



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)

File No. BK/8/2017/MCOL1/SEOTH/RU-IV

Dated: 16.05.2019

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To,

The Chairman cum Managing Director,
Central Coalfields Limited,
Dharbanga House,
Ranchi – 834 001 (Jharkhand).

Sub: Proceedings of the sitting taken by Smt. Maya Chintamn Ivnate, Hon'ble Member, National Commission for Scheduled Tribes (NCST) on 29.04.2019 in the matter of Shri Baldev Kumar, Assistant Secy. R/o Railway Siding Tipla, Post- Sayal, District- Ramgarh, (Jharkhand) regarding denial of compassionate appointment to Miss. Reena Kumari, Sister of deceased employee of CCL.

Sir,

I am directed to enclose herewith a copy of the Proceedings of the Sitting held on 29.04.2019 under the Chairmanship of Smt. Maya Chintamn Ivnate, Hon'ble Member, National Commission for Scheduled Tribes on the above mentioned subject for necessary action and submission of compliance report to this Commission within 30 days for placing the same before the Hon'ble Member, NCST.

Yours faithfully,

(Y.K. Bansal)
Research Officer
Ph. 24645826

(Encl: As above)

Copy to:

Shri Baldev Kumar,
Assistant Secretary,
All India SC/ST/OBC Employees Co-ordination Council,
Railway Siding Tipla,
Post – Sayal, District – Ramgarh,
Jharkhand – 829 125.

NATIONAL COMMISSION FOR SCHEDULED TRIBES


Case File No. BK/8/2017/MCOL1/SEOTH/RU-IV

PROCEEDINGS OF SITTING HELD ON 29.04.2019 AT 2.30 P.M. CHAIRED BY SMT. MAYA CHINTAMN IVNATE, HON'BLE MEMBER, NATIONAL COMMISSION FOR SCHEDULED TRIBES (NCST) IN THE CASE OF BALDEV KUMAR, ASSISTANT SECRETARY, ALL INDIA SC/ST/OBC EMPLOYEES CO-ORDINATION COUNCIL, RAMGARH, JHARKHAND REGARDING DENIAL OF COMPASSIONATE APPOINTMENT TO MISS REENA KUMARI SISTER OF DECEASED EMPLOYEE OF CCL.

List of officers present in sitting is Annexed.
Date of Sitting – 29.04.2019

The petitioner Shri Baldev Kumar, Assistant Secretary, All India SC/ST/OBC Employees Co-ordination Council, Ramgarh, Jharkhand vide his representation dated 20.06.2017 has represented about the grievances of Miss Reena Kumari (ST) for denial of compassionate appointment to her in place of her deceased brother Shri Mantu Oraon by the CCL Management. It has been further represented that the applicant Miss Reena Kumari's brother late Shri Mantu Oraon was working as employee Category-1 and was unmarried. After death of Shri Mantu Oraon, on 10.09.2016, his Sister Miss Reena Kumari had applied for compassionate appointment under CCL's appointment provision 9:3:0 under NCWA policy. She had also submitted her appointment application to the competent authority at CCL's Project Office. But, her appointment application was rejected stating that the NCWA does not have provision of providing compassionate appointment to the Sister of deceased employee. Thereafter, she had submitted another representation to the CMD, CCL and no action was taken in this regard. As per the DoPT instructions with regards to compassionate appointment, there is a provision to consider appointment of sister of diseased unmarried brother. The petitioner Association has requested the Commission to direct the CCL Management to consider the appointment of Miss Reena Kumari as per DoPT guidelines.

2. NCST notice dated 08.08.2017 sought a report from the CMD, CCL, Ranchi and the same is awaited.
3. Since, there was no report received from the Department concerned, therefore, Smt. Maya Chintamn Ivnate, Hon'ble Member, NCST fixed a sitting on 29.04.2019 to have a discussion with the CCL Management.

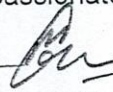

Smt. Maya Chintamn Ivnate
Member
National Commission for Scheduled Tribes
Govt. of India
New Delhi

4. As schedule, the sitting was held on 29.04.2019. The Chairman cum Managing Director and General Manager (P), Central Coalfield Limited appeared. The petitioner was also present.

5. In sitting, the petitioner informed the Commission that Miss Reena Kumari, an ST girl had applied for compassionate appointment in lieu of her deceased brother Shri Mantu Oraon as per CCL policy. However, her appointment case was rejected on the grounds of non-provision of providing employment to the sister of deceased employee as per NCWA policy. The DoPT which governs personnel matters of the Central Government provides dependent means wife, brother, sister, son, daughter etc. for considering appointment under compassionate ground. In addition, the Hon'ble High Court of Chhattisgarh in its judgment dated 09.11.2017 in WP (Appeal) No. 393 of 2017 in the matter of SCCL Vs Nutan Khushbu held that in dependency employment we do not see any rationale to sustain any classification purely on ground of gender as between the sister and brother of deceased. Therefore, if dependency employment is confined to the brother of the employee to the exclusion of the sister, it will amount to hostile discrimination only on the grounds of sex. Thus, the Hon'ble Court has clearly decided that unmarried sister is also dependent of the deceased employee and she is eligible for employment. In the petitioner's case, the applicant is unmarried sister of deceased employee of CCL and as per High Court judgment her appointment should have been considered.


6. The General Manager (Pers & IR), CCL informed the Commission that in CCL, the compassionate appointment cases are governed as per provisions of NCWA policy of Coal India Limited. As per NCWA guidelines, there is no provisions of providing employment to the sister of the deceased employee and therefore, Miss. Reena Kumari's case could not be considered. Regarding Hon'ble High Court Judgment, the CCL does not have the information about providing employment by the SCCL management.

7. The case was discussed in detail. The Commission observed that the CCL a Subsidiary of Coal India Limited is a Central Government Public undertaking, which adopts instructions/guidelines of the Department of Personnel and Training (DoPT) for employee's service terms and conditions. The DoPT's compassionate appointment policy provides dependent means wife, daughter, son, brother, sister etc. However, the appointment governs by the NCWA policy, which needs to be re-examination and incorporation of word 'Sister' in dependent's list. In addition, there is a Court's Judgment from the Hon'ble High Court of Chhattisgarh in WP (Appeal) No. 393 of 2017 in the matter of SCCL Vs Nutan Khushbu about dependency employment wherein, the Court in its order dated 09.11.2017 decided that in dependency employment we do not see any rationale to sustain any classification purely on ground of gender as between the sister and brother of deceased and SCCL Management (a subsidiary of Coal India Ltd.) be consider to provide employment to unmarried dependent sister of deceased employee. Since, Miss Reena Kumari is unmarried dependent sister of deceased employee of CCL and therefore, her case of compassionate appointment should have been considered.


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8. The Commission therefore recommends that the CCL Management should consider the compassionate appointment based on the judgement dated 09.11.2017 of Hon'ble High Court of Chhattisgarh and take necessary action to provide employment to Miss. Reena Kumari. If required, the CCL will request the Board of Coal India Limited to incorporate the word of 'Sister' in the dependent list in NWCA policy as per the guidelines of the DoPT and Hon'ble High Court Judgment.

9. An action taken report on the Commission's recommendations should be submitted within 30 days from the date of receipt of proceedings.


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Annexure

(File No. BK/8/2017/MCOL1/SEOTH/RU-IV)

List of participants

NCST

1. Smt Maya Chintamn Ivnate, Hon'ble Member (In chair)
2. Shri P.T. Jameskutty, Deputy Secretary
3. Shri Sudhir Atram, PA to Hon'ble Member (MCI)
4. Shri Y.K. Bansal, Research Officer
5. Shri H.R. Meena, Sr. Investigator

Officers of CCL

1. Shri Gopal Singh, CMD
2. Shri Umesh Singh, GM (Pers & IR)

Petitioner

1. Miss Ranjita Pushpa Ekk
2. Shri Baldeo Kumar