



भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जन जाति आयोग

National Commission for Scheduled Tribes

(A Constitutional Body set up under Art. 338A of the Constitution of India)

Case File No. RSM/12/2017/MDEF2/SEOTH/RU-IV

Dated:13.06.2019

To,

The Engineer in Chief,
Military Engineering Services,
Integrated HQ of MoD (Army),
Kashmir House, Rajaji Marg,
New Delhi – 110 011.

Sub: Proceedings of the Sitting taken by Smt. Maya Chintamn Ivnate, Hon'ble Member, National Commission for Scheduled Tribes (NCST) on 29.05.2019 in the case of Shri Ramswaroop Meena, (S/o late Shri Ram Meena, MES, Garrison Engineer Jaipur, Tehsil Bhasti, Jaipur (Rajasthan) regarding non providing compassionate appointment by the MES, Ministry of Finance.

Sir,

I am directed to enclose a copy of the Proceedings of the Sitting held on 29.05.2019 under the Chairmanship of Smt. Maya Chintamn Ivnate, Hon'ble Member, National Commission for Scheduled Tribes on the above mentioned subject.

It is requested that action taken report in the matter may be intimated to the Commission, within 30 days positively for placing the same before the Hon'ble Member, NCST.

Yours faithfully,

(Y.K. Bansal)

Research Officer

Copy to:

Shri Ramswaroop Meena,
S/o late Shri Pachu Ram Meena,
Gram – Khorani Badiyali,
Post-Baskot, Tehsil – Bhasti,
District – Jaipur
(Rajasthan).

Copy to: - SAS, NIC, NCST

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. RSM/12/2017/MDEF2/SEOTH/RU-IV

PROCEEDINGS OF SITTING HELD ON 29.05.2019 CHAIRED BY SMT. MAYA CHINTAMN IVNATE, HON'BLE MEMBER, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF SHRI RAMSWAROOP MEENA, VILLAGE-KHORI, TEHSIL-BASSI, DISTRICT-JAIPUR, RAJASTHAN REGARDING NON PROVIDING COMPASSIONATE APPOINTMENT BY THE MES, MINISTRY OF DEFENCE.

Date of Sitting: 29.05.2019

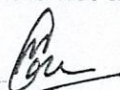
List of officers present in sitting is Annexed.

The petitioner Shri Ramswaroop Meena, Village – Khori, Tehsil-Bassi, District-Jaipur, Rajasthan vide his representation dated NIL has submitted the grievances of non providing compassionate appointment by the MES, Ministry of Defence.

He alleged that his father late Shri Panchu Ram was working as Mazdoor in MES (in the office of Garrison Engineer), Khatipura, Jaipur and expired on 02.05.1979 during the service tenure. At the time of his father's death, he and his sister, brothers were small kids and his mother was illiterate. In addition, the departmental officers did not tell him about submission of application in prescribed time frame. However, his mother had applied for compassionate appointment and the said application was rejected stating that no official records of the deceased employee is available. He had made several representations but his request for compassionate appointment was rejected on the grounds of non-availability of documents.

2. NCST vide its notice dated 22.01.2018 sought a report from the Engineer In Chief, Military Engineering Services, Integrated IQ of MoD (Army), New Delhi. Thereafter, the O/o the Chief Engineer, South Western Command, C/0 56, APO vide its letter dated 15.03.2018 informed the facts of the case that the concept of compassionate appointment is largely related to the need for immediate assistance to the family of deceased Govt. servant in order to relieve it from economic distress and not as a job aspiration to be claimed at any stage. The policy has been clarified vide para 35,36 & 43 of Frequently Asked Question by the E-in-C's Branch and Swamy's Compilation that 'the person who does not fulfil education qualification of post can be appointed as trainee and he has to acquire the applicable qualification as per Recruitment Rules (RS) within prescribed time and a widow of deceased Govt. servant can be appointed against MTS post or the erstwhile Gp D post (now Gp C post) which she can perform satisfactorily with the help of some on job training. Therefore the wife could have been appointed on demise of the Govt servant if she had appeared in comparative merit against the released vacancy on applying for compassionate appointment.'

The belated case (i.e the case where applicant have applied for compassionate appointment after more than five years of the death of Govt. servant) are considered on verification of means of survival for the interim duration including the present financial status on approval of the competent authority of Govt. of India and the Hon'ble Supreme Court had upheld and laid down the important principal as "compassionate appointment cannot be granted after lapse if a reasonable period and it is not a vested right which can be exercised at any time in future."


Smt. Maya Chintamn Ivnate
Member
National Commission for Scheduled Tribes
Govt. of India
New Delhi

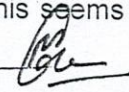
The complainant applicant has applied at this belated state whereas his father had expired on 02.05.1979 (i.e. 39 years back). The Applicant could have been minor at the time of death of Govt. servant (i.e. 02.05.1979) however 39 years have elapsed since then and his mother could have sought the same during this period. Therefore, comparative consideration of other applicant dependent family member of a Govt. servant dying in harness or who is retired on medical ground in recent time thereby leaving his family in penury and without any means of livelihood deserve merit, so as to prevent the family from financial destitution. Therefore, in old cases, a view would have to be taken as to whether the appointment in comparison to another family which may be in a great need of immediate support for subsistence.

3. Since, the Department's report was found to be unsatisfactory and therefore, a sitting was fixed on 29.05.2019 before the Hon'ble Member, NCST, Smt. Maya Chintamn Ivnate to have a discussion in the matter.

4. In sitting, the Chief Engineer, MES, Jaipur Zone and Acting Director, EIC, O/o the Chief Military Engineer (Integrated), Ministry of Defence appeared. However, the petitioner could not present due to his illness.

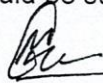
5. During the sitting, the issue of non providing compassionate appointment to Shri Ram Swaroop Meena in place of his deceased father was discussed. The Chief Engineer, Jaipur Zone informed the Commission that the compassionate appointment matters are dealt with as per the guidelines issued by the DoPT. In the petitioner's case, his father had expired on 2nd May, 1979 i.e. 39 years back. The petitioner had applied for compassionate appointment in 1999 i.e. passing of more than 20 years of deceased employee. Thereafter, his case of appointment for the post of Mazdoor in MES was considered by the competent authority during 1999-2000 and could not be accepted due to non presentation of a picture of grant indigence and justification for the need of providing employment assistance to the family and lapse reasonable period. The petitioner was also intimated vide letter dated 26.12.2000 and 15.01.2001. Being aggrieved of the rejection of the case, the petitioner filed a case in Hon'ble CAT, Jaipur and Hon'ble High Court, Jaipur and both cases were dismissed by the Court on the ground of delay. The petitioner once again submitted another application after 16 years of the Hon'ble Court's judgements for appointment. The application was examined and it was found that the old service record of the deceased employee Shri Panchu Ram Meena was destroyed. Accordingly, GE, Jaipur vide letter dated 06.06.2016 informed to the petitioner that the case cannot be considered as the papers of the case was destroyed. Presently, the petitioner has filed another case at CAT, Jaipur vide O.M. No. 291/545/2017 which is still pending.

6. The case was discussed in detail. The Commission observed that the petitioner belongs to poor ST family and does not have any source of income. The Govt. has a policy for providing compassionate appointment to the next kin of the deceased employee who dies in harness. The policy does have some parameters to consider the appointment cases. In the instant case, the petitioner had applied for compassionate appointment in the year 1999 and his application was rejected by the MES authorities stating that the petitioner could not submit justification for need of employment Assistance. However, the case should be considered as per the DoPT guidelines which provides consideration of cases on the grounds of family's financial condition, family dependents, employed family members etc. Moreover, the employment case should have been decided by a Committee constituted for this purpose in the Department. But in this case, no Government's rules followed and the petitioner is still fighting for employment for last 20 years. This seems to be a case of harassment with ST petitioner.


Smt. Maya Chintamn Ivnate
Member
National Commission for Scheduled Tribes
Govt. of India
New Delhi

7. The Commission, therefore recommends that being as a special case and keeping in view of financial status and family responsibilities, the MES authorities should re-consider the petitioner's case for compassionate appointment, as per the guidelines issued by the DoPT. The data about providing compassionate appointment to the candidates belonging to general as well as ST candidates separately for last 10 years be also made available to the Commission.

8. An action taken report on the Commission's recommendations should be submitted to the NCST within 30 days from the receipt of this proceedings.


Smt. Maya Chintamn Ivrate
Member
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NATIONAL COMMISSION FOR SCHEDULED TRIBES

Case File No. RSM/12/2017/MDEF2/SEOTH/RU-IV

List of participants

NCST

1. Smt. Maya Chintamn Ivrate(In chair)
2. Shri P.T. Jameskutty, Deputy Secretary
3. Shri Y.K. Bansal, Research Officer
4. Shri H.R. Meena, Sr. Investigator
5. Shri Sudhir Atram, PS to Member

Officers of Ministry of Defence

1. Shri T.S. Reddy, Chief Engineer, CE, Jaipur Zone
2. Lt. Con. B.D. Sharma, Acting Director, EIC, Chief Military Engineering Branch, (Integrated), Ministry of Defence.
3. Shri Lokesh Kumar, ASO, EIC.

Petitioner