Mr. Singh's application under ICL.

  
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(iv) **Petitioner's View:** After hearing GAIL's and PESB representative's view, Petitioner informed the following

(a) It is evident that GAIL considers me as eligible. However, PESB considers my qualification under 'relaxed'. In no circumstances my qualification fall under 'relaxed' category. In early 80s only few colleges were given engineering degree in electronics and communication.

(b) PESB was asked on which are the Degrees they consider equivalent. There was no appropriate reply from PESB.

(c) It is agreed that currently Masters Degree is not considered equivalent to Engineering for the selection of fresh graduates. However as Board level positions require more than 20 years of experience, the equivalence is to be considered as relevant 20 years ago when these degree were considered equivalent which is as per the notified criteria published in the newspaper by GAIL (Copy of notification was submitted).

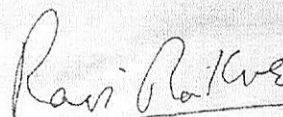
4. The petitioner further informed that the selection process was influenced by GAIL by carrying out pre-selection and forwarding names on pick and choose basis to PESB by GAIL.

i. **GAIL's view:** CMD, GAIL informed that PESB in the letter inviting applications has sought names of 'suitable' candidates. To scrutinise and shortlist the 'suitable' internal candidates for Director (BD) position, a 3 member Board level Committee was constituted by CMD. Eight (8) names, out of 16, were forwarded to PESB. Also, informed PESB that in case there is a requirement for additional names, it can be forwarded by GAIL subsequently. CMD GAIL informed that the shortlist was carried out by GAIL in accordance to PESB letter dated 12.11.2012 and guidelines.

ii. **PESB's view:** It was informed that they receive applications from different CPSEs and the number of applications vary from PSE to PSE. In some cases, they have received as large as 32 applications.

iii. **Petitioner's view:**

(a) It was presented that 'suitable' word exists in all earlier PESB notifications and applicable to all CPSEs. For GAIL's Board level position, pre-selection was carried out first time without any approved procedure. Even for forwarding applications for Board level positions in other CPSEs, pre-selection process by Board Level Committee is not followed by GAIL. Pre-selection process as carried out by GAIL for 16 number of internal candidates who had submitted the application for Board level position of Director (BD), GAIL shows the mala-fide intention behind the process.



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As per the guidelines available on PESSB website, all applications will be received by PESSB from different CPSEs and State PSUs etc. Thereafter shortlisting of candidates in a uniform manner using same benchmark should be done by PESSB. Two agencies cannot do overlapping work of shortlisting in the same process. This shows that the pre-selection process was inappropriately followed by GAIL selectively and is not made known to the candidates prior to applying for Board level positions in GAIL and other PSUs.

(b) The PESSB circular, referred by GAIL, clearly indicates that the restriction of 8 internal candidates will be exercised by PESSB only once they receive more than 15 applications in total including those from other CPSEs and State PSUs etc. It does not restrict any CPSE to forward more number of applications. In recent past, more than 8 internal candidates were called against Board level positions in different CPSEs.

(c) As per the notification "No application shall be entertained under any circumstances after the stipulated date...". In the instant case, the applications were forwarded on last day in the evening hours and PESSB could not have asked for further names without additional notification. Hence, there was virtually no scope for sending additional names by GAIL as informed by CMD.

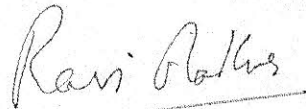
5. On the selection for Board Level position, Vice Chairperson sought comments from all representatives:

- (i) GAIL's view: CMD informed that his role is to assist the Board in making its recommendations.
- (ii) PESSB's view: They have shown the proceeding paper to the Chair and informed that there is no marking system considering qualification, experience, performance, interaction with Board etc.
- (iii) Petitioner's view: The questions asked by 3 out of 4 members in last 2 interactions was limited to qualification whereas for the respective Board level positions, the questions regarding business acumen, strategic perspectives, performance, experience, managerial ability and capability, leadership and vision of an applicant were not asked.

6. Commission's Observations/Findings

Based on the documents i.e. petitioner's representation, replies given by PESSB, GAIL, and documents provided by representatives of PESSB, GAIL and petitioner during the Commission meeting and deliberations held, the following observations/findings have been identified in the matter;

- (i) The Commission has called some information from PESSB vide letter No. GS/2/2014/MPNG 1/SEOTH/RU-II dated 26/03/2014. But the PESSB has not provided

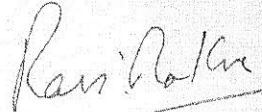


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any information with regard to ST candidate's participation and ST candidates recommended by PSEB in the last 5 years. Also with regard to criteria of selection and relevant authority, PSEB submitted copy of notings on file No. 7/36/2013-PESB wherein only the list of the candidates, forwarded from various sources, has been processed. PSEB representative also gave a copy of letter wherein recommendation forwarded to ACC for approval wherein only one candidate recommended (letter No. 7/36/2013-PSEB dated 12/03/2014). The PSEB failed to provide any criteria for collection or rejection of the candidates to whom they have called for interview. The "minutes of the meeting" of the PSEB which were only shown to Commission and copy has not been provided, being Secret, it is identified that a one line decision has been given by PSEB, without indicating any criteria for considering candidates, who participated, for their rejection or selection. There is clear arbitrariness identified in the decision making by PSEB while recommending one particular candidate without any criteria defined. This is way beyond the principle of transparency and natural justice.

(ii) With regard to information called from GAIL for authority for discretion for nominations of candidates, the representative of GAIL submitted a copy of instructions issued by PSEB downloaded from Internet wherein the only percentage of various types of candidates to be called for interview has been indicated (letter No. 7/36/2013-PESB dated nil refers.) It is identified that without any guidelines laid down by Govt. of India or Board of the GAIL, the GAIL CMD has, suo moto, created a Board for selection of candidates, to be forwarded to PSEB. This process has been adopted for the first time based on the decision given by the CMD, GAIL as he accepted during the meeting. Further to it, the candidates who were otherwise identified eligible by the said Board in GAIL, their names have also not been forwarded to PSEB. The CMD, GAIL explained their eligibility was not considered by him due to other issues. It appears from the report submitted by the said Board constituted by the CMD GAIL and the decisions taken by the CMD, GAIL that apparently effort has been made just to include the person in the list, which incidentally got selected. If GAIL has forwarded the list of eligible candidates without local scrutiny through Board or not stopping some other eligible official declared eligible in the internal scrutiny Board of GAIL, then by no chance the name of the official who has incidentally recommended, could have got included in the list forwarded by GAIL to PSEB.

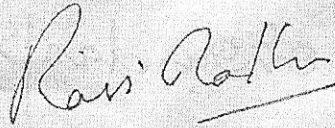
(iii) As per the advertisement given by PSEB (letter No. 7/36/2013-PESB dated 20/09/2013 refers), the qualification indicated as "engineering graduate" or equivalent, preferably in mechanical, chemical or electrical engineering with good academic record. At the induction stage, the science graduate has been treated equivalent to engineering as happened in the case of petitioner, who was science graduate and has been given all promotions even under Fast Track. The prescription of the said qualification by PSEB i.e. "Engineer graduate" clearly bar the petitioner from the eligibility. Perhaps, for the sake of just to include him for interview, he has been considered being a post graduate engineer in physics with electronics as a special subject or equivalent. This action of PSEB almost barred everybody including the petitioner and those who came through science graduate scheme. These officials due to their hard work reaches to higher positions but barred from the position of Director, Business Development, in GAIL. This is no lawful and against the Law of Natural Justice on the part of PSEB.

  
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Recommendations:

Based on the deliberations, documents provided by petitioner, PESSB, GAIL and as observed in para 6 above, the issue of grievance of petitioner due to biased, discrimination, lack of transparency has been clearly identified in the case. Thus, the Commission has advised that the selection process for the post of Director, Business Development, GAIL India, should be reviewed and a fresh action may be initiated by adopting a transparent process, and giving equal opportunity to a reserve category candidate (ST petitioner) in order to address his grievance.

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