



Government of India
National Commission for Scheduled Tribes

6th floor, 'B' Wing, Loknayak Bhawan
Khan Market, New Delhi-110 003.

File No. GP/1/2015/MRLY1/SEPPROM/RU-I

Date: 01/12/2015

To

The Additional Member (Staff),
Ministry of Railways,
Railway Board, Rail Bhawan,
Rafi Marg,
New Delhi – 110001.

Sub: Representation dated 11/05/2015 from Shri Gaya Prasad, Advocate, H. No. 10155-B, West Gorakh Park, Street No. 1, Shahadara, Delhi, complaining against Shri Anil Kumar Khatpal, Divisional Railway Manager (DRM), N. Rly., Ambala Cantt. for not promoting ST employees against the post meant for them.

Sir,

I am directed to enclose a copy of the minutes of the Proceedings of the Sitting held in the NCST on 18/09/2015 on the above mentioned subject for information and further necessary action. Compliance Report may be submitted to the Commission as soon as possible.

Encl: As above

Yours faithfully,

(Pramod Chānd)

Deputy Secretary to the Govt. of India

Copy to:

Shri Gaya Prasad,
Advocate,
H. No. 10155-B,
West Gorakh Park,
Street No. 1, Shahadara,
Delhi – 110032.

Copy for information to:

1. PS to Hon'ble Chairperson, NCST.
2. SSA NIC (for hosting on Commission's website).



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Govt. of India
National Commission for Scheduled Tribes

File No. GP/1/2015/MRLY1/SEPROM/RU-I

Sub: Minutes of the Sitting in the case of Shri Gaya Prasad, Advocate, regarding not promoting ST employees to the post of Loco Pilot (Goods) in the Grade of Rupees 9300 – 34800 + 4200 (Grade Pay) held under the Chairmanship of Hon'ble Chairperson in the National Commission for Scheduled Tribes.

1. A Sitting was held under the Chairmanship of Hon'ble Chairperson, National Commission for Scheduled Tribes on the above mentioned subject with the Member (Staff) and other Officers. Ministry of Railways in the Conference Room, National Commission for Scheduled Tribes at 12:30 P.M on 18/09/2015.
2. The list of participants in the Sitting is given at Annexure A.
3. Expressing his grievances, the petitioner, Shri Gaya Prasad, Advocate stated that while issuing the notice dated 15/12/2014 promoting 132 candidates to the post of Loco Pilot (Goods) in the Grade of Rupees 9300 – 34800 + 4200 (Grade Pay), the Railways did not give benefit of reservation to candidates belonging to reserved categories. The entire quota for ST category was kept vacant and not filled up despite availability of eligible ST candidates. The ST employees met the Officer concerned with a request for filling up ST quota in the above mentioned promotion of Loco Pilot (Goods) but in vain. He has further stated that the action of the Railways not promoting the ST employees is illegal, arbitrary, discriminatory and violative of the reservation policy of the Govt. of India.
4. It has been stated in the impugned notice dated 15/12/2014 of the Railways that the select list is provisional and is subject to final outcome of O.A. No. 2058/2012 titled "Mahender Singh Adhikari & Others" v/s UOI. pending in Hon'ble CAT/High Court and similar SLP/CWP pending before the Hon'ble High Court/Supreme Court. It was also informed that against the issuance of this select list, the affected SC/ST candidates have filed a case in the CAT.

Rameshwar Oraon

डॉ. रामेश्वर उरांव/Dr. RAMESHWAR ORAON
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

5. On being asked by the Hon'ble Chairperson, Member (Staff), Railway Board submitted that the Ministry of Railways always follow the reservation policy of the Govt. of India and scrupulously implement Guidelines/Rules/Orders issued by DoPT in this regard. Ministry of Railways has already written to DoPT to issue necessary orders on the basis of Hon'ble Supreme Court judgment dated 19/10/2006 in the case of M. Nagaraj and others v/s UOI (WP Civil 61 of 2002) wherein it has been directed that before making provision for reservation in promotions, State will have to show in each case the existence of the compelling reason namely backwardness, inadequacy of representation etc. A number of Court cases are being filed on the Zonal Railways for implementing/following M. Nagaraj's judgement and not to provide reservation for SCs/STs in promotions. DoPT was, therefore, requested to clarify in the matter and issue operative directions for Ministry of Railways which is still awaited.
6. Hon'ble Chairperson assured that the Commission would also request DoPT to expedite the matter in this regard. He further suggested that since the matter is sub-judice the Commission cannot comment on it. He has however, directed Ministry of Railways to always take a sympathetic and supportive view towards the candidates of Scheduled Tribe category. He has further directed that Ministry of Railways should ensure the adequate representation of ST employees in all promotions and Railway should defend the cause of ST candidates in the Court of Law.
7. Chairperson suggested the Commission's Office to find out any guidelines issued by DoPT in this connection and also advised the DoPT to issue guidelines as asked by the Railways (in Para 5 above).
8. The Sitting ended with a vote of thanks to the Chair.

Rameshwar Oraon

डा. रामेश्वर उरांव/Dr. RAMESHWAR ORAON
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
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नई दिल्ली/New Delhi

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ATTENDANCE SHEET

For the Sitting in the case of Shri Gaya Prasad, Advocate, be held on
18/09/2015 at 12:30 P.M.

Attendance Sheet

Sr. No.	Name and Designation
I	<u>National Commission for Scheduled Tribes</u>
1.	Shri Rameshwar Oraon, Hon'ble Chairperson
2.	Shri Pramod Chand, Deputy Secretary
II	<u>Ministry of Railways</u>
1.	Shri K. Mal, Executive Director,
2.	Shri Dinesh Kumar, DRM/UMB/NR
3.	Shri Alok Kumar, CPO/A, NR
4.	Shri Anand Mathur, CPO/NR
III	<u>Petitioner</u>
1.	Shri Gaya Prasad