



भारत सरकार

राष्ट्रीय अनुसूचित जनजाति आयोग  
GOVERNMENT OF INDIA  
NATIONAL COMMISSION FOR SCHEDULED TRIBES

File No. RP/7/2016/MCVL1/SEOTH/RU-III

छठी मंजिल, 'बी' विंग, लोक नायक भवन  
खान मार्केट, नई दिल्ली -110003  
6<sup>th</sup> floor, 'B' Wing Loknayak Bhawan,  
Khan Market, New Delhi-110003  
दिनांक /Dated: 07.11.2016

To,

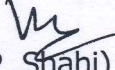
The Chairman - cum Managing Director,  
Air India, National Aviation Company of India Ltd,  
Airlines House, 113 Gurudwara Rakabganj Road,  
New Delhi-110001

Sub: Representation dated Nil of Shri Rebat Pal, Air India Colony, Vasant Vihar,  
New Delhi regarding case pending for its compliance and RTI query pending  
since 07.05.2015.

Sir,

I am directed to enclose a copy of Proceedings of the Sitting taken by Hon'ble  
Vice-Chairperson, NCST, on 30.08.2016 for taking necessary action. The compliances  
report in the matter may please be intimated to the Commission.

Yours faithfully,

  
(V. P. Shahi)  
Assistant Director

Copy to:

Shri Rebat Pal  
C3/45 Air India Colony,  
Vasant Vihar, New Delhi-110057

Tel.:011-24657271, 011-24615012, 011-24624714, Fax: 011-24604689, 011-24624191

CSA, NIC

## NATIONAL COMMISSION FOR SCHEDULED TRIBES

No. RP/7/2016/MCVL1/SEOTH/RU-III

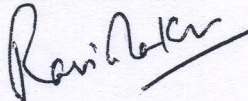
### PROCEEDINGS OF THE SITTING TAKEN BY SHRI RAVI THAKUR, HON'BLE VICE CHAIRPERSON, NCST ON 30-8-2016 IN THE PETITION FILED BY SHRI REBAT PAL, SENIOR AGM, AIR INDIA REGARDING PROMOTION, VICTIMIZATION AND DEPRIVATION.

Shri Rebat Pal Senior AGM in Air India vide his representation submitted to the Commission in the year 2002 stated that he was denied the provision of concession in promotion mandated by DOPT office memorandum no,1/9/69-Estt(SCT) Dtd 26-3-1970. The matter closely examined with a hearing conducted on 4-6-2008. Commission gave recommendation, which Air India has not complied with till date and explained position on the matter vide letter dated 26-8-2016. Commission noted and also examined following documents submitted by Rebat Pal, relating it with his woes.

Hon'ble Supreme Court 3 Bench verdict by Hon'ble Justice Jeevan BP Reddy in citation 1995, which wrote in its para 32, "respondents shall apply, implement and follow the concession contained in Para 2 of the Office Memorandum dated March 26, 1970". Reply No.6/4/2011-DPE(SC/ST cell) Dtd 13<sup>th</sup> June 2012 from DPE to NCST advised that clarification in regards to unfitness in the light of DoPT may be sought from DoPT only. The definition of not adjudged unfit for promotion has to be from the ambit of aforesaid DoPT and not as variously interpreted by executives to their own convenience/liking.

As per Ministry of Personnel/DOPT DO No.41017/3/2013-Estt(Res) Dated 29<sup>th</sup> Aug 2013 'shall be included in the select list even if he /she does not meet the benchmark prescribed for the promotional post". Hon'ble Supreme Court , which is apex in clarifying the complex interpretation of legislation ,In its para 12 of above mentioned citation, wrote, "as regards to term not found unfit , it is clarified that this term is meant to convey that there is nothing adverse against the candidate". Supreme Court of India K.A. Nagamani vs Indian Airlines & Ors on 27 March, 2009 in para 12 writes Quote " that there are no legal restriction to do so ( making RnP rules) so long as they do not offend the provision of Constitution , statute or statutory rule as the case may be." Rajya Sabha Parliament question 2689 Dtd 21-3-2013 states that RnP rule of Air India are not framed under any statute and therefore not statutory rule. In this case concession is constitutional provision and RnP rule which affected conduct of original OM has in fact violated the provision and hence should be punishable.

Logic too vindicates above positions, otherwise what is essence of provision of concession /protection if an ST has to obtain same qualifying marks as any other general candidate. which otherwise indicates that mere consideration of candidature of ST along with other general candidate is enabled by this provision, meaning further thereby the ST as such does not right of equal opportunity without this OM of concession.

  
रवि ठाकुर/RAVI THAKUR  
उपाध्यक्ष/Vice Chairperson  
राष्ट्रीय अनुसूचित जनजाति आयोग  
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DPE OM 6(6)/88(coord)dtd 8<sup>th</sup> April 1991 issues with approval of Cabinet Secretary, for uniformity directive should be issued with concurrence of the DPE if applicable to more than one PSU. Air India uses same provision diametrically opposite from case to similar other cases, while denying Capt NK Beri on legally untenable petition of Capt Kb Khadtale. Untenable as GM ultimate salary does entitle for this provision, but for promotion at and below E5 scales where concession is due, same was not applied in case of Rebat Pal's supersession .

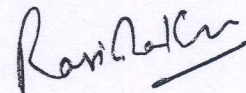
Commission having convinced itself already, leading to its recommendation of 4<sup>th</sup> June 2008, finds these reference documents of legal, executive and legislative entities vindicating and re-enforcing Shri Rebat Pal's claim of vindictive deprivation . Compliance unduly procrastinated by Air India since 2008 has cumulated the mental pain of Shri Rebat Pal. Document of sanctioned strength of 5 Dy GM FE certified by the then GM-P Mr Harichand and operations manual Part A Chapter A-1 Page 12, mandating this position in all four region, Compliance of provisions of Operations Manual is vital for validity of Air Operators Permit (AOP). Though CA/RTI/2009/412 Dtd 16-3-2009 stated that promotion in executive category is also undertaken from time to time on the basis of vacancy notified in particular field, but in RTI dated 24-12-2008, it said there is no procedure for notifying vacancies for the post of Dy GM FE.

Rajya Sabha PQ-1656 Dtd 10-8-2010 states that strength of any cadre is determined based on manpower requirement studied by user department. It certainly looks absurd if at Chennai one Dy GM FE was appointed to administer only one subordinate, while at Delhi where GM-ops through DOD/ADM/47/423 Dtd 2-3-2007 ,was documenting need to appoint one, for administering its base with max of FE among any base and got approval of three terms of officiating.

CA/RTI/2009/412 Dtd 16-3-2009 and Document of COPU Chapter 7 para 7.1 states that Air India has done away with the concept of sanctioned strength and existing strength is taken as operating strength. It is just unimaginable in our system of governance that concept of sanctioned strength is done away with by system of whimsical appointment of one Dy GM FE for only FE to be administered.

Delhi with highest number of FE to be administered and GM-Ops documenting the need through DOD/ADM/47/423 Dtd 2-3-2007 was not allowed such an appointment and nor any additional charge mechanism With Dy GM FE at Mumbai and Chennai, to administer Delhi as well to satisfy NR GM-ops's need. All this was to deprive ST to get opportunity to experience higher duty exposure.

Giving 3 officiating term to one individual but with his transfer on 30-5-2007 as per DON/ADM/47/1330/8165 Dtd 7-6-2007 i.e within approved period of 20-3-2007 to 19-6-2007 , officiating position for remaining period from 30-5-2007 to 19-6-2007 was not given to the senior most Flight Engineer Shri Rebat Pal, indicating that position was person centric ,rather than due to need of company as stated in the RTI reply . Conduct of empowered FE was investigated by none other than Functional Director Personnel with proof of misleading replies from officiating DyGMFE.



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It is clear from the documents that promotion are conducted in administratively imprudent manner and biased to deprive ST candidate who was senior most to deserve officiating charge, as large period of approved period of third term officiating order still remained, approval of which was company need.

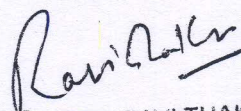
CA/RTI/Appeal/2009/460-155 Dtd 9-7-2009 exposed that third position of Dy GM FE was appointed in variance to the statement made under reply DAD/RTI/25(i)107 DTD 24-12-2008 but third position so made, and became order of the day thereafter, it was not extended to Shri Rebat Pal , when one of three existing Dy GM FE retired , Rebat Pal served in the designation of Sr Manager FE w.e.f from 31<sup>st</sup> march 2007 as per DOD/ADM/47/532 Dtd 5-4-2007 and on the date of retirement of one of the three Dy GM FE, he had completed one year and remained so for over one year with third vacancy remaining unfilled. Shri Rebat Pal administered FE without powers to stop the illegal activity of his subordinates, which were audaciously overlooked by establishment of operations .All that happened in spite of high level investigation and warnings, from none other than Functional Director of Air India , given to the FE involved in training outstation without leave and permission and hence in violation of norms of company.

RTI reply proves that though Air India admitted promoting third FE, with two already serving, but still audaciously maintained that max number of Dy GM FE at any given time were 2, as if one of the three was a ghost in most stated parlance of staff paid without presence. The promotion of Mr Kharbanda in engineering on the date of retirement and that of Mr Acharya who was promoted for only 10 remaining to retire, whereas Shri Rebat Pal served for one year as Sr. Mgr FE , even after the retirement of third Dy GM FE position.

It is clear from documents that strength of cadre is varied. RTI answers are given audaciously indicating their feeling of nothing can be done against them in prevailing system of governance. Mail dated 20-3-2009 by Dy GM-P to ED-Planning indicated that though the appointment into Planning was made by high level committee approved by CMD, Shri Rebat Pal's joining was refused on reasons beyond comprehension that CMD had not consulted ED-Planning, who should have been impeached for this misconduct of non- compliance of CMD's order.

It is strange that even recommendation of JMD (next highest to CMD) of Air India is not heeded by Air India establishment and ST candidate pleading in this commission, against his own airline, is fatal to feeling of belonging in our ST citizen.

CMD's executive order HQ/90-51/772 Dtd 18<sup>th</sup> June 1009 for posting of three including Shri Rebat Pal into engineering, operations or safety, which had words like immediate and it is your responsibility was implemented on 28 Feb 2014(after five years) resulting Sh Rebat Pal forced to work in department of Planning, which was hostile to the extent of refusing reviewing of APA and denying promotion when position above and below were promoted ,e specially with vacant position for which Shri Rebat Pal was only eligible and ED-planning documenting sanction strength of vacant position of chief Mgr-Planning.

  
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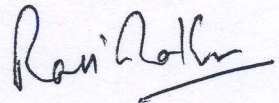
Air India showed compassion on staff of technical cadre who were aggrieved with due action of existing law and back dated effective date of promotion by as many as 5 years. Whereas such action amounts to favouring only those close to powerful executive. But executive order of CMD made in view of technical qualification and experience of licensed personnel and harassment meted in department of Planning is not honored in its spirit and content. Such blatant disrespect for executive order of CMD and harm done professionally and financial to Shri Rebat Pal should be repaired by suitable action.

GEO-AIESL made statement which were quite autocratic, discriminatory and violative in view of the fact that Air India is committed to protect the sanctity of Indian Constitution and adhere to its provision through DoPT OMs. He expressed ignorance of case at hand. In spite of the fact that his Ex-GM(PPC) Mr RD Singh having been promoted thrice while working in CMD office and Mr Anil Nigam GM-IE too was promoted while working in CMD office, CEO's statement of denying promotion to Shri Rebat Pal till the time he works in CMD office is contrary to established practice in government e and especially when Air India CMD himself works in organization other than his parent organization and there is precedence of promoting engineering personnel working as EA to CMD.

In view of the discussion, National Commission for STs recommends that :-

Shri Rebat Pal be given promotion to repair for the damage due to denial of constitutional provision in the promotion of 2002 as recommended in the hearing of 2008, and also for denial in year 2008 subsequent to retirement of one of three DyGMFes in operations department. Shri Rebat Pal be compensated/promoted for loss of promotion opportunity while in planning department, which was vindicated by JMD in his report, where harassment and denial were heaped on very anarchic grounds. Shri Rebat Pal's appointment into Engineering be made effective from the date of executive order of CMD ie 18<sup>th</sup> June 2009, which had words like "Immediate and it is your responsibility" for its execution. All other pending issues not taken up due to paucity of time, will be taken up in subsequent hearing to be scheduled by the Commission.

Air India is advised to submit action taken report on all issues from the date of receipt of the minutes of proceeding.

  
रवि ठाकुर/RAVI THAKUR  
उपाध्यक्ष/Vice Chairperson  
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**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**File No: RP/7/2016/MCVLI/SEOTH/RU-III**

**List of Participants of Sitting dated 30.08.2016**

**National Commission for Scheduled Tribes**

1. Shri Ravi Thakur, Hon'ble Vice -Chairperson
2. Smt. K.D. Bhansor, Director
3. Shri D. S. Kumbhare, Under Secretary

**Officers of Air India**

1. Shri H.R. Jagannath
2. Shri B.C. Biswas
3. Shri Nitin Asthana
4. Shri M. Pradhan

**Petitioner**

1. Shri Rebat Pal