

By Speed Post



सत्यमेव जयते

भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जनजाति आयोग

National Commission for Scheduled Tribes

(A Constitutional body set up under Article 338A of the Constitution of India)

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

File No. HK/5/2017/STGDH/SEHRMT/RU-I

Date: 18/02/2020

To,

1. **The Secretary,**
Department of Power,
Govt. of NCT of Delhi,
8th Floor, B-wing, Delhi Secretariat,
I.P. Estate, New Delhi-110002,
Tel: 01123392047,
Fax No. 011-23392023.

2. **The Chairman,**
Delhi Transco Ltd.,
Govt. of NCT Delhi,
Shakti Sadan, Kotla Marg,
New Delhi-110002,
Tel: 011-23231748
Fax No. 011-23234640.

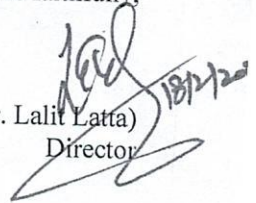
Sub: Representation dated 14/12/2017 received from Shri Hemant Kumar, R/o Flat No. 247, Sanskriti Apartments, Sector-19-B, Dwarka, New Delhi-110075 regarding discrimination of ST candidate under ST category post in Delhi Transco Ltd.

Sir,

I am directed to refer to the subject cited above and to enclose a copy of the minutes of Sitting held in the National Commission for Scheduled Tribes on 17.02.2020 at 04.00 P.M. under the Chairmanship of Dr.Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes in the matter.

It is, requested that action taken on the suggestions / recommendations of the Commission may please be sent to the NCST within 7 days from receipt of the letter, for appraisal of Hon'ble Chairperson, NCST.

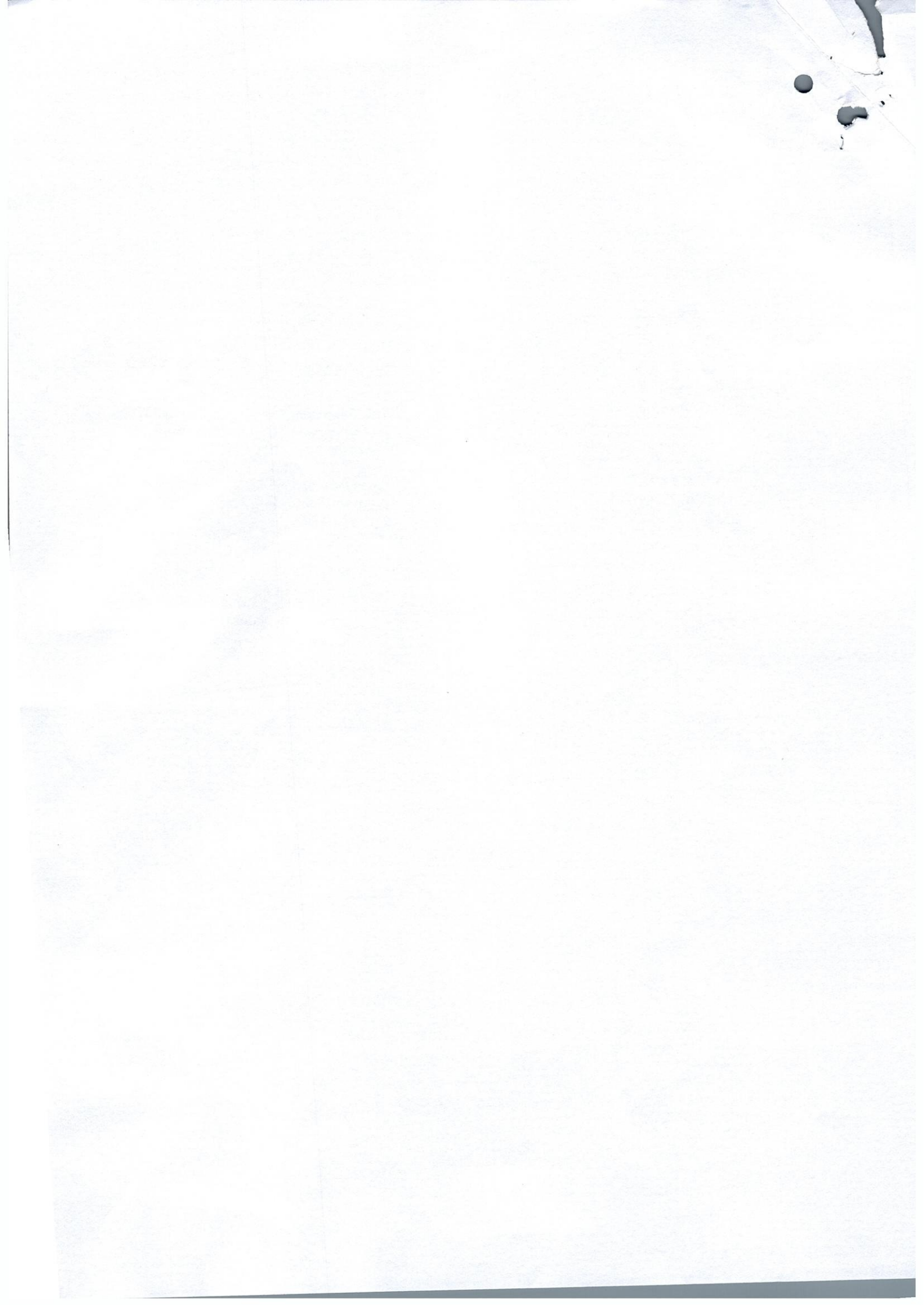
Yours faithfully,


(Dr. Lalit Latta)
Director

Copy to:

The Chief Secretary,
Govt. of NCT of Delhi,
Delhi Secretariat,
IP Estate,
New Delhi-110002.

(w.r.t Dr. Nand Kumar Sai, Hon'ble Chairperson, NCST's letter of even No. dated 27.09.2019 and 14.10.2019 in the matter).

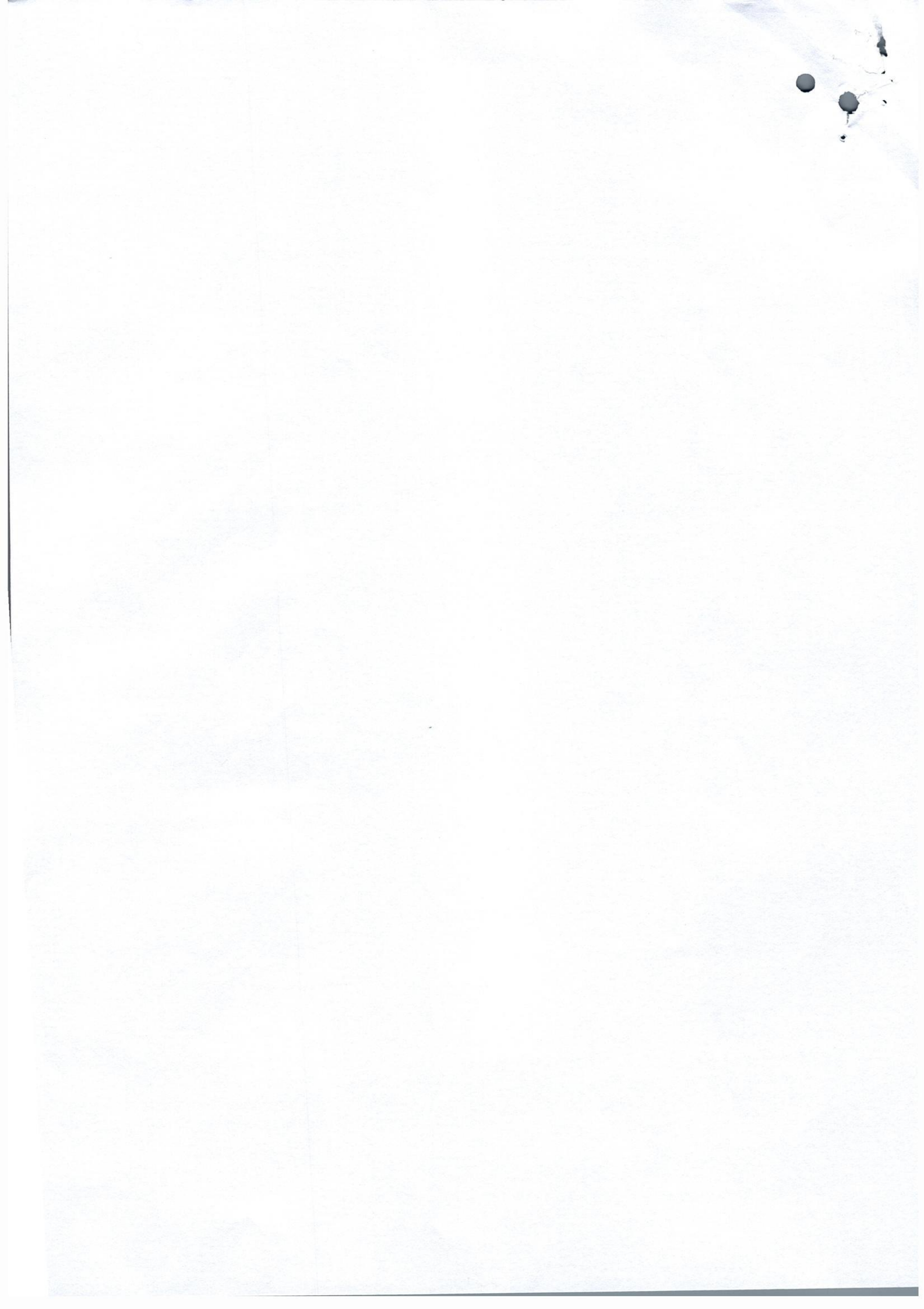


Copy to:

Shri Hemant Kumar,
R/o Flat No. 247,
Sanskriti Apartments,
Sector-19-B, Dwarka,
New Delhi-110075.

Copy for information to:

1. PS to Hon'ble Chairperson, NCST
2. PS to Hon'ble Member (MCI), NCST
3. Sr. PPS to Secretary, NCST
4. Office of the Joint Secretary, NCST
5. Director, NCST
6. Deputy Secretary, NCST
7. AD (Admin.)/ Please make all necessary arrangements on the day of the sitting.
8. ✓ NIC (please upload on the Commission's website and also send the e-mail to concerned)



Govt. of India


National commission for Scheduled Tribes

File No. HK/5/2017/STGDH/SEHRMT/RU-1

Minutes of sitting held in the commission on 17.02.2020 at 16.00 PM, Under the chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairman, NCST in case of Sh.Hemant Kumar, R/o Flat No 247, Sanskriti Apartments, Sector 19-B, Dwarka, New Delhi 110075 regarding discrimination of ST candidates under ST category posts in Delhi Transco Ltd.

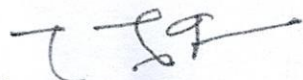
List of Participant in annexed.

1. According to DoPT OM no. 36020/2/2007-Esstt (Res.) dt 07.12.2009 and DoPT OM no. 20011/1/2008- Esstt (D) dt. 11.11.2010. case of shri. Hemant Kumar working in Delhi Transco Limited was heard by NCST bearing file No. HK/5/2017/STGDH/SEHRMT/RU-1 on Dates 03.05.2018, 20.08.2018, 15.01.2019, 08.04.2019, 15.07.2019 and 14.10.2019. On 17.02.2020 Secretary, DOPT, Secretary Power, GNCTD and CMD, DTL were instructed to appear in person, however, Secretary Power, GNCTD prefers to stay absent from sitting and send request for exemption vide letter No. F.no. Power/715 dated 17.02.2020.
2. However Special Secretary, Department of Power, GNCTD who is also Director(HR),DTL along with GM(HR),DTL attended the hearing, from DOPT, Under Secretary from Reservation and Establishment divisions attended the hearing.
3. As per NCST recommendations dated 16.10.2019, DTL had submitted the relevant Recruitment and seniority files along with the Reservation Roster Register at NCST for taking comments from DoPT on long pending issues. NCST forward the files along with its observations on the issues.
4. During the sitting following is observed :-
 - i. In year 2005 while sending the requirement to recruiting agency, DTL De-reserve one ST vacancy at initial stage by wrongly identifying 7 Nos ST vacancies (one on roll and 6 vacant) out of total 111 DR quota whereas as per DoPT instructions and reservation rules total number of ST vacancies during the recruitment year 2005-06 were 8 i.e. @7.5% of total 111.
 - ii. As per approval of CMD dated 23.1.2005, DTL submitted its request to NTPC for providing panel of 28 No. candidates comprising of (SC-3, OBC-6, ST-6, UR-13) vide letter dated 02.12.2005. Further, DTL decrease the advertised ST category vacancies from 06 Nos. To 04 Nos. and increase in General Category vacancies from 13Nos to 15


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

Nos. This process was neither approved nor appraised to CMD, DTL and 2 ST vacancies were illegally De-reserved during the recruitment process.

- iii. Reservation Roster register maintained by DTL is not as per DoPT guidelines and instructions, it is also observed that the submitted Reservation Roster Register and lists are not verified by liaison officer or appointing authority.
- iv. In the matter of seniority DOPT Estt (D) division submit its observations vide dated 27.01.2020 same are reproduced as follows:
(b) *"In view of the explanations given by administrative department and on perusal of documents / records available in files, it appears that the candidates were recommended vide three different letters by NTPC. The last three candidates namely, shri Abhishek Jain, Shri Kamal Kishore and shri Abhishek Sharma recommended by NTPC were not included in the panel of 28 selected candidates sought by DTL initially against requisition of 28 vacancies, however, later on, DTL accepted their nomination made by NTPC. However the reason for recommending 3 additional candidates by NTPC is not clear from the files. Hence this department is not able to ascertain from the records that whether the appointment of 31 candidates was through single selection. Therefore, DoPT is not able to offer comments on the issue of seniority.*
(c) *So far instructions of this Department on the issue of seniority is concerned, the seniority of direct recruits may be fixed as per DoPT OM 11.11.2010 para 2.1 reproduced as follows:*
Seniority of Direct Recruitment
The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendations of the UPSC or other selecting authority, persons appointed as a result of an earlier selection being senior to those appointed as a result of subsequent selection."
- v. As per recruitment file of DTL for year 2006, recommendation of 28 advertized and original vacancies were issued vide recruiting agency letter dated 04.09.2006. Further, DTL requested for 2 more candidates on 08.09.2006, which is subsequently recommended by recruiting agency on 12.09.2006 wherein it is clearly mentioned that DTL demanded 2 more candidates on 08.09.2006. Thereafter, again DTL send request for one more candidate on 19.06.2006, which is also fulfilled by recruiting agency on 26.09.2006.
- vi. It is observed that the additional 3 vacancies above the original 28 were neither approved by the then CMD, DTL nor appraised.
- vii. Also, as per DoPT OM No. 28011/6/76-Estt.(D) dated 24th June, 1978, for Starting point in the recruitment roster for the purpose of seniority of Direct Recruitment the Date of completion of selection process is:


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

(a) Through examination conducted by UPSC or any other authorities then date of publication/announcement of results.

(b) Through interviews conducted by UPSC or any other authorities then date of Commission's letter containing their recommendations.

viii. Hence, it is clear that the selection process for recruitment of original requirement of DTL for 28 vacancies was completed on 04.09.2006 and any requirement / recommendation/ announcement of result thereafter are subsequent selection i.e. the selection of additional 3 candidates vide subsequent recommendation letter dated 12.09.2006 and 26.09.2006 is subsequent selection.

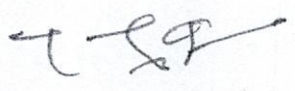
ix. As per DoPT OM No. **20011/1/2008-Esstt(D) dated 11.11.2010** clause 2.1 "*The relative seniority of all direct recruits is determined by the order of merit in which they are selected for such appointment on the recommendation of UPSC or other selecting authority, persons appointed as a result of earlier selection being senior to those appointed as a result of subsequent selection.*" Which is further clarified in clause 2.1.2 i.e. "*UPSC etc. in response to two separate requisitions from department on the different point of time, send two panel of direct recruits on same date. ... In case of eventuality following procedure may be followed for fixation of inter-se seniority of the candidates from two different panels:*

- i. *Chronology of recommendation letter;*
- ii. *Where date of recommendation is same, chronology of interview board reports and*
- iii. *Where both (i) and (ii) are also same, then the chronology of requisition made by respective Ministries/ Departments*

It is also mentioned here than in case of recruitment through examination, the date of publication/announcement of the results shall remain the criteria as has been envisaged in the guidelines of seniority issued by DoP&T vide O.M. No. 22011/5/76-Estt.(D) Dated 24.06.1978.

x. Irregularities in recruitment above the approved 28 vacancies without approval of CMD,DTL was also observed by DTL itself, therefore GM(HR) vide his noting dated 10.05.2019 comment that "*There are **PROCEDURAL VOILATIONS** and in light of MOM of sitting of NCST dt 12.04.2019 (Cs-162) a considerate view may be taken by Hon'ble CMD, DTL.*" and also the then CMD, DTL vide his note dated 14.05.2019 comments that

1. *Pl take corrective action as per "A" on prepage for revising the seniority list & further necessary action by 16.05.2019 in view of hearing in NCST on 17.05.2019*


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

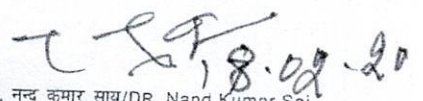
2. *Pl Examine for taking necessary departmental action, along with criminal proceedings if required against the officials responsible for the said procedural violations”*
- xi. In view of above, DTL reassign the seniority list vide office order No. **DTL/101/2019-20/HR-DM(HR)-II/65 dated 28.06.2019.**
- xii. In the matter of De-reservation of ST vacancies by DTL, the representative from Reservation Section, DoPT agreed to their earlier comments during the sitting dated 08.04.2019 that DTL had violated the DoPT guidelines on De-reservation during the process of recruitment year 2006 and deprives the ST candidates. DOPT officials further comments that DOPT has issued the guidelines and instructions, now it is duty of concern departments to follow them.
5. Special secretary, Department of Power, GNCTD requested for the copy of DOPT observations and one week time to understand the matter and take corrective action.

Recommendation:-

Secretary, Department of Power, GNCTD and CMD, DTL must comply the following recommendations and submit the compliance report to the commission within 7 days:-

1. In view of comments from DOPT, instruction issued vide DOPT OM No. 28011/6/76-Estt.(D) dated 24th June, 1978 and DOPT OM No. 20011/1/2008-Esstt(D) dated 11.11.2010 it is clear that the additional three candidates were recruited through subsequent selection and as per DTL's additional requirement moreover the additional 3 requirement was neither approved nor appraised to CMD, DTL. Hence DTL should place the additional 3 candidates below the original 28 candidates in seniority list. In view of above, DTL should finalize the seniority list dated 28.06.2019 and publish immediately.
2. DTL fails to maintain the Reservation Roster register as per DOPT guidelines, also the register submitted at NCST are not verified by Liaison officer and Appointing authority, therefore DTL must take corrective action in accordance with DOPT guidelines and submit the certified copy of correct Reservation Roster Register.
3. DTL illegally De-reserve 3 no ST vacancies during the recruitment year 2006. In this regard NCST recommends that total number of De-reserved vacancies must be identified and process for recruitment against these vacancies must be initiate at earliest

In view of the above commission is in the view of that Secretary Power, GNCTD Delhi does not take up the matter seriously and delayed the case with one reason or another. So it is advised that need full rectification be done as per DoP&T OM guidelines and appear in NCST on 25.02.2020 at 01.00 pm for sitting.


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

Govt. of India

National commission for Scheduled Tribes

(File No. HK/5/2017/STGDH/SEHRMT/RU-1)

List of Participants in the sitting held on 17.02.2020 under the chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairman, NCST in case of Shri Hemant Kumar, (R/o Flat No 247, Sanskriti Apartments, Sector 19-B, Dwarka, New Delhi) regarding De-reserving of ST vacancy and fixation of inter-se seniority of AM(T) in Delhi Transco Limited, New Delhi.

- I. National Commission for Scheduled Tribes
 1. Dr. Nand Kumar Sai, Hon'ble Chairman
 2. Shri Konthang Touthang, Joint Secretary
 3. Dr, Lalit latta, Director
 4. Shri R.S.Misra, Senior Investigator

- II. Department of Personal and Training, Govt. of India
 1. Sh. Pradeep Kumar, Under Secretary
 2. Shri D. Das Under Secretary

- III. Department of Power, Govt. of NCT of Delhi
 1. Sh. D Verma, Special Secretary
 2. Shri R.S.Samaria, Dy. Director

- IV. Delhi Transco Limited, Govt. of NCT of Delhi
 1. M. A. Khan, GM (HR)
 2. Shri Vasu Dev, DGM (HR)
 3. Shri Mukesh Gupta, Dy. Manager (HR)

- V. Petitioner
Shri Hemant Kumar