



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. BVR/1/2019/STGAP/SEPROM/RU-IV

Dated: 14.02.2020

To,

1. **The Chief Secretary,**
Government of Andhra Pradesh,
AP Secretariat,
Velagapudi, Amaravathi,
Guntur District (AP).
2. **The Special Chief Secretary,**
Water Resources Department,
Government of Andhra Pradesh,
4th Block, 1st Floor, AP Secretariat,
Velagapudi, Amaravathi,
Guntur District (AP).
3. **The Secretary,**
General Administration Department,
Government of Andhra Pradesh,
AP Secretariat,
Velagapudi, Amaravathi,
Guntur District (AP).
4. **The Engineer-in-Chief,**
Water Resources Department,
Government of Andhra Pradesh,
D. No. 14-7-29, 2nd Floor,
Namboori Gopalarao Street,
Hanumanper, Vijayawada,
Andhra Pradesh – 520 003.

Sub:

Proceedings of the Sitting taken by Dr. Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes (NCST) on 26.12.2019 in the case of Shri B. Venkata Raju, Executive Engineer and other Engineers in Water Resources Department, Govt. of AP with regard to denial of promotions to the ST officers for the post of Executive Engineers to Superintending Engineers and then Superintending Engineers to Chief Engineers.

Sir,

I am directed to enclose herewith a copy of the Proceedings of the Sitting held on 26.12.2019 under the Chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairperson National Commission for Scheduled Tribes on the above mentioned subject for appropriate action under intimation to the Commission within 30 days positively for placing the same before the Hon'ble Chairperson, NCST.

Yours faithfully,

(Dr. Lalit Latta)
Director

Copy to:

Shri B. Venkata Raju,
S/o late Shri Palakannah,
Executive Engineer,
Water Resources Department,
Drainage Division, Chirala Town,
Polimera Road, Muntha Vari Centre,
Prakasam District,
Andhra Pradesh – 523 156.

936-42
24/2/2020

NATIONAL COMMISSION FOR SCHEDULED TRIBES

File No. BVR/1/2019/STGAP/SEPPROM/RU-IV


PROCEEDINGS OF THE SITTING HELD ON 26.12.2019 UNDER THE CHAIRMANSHIP OF DR. NAND KUMAR SAI, HON'BLE CHAIRPERSON, NCST REGARDING REPRESENTATION OF SHRI B. VENKATA RAJU, EXECUTIVE ENGINEER AND OTHER ENGINEERS IN WATER RESOURCES DEPARTMENT, GOVERNMENT OF ANDHRA PRADESH WITH REGARD TO DENIAL OF PROMOTIONS TO THE ST OFFICERS FOR THE POST OF EXECUTIVE ENGINEERS TO SUPERINTENDING ENGINEERS AND THEN SUPERINTENDING ENGINEERS TO CHIEF ENGINEERS.

Date of Sitting: 26.12.2019

List of officers presents in sitting is annexed.

1. The petitioners Shri B. Venkata Raju, Executive Engineer, and other Engineers of Water Resources Department, Andhra Pradesh vide their representation dated 10.06.2019 and 02.07.2019 has submitted that the AP Water Resources Department authorities have forcefully violated statutory rules such as service rules, (i) Constitution of India under Article 371D, (Presidential Order 1975) (ii) APS&SS Rules 33 and 36, (iii) APES Rules, (iv) Merit Cum General Seniority as per G.O. Ms No.2, Social Welfare (SW. ROR1) Department, dated: 09.01.2004, and, (v) Rule of Reservation in promotion with consequential seniority as per G.O.Ms.No.26 Social Welfare (SW. ROR1) Department, dated 20.02.2009, (vi) Hon'ble A.P. High Court Common Order Judgement Dated 11.12.2018 to the Post of Deputy Executive Engineers to Executive Engineers, Executive Engineers to Superintending Engineers and then Superintending Engineers to Chief Engineers.

2. The petitioners represented that, the next promotion from the post of Deputy Executive Engineer to the post of Executive Engineer, and the cadre strength of Executive Engineer in the Water Resources Department; Government of Andhra Pradesh is 267 posts, and the cadre strength of Executive Engineer to Superintending Engineer is 57, and then Superintending Engineer to Chief Engineer is 19. The Andhra Pradesh have been bifurcated and after the enactment of AP Reorganization Act, 2014. The rule of reservation in promotion to SC/ST's implemented from 14.02.2003, as per G.O.Ms. No:5 Social Welfare (SW. ROR1) Department dated 14.02.2003 by the Govt. of AP. The rule of reservation in promotion to SC/ST's with Consequential seniority is a constitutionally guaranteed right and since the cadre strength of Executive Engineer is 267, there should be adequacy of 6% is 16 posts reserved for posts of Executive Engineer filled up with belonging to ST candidates. Once the adequacy is achieved to the required percentage of 15% in respect of Scheduled Castes and 6% in respect of Scheduled Tribes, in a category, the application of the rule of reservation in promotions shall be stopped and the promotions shall be effected based on merit cum General seniority, as per G.O. Ms No.2, Social Welfare (SW. ROR1) Department, dated: 09.01.2004. But as per ANNEXURE to G.O.Ms. No. 2, SOCIAL WELFARE (ROR.1) DEPARTMENT, DT.09.01.2004, but the authorities who are responsible not implemented this G.O. The Water Resources Department, authorities concerned who are responsible not implemented 100-point roster in each penal year including Rule of Reservation in promotions with consequential seniority as per G.O.Ms.No.26 Social Welfare (SW. ROR1) Department, dated 20.02.2009. There by considerable loss was occurred in favour of ST Category employees in all the panels also, and it construed that the authorities concerned have deliberately violated A.P Govt. Rule of Reservation Government Orders, which is construed as unlawful, illegal and unconstitutional.



Dr. Nand Kumar Sai/DR. Nand Kumar Sai
Chairperson
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
New Delhi

2 The panels for the year 2002-2003, which were prepared prior to 14.2.2003 and operated totally or partially, shall continue without any changes and they shall not be reopened. The panels for the year 2002-2003, which were prepared and are not operated as on 14.2.2003 shall have to be reviewed to implement the rule of reservation in promotion to Scheduled Caste and Scheduled Tribe categories. As per G.O.Ms. No: 5 Rule of Reservation in promotions with consequential seniority for in favour of SC/ST employees to be considered, as on 14.02.2003 panel. The authorities concerned who are responsible for preparing penal are eliminated this penal year, thereby causing huge loss to SC/ST employees. The policy of implementation of Rule of Reservation in promotions for in favour of SC/ST Candidates, and the authorities concerned forcefully violated.

The panel year for 2002-2003, which were prepared and not operated as on 14.02.2003 must be reviewed to provide special representation in promotions for in favour of SC/ST employees. But the authorities concerned not implemented rule of Reservation with consequential seniority in this panel, and Constitution of India under Article 371D (Presidential order 1975) and APS&SS Rules 1996, APIES Rules and also statutory rules and the rules forcefully violated by the Head of the Department, i.e, Engineer-in Chief (Administration), Water resources department. There by considerable loss was occurred to the SC/ST employees in this panel which is construed as unlawful, illegal and unconstitutional.

4. The General category candidates of Water Resources Department were challenged the impounded G.O.Ms. No: 26 Social Welfare (SW. ROR1) Dated 20.02.2009, before the Hon'ble Andhra Pradesh, Administrative Tribunal, Hyderabad pertained to O.A No. 6563 of 2011, and W.P.No.4415/2016. The Hon'ble Andhra Pradesh, Administrative Tribunal, Hyderabad by the common order dated 12.08.2015, the Tribunal quashed G.O.Ms. No: 26 Social Welfare (SW.ROR 1) Dated 20.02.2009. Consequently, the Hon'ble Andhra Pradesh High Court, Hyderabad by order dated 11.02.2016 has granted the interim suspension of the order under challenge O.A No. 6563 of 2011, and W.P.No.4415/2016 and accordingly the G.O.Ms. No: 26 Social Welfare (SW.ROR 1) Dated 20.02.2009 is in force since it is incepted.

5. The petitioners further alleged that the Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada, intentionally and deliberately, violated the rules and Government orders in implementing government orders of G.O.Ms. No: 2 Social Welfare (SW.ROR 1) Dated 01.01.2004 and G.O.Ms. No: 26 Social Welfare (SW.ROR 1) Dated 20.02.2009, even though Hon'ble Andhra Pradesh High Court, Hyderabad by order dated 11.02.2016 granted interim suspension of the Hon'ble Andhra Pradesh, Administrative Tribunal, Hyderabad order under challenge and which is in force since it is enacted. The Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada, intentionally and deliberately hide the granted interim suspension order of Hon'ble Andhra Pradesh, Administrative Tribunal, Hyderabad O.A No. 6563 of 2011 by Hon'ble Andhra Pradesh High Court, Hyderabad and accordingly seniority list of Deputy Executive Engineers to Executive Engineers, Executive Engineers to Superintending Engineers and Superintending Engineers to Chief Engineers in Water Resources Department were prepared and submitted to the Government for promotions. Based on the Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada recommendations the Government has considered all the proposals and issued series of promotional orders duly keeping aside the Rule of Reservation in Promotions with CONSEQUENTIAL SENIORITY as per the orders, G.Os and Hon'ble High court common Judgement orders due to which grave injustice caused and irreparable loss counted to the all cadres of Scheduled Tribe Engineers in Water Resources Department. In addition, the Engineers belonging to Scheduled Tribes who got promotions as Executive Engineers during 2007, are still continuing as Executive Engineers. Whereas the Engineers belonging to general category who got promotions as Executive Engineers after 2007 are now in the posts of Superintending Engineers and Chief Engineers.



श्री. नरु कुडरु सल/DR. Nani Kumar Sai
अडर/Chairperson
संखुडर अरुडुकरुत कडरुकरुत अडरुत
National Commission for Scheduled Tribes
डरुत डरुकरुत/Govt. of India
नडु डरुकरुत/New Deini

The Inter se State vide seniority of directly Recruited /Promoted/ Appointment by Transfer Deputy Executive Engineers from 1975 -76 to 2008 -09 have been integrated in accordance with Rule 36 of Andhra Pradesh State and Subordinate Service Rules 1996, and the Inter se seniority in the cadre of Deputy Executive Engineers is communicated by the than Engineer – in – Chief (AW) vide Proceedings RC/ENC/E1/E3/22713/2013 Dated 22.07.2013, settled seniority. The Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada has purposefully unsettled the settled seniority vide Proceedings RC/ENC/E1/E3/22713/2013 Dated 22.07.2013. The Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada, has issued the seniority lists by him on different dates during July to November, 2017, intentionally, and deliberately, violating Presidential Order 1975 (Article 371D), Rule 36 of Andhra Pradesh State and Subordinate Service Rules 1996 and Andhra Pradesh Engineering Service Rules vide G.O.Ms.No.32 Irrigation & CAD (Services) Department dated 12.04.2010. Which is unlawful, illegal and unconstitutional.

7. The promotions proposals submitted by the Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada, all fabricated and selective comments were submitted without following the rules in force in all the promotions affected vide G.O.Ms.No. 67 Water Resources (Services II) Department, dated 23.10.2017, G.O.Ms.No. 73 Water Resources (Services II) Department, dated 07.11.2017, G.O.Ms. No. 70 Water Resources (Services II) Department, dated 03.11.2017, G.O.Ms.No. 72 Water Resources (Services II) Department, dated 07.11.2017, issued by the Government of Andhra Pradesh and are illegal, and arbitrary and violated of Article 14 and 16 of the Constitution of India. Further, consequently Promotions affected, vide above G. O. Ms. No. 67, 73, the petitioners have appealed to rectify the grave injustice caused in promotions, and they have represented several times i.e., on 20.01.2018, 18.05.2018, 27.07.2018, 30.08.2018, 10.06.2019 to Secretary to Government, Water Resources Department, 4th block, A.P. Secretariat, Government of Andhra Pradesh, Velagapudi, Amaravati. But no action was initiated on the anomalous in promotions from Deputy Executive Engineers to Executive Engineers, Executive Engineers to Superintending Engineers, and Superintending Engineers to Chief Engineers, and violation of Government orders in the G.O.Ms. No: 26 Social Welfare (SW.ROR 1) Dated 20.02.2009 is in force.

9. Subsequently Government have sent copy of representation in respect of Sri B.Venkata Raju, Executive Engineer vide Govt. Memo No. 16/2Ser.II/2018 dated 09.08.2018 to the Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada, to examine the same as per the relevant Rules duly keeping the pronouncements of the judicial forums mentioned by the individual in his representation in view. But the Engineer - in - Chief (AW), Water Resources Department, Vijayawada, Andhra Pradesh, giving deaf ear to the instructions issued to Head of Department i.e., the Engineer - in - Chief (AW), Water Resources Department, Vijayawada, by Government, and intentionally, deliberately, violated relevant Rules and also failed to submit the result of the action taken to Government, and also communicated anomalous to the individual immediately. This is illegal, injustice, unconstitutional.

10. The Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada, Letter No. Rc/ENC/B3//17111590/2018-4, dated 28.03.2018, in which certain anomalies have noticed in respect of the for promotions given to certain Engineers to the post of Executive Engineers, and Superintending Engineers, and Chief Engineers due to their inefficiency for preparation of panels of Deputy Executive Engineers for the panel years 2001-2002 to 2017-2018 for inclusion, deletion etc., of certain names of Deputy Executive Engineers to the post of Executive Engineer. Consequent to the above decision, in supersession of the earlier orders issued vide Government orders G.O.Ms.No. 67 dated 23.10.2017 and G.O.Ms.No. 73 dated 07.11.2017. Government order notional promotions of Deputy Executive Engineers to the post Executive Engineer for the panel years 2001-2002 to 2017-2018 vide modified Government order G.O.Ms.No. 96 dated 29.08.2018.



डॉ. नन्द कुमार साय/Dr. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
सरकार/Govt. of India

In spite of recommendations issued by Hon'ble Member Smt. Maya Chintaman Ivnate, National Commission for Scheduled Tribes, New Delhi in the sitting held on 11.07.2019 at Guntur of A.P., for immediate implementation, of the Commissions proceedings vide proceedings File No. BVR/1/2019/STGAP/SEPROM/RU-IV Dated 11.11.2019, sent the proceedings to Chief Secretary to Government, Government of Andhra Pradesh, Amaravati, Special Chief Secretary to Government, Water Resources Department, Amaravati, Secretary to Government, General Administration (Services) Department, Amaravati, and the Engineer - in - Chief (AW), Water Resources Department, A.P., Vijayawada, all have failed to submit the result of the action taken report to the National Commission for Scheduled Tribes, New Delhi, none of the Commission's recommendations were implemented and no Rule of Reservation in promotions with Consequential seniority, Government orders, and Hon'ble High Court of judicature at Hyderabad Common order dated 11.12.2018, in connection with W.P. No. 4415,4807,40975,41739,43051 of 2016 and 2842 of 2017 were implemented.

11. The petitioners have also represented to 1) Dr. D. Samba Siva Rao, IAS, Special Chief Secretary to Government, Revenue (CT, Excise & Regn.) Department & Chairman Department Promotion Committee, 2) Sri J.S.V. Prasad, IAS, Special Chief Secretary to Government, LET&F Department & Skill Development, Entrepreneurship and Innovations Department & Member Department Promotion Committee, 3) Sri Adityanath Das, IAS, Special Chief Secretary to Government, Water Resource Department, & Member Department Promotion Committee, 4) Engineer -in-Chief (Admn) Water Resource Department, & Member Department Promotion Committee, 5) Secretary to Government, General Administration (Services) Department, & Member /Convener Department Promotion Committee, on 02.07.2019 for implementation of Rule of Reservations in promotions with consequential seniority as per the G.O. Ms No. 26 Social Welfare (SW.ROR 1) Dated 20.02.2009 and Hon'ble High Court of judicature at Hyderabad Common order dated 11.12.2018, in connection with W.P. No. 4415,4807,40975,41739,43051 of 2016 and 2842 of 2017 and also requested until settlement of Rule of Reservations in promotions with consequential seniority. But no promotions have been made.

12. During the discussion, the Commission observed that the Secretary (Ser.&HRM), General Administration Department, A.P vide Letter.No.957616/Ser.E/2019 dated 13.08.2019 addressed to Smt Maya Chintamn Ivnate, Hon'ble Member, National Commission for Scheduled Tribes in response to the notice issued by National Commission for Scheduled Tribes on dated 18.06.2019, have also hide the fact about granted interim suspension order dated 11.02.2016 and the Hon'ble High Court of judicature at Hyderabad Common order judgement dated 11.12.2018, in connection with W.P.No. 4415, 4807,40975, 41739, 43051 of 2016 and 2842 of 2017.

13. In sitting, the petitioner submitted before the Commission and produced the relevant documents such as G.O.Ms.No. 96 WATER RESOURCES (SERVICES.II) DEPARTMENT Dated 29-08-2018 panel year list, from Panel Years 2001-2002 to 2017-2018, of Executive Engineers (without showing 100-point roster in the panels) G.O.Ms. No:5 Social Welfare (SW. ROR1) Department dated 14.02.2003, G.O.Ms.No.26 Social Welfare (SW. ROR1) Department, dated 20.02.2009, and G.O. Ms No.2, Social Welfare (SW. ROR1) Department, dated: 09.01.2004 and Zone wise seniority list of Deputy Executive Engineer's (ST's). The Engineer -in - Chief (AW) Water Resources Department, failed to produce seniority list of Executive Engineer's, Superintending Engineer's and Chief Engineer's, also not shown 100-point roster in the present panels prepared by them.

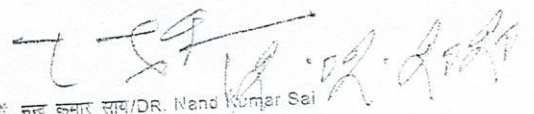

श्री. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

The case was discussed in detail. The Commission observed that the Engineer -in - Chief (AW) Water Resources Department, not taken any action and not implemented relevant rules in promotions in Rule of Reservation with consequential seniority for SC/ST Category employees. As per the relevant AP Government Orders, and AP State and Subordinate Service Rules, Hon'ble High Court of judicature at Hyderabad Common order judgement dated 11.12.2018, the rules of reservations in promotion of STs with consequential seniority and recommendation of the Commission in the aforesaid case should have been implemented. Moreover, the Commission is of view that and the Govt. of AP should consult to the DoPT, Govt. of India as the Engineer - in - Chief (AW), Water Resources Department, Vijayawada A.P., have not delivered proper justice to Scheduled Tribe Executive Engineers in Water Resources Department, Government of Andhra Pradesh. and posts earmarked for STs were unethically given to general candidates.

15. The commission is construed that that the Engineer - in - Chief (AW) is working against the interest of scheduled tribe executive engineers and in every step, he is deliberately violated all rules and Government orders earmarked to scheduled tribes. Due to inaction of the Engineer - in - Chief (AW) all the Scheduled Tribe Executive Engineers in Water Resources Department, Government of Andhra Pradesh got irreparable loss to their service. The Commission also noted that the The Special Chief Secretary to Government, Water Resources Department and the Engineer -in - Chief (AW) Water Resources Department promised before the Commission that the case will be resolve within 2 months time as the seniority list of Executive Engineer's, Superintending Engineer's and Chief Engineers of (Scheduled Tribes) is being finalized.

16. The Commission therefore recommends that

- ❖ The State Government of Andhra Pradesh should implement Rule of Reservation in promotions with consequential seniority for Scheduled Tribe Category employees from the cadres of Deputy Executive Engineers to Executive Engineers, Executive Engineers to Superintending Engineers and then Superintending Engineers to Chief Engineers as per G.O.Ms.No.26 Social Welfare (SW. ROR1) Department, dated 20.02.2009, and Hon'ble A.P. High Court Common Order Judgement Dated 11.12.2018.
- ❖ Suitable action as per the rules in vogue in Andhra Pradesh Government against the responsible officers working in the Water Resources Department, Vijayawada A.P may be initiated who failed to implement the i) Constitution of India under Article 371D, (Presidential Order) ii) APS&SS Rules 33 and 36, iii) APES Rules, iv) Merit Cum General Seniority norms as per G.O. Ms No.2, Social Welfare (SW. ROR1) Department, dated: 09.01.2004, and, v) Rule of Reservation in promotion with consequential seniority as per G.O.Ms.No.26 Social Welfare (SW. ROR1) Department, dated 20.02.2009, vi) Hon'ble A.P. High Court Common Order Judgement Dated 11.12.2018 and vii) Non-implementation Commission's recommendations.
- ❖ An action taken report on the Commission's recommendations should be submitted by the Government of Andhra Pradesh and other concerned authorities within 30 days from the date of receipt of the proceedings.


डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi