



सत्यमेव जयते

राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes

(भारत के संविधान के अनुच्छेद 338क के अंतर्गत एक संवैधानिक निकाय)
(A Constitutional body under Article 338A of the Constitution of India)

File No. NCST/SER-278/AP/9/2022-SSW

Dated: 25/08/2022

To,

Principal Secretary
Energy and Infrastructure Department
Govt. of Andhra Pradesh
Secretariat, Velgapudi,
Guntur (Andhra Pradesh)
Email :- Secyenergyap@gmail.com

Shri J. Padma Janardhan Reddy
Chairman-Cum- Managing Director
APCPDCL
Beside Polytechnic College
ITI Road, Vijayawada
Krishna – 520008(Andhra Pradesh)

Sub: Notional Promotion to the post of Superintendent Engineer in APCPDCL for ST candidate namely Shri Dharavathu Krishna Naik-a representation dated 02.02.2022 from State Chairman, All India ST Employees Association, Vijayawada.

Sir,

I am directed to refer to the subject cited above and to enclose copy of minutes of Sitting held on 11.08.2022 at 10:30 AM (01:00 PM) under the Chairmanship of Shri Ananta Nayak, Hon'ble Member, National Commission for Scheduled Tribes, Lok Nayak Bhawan, New Delhi-110003 in the matter.

It is, requested that action taken on the suggestions / recommendations of the sitting held on 11.08.2022 at NCST may please be sent within stipulated time, for placing it before the Hon'ble Member.

Encl: As above.

Yours faithfully,

(आर.एस.मिश्र/R.S. Misra)

अनुसंधान अधिकारी /Research Officer

Copy to:

Shri Dharavathu Krishna Naik,
Executive Engineer,
APCPDCL Nuzvid,
District-Krishna (Andhra Pradesh)

Shri B Chekre Naik
State Chairman, All India ST Employees Association,
Andhra Pradesh State Committee
Flat No 204 Excellent Enclave Near Ntr Bus Stop
Yenamalakuduru,
Vijayawada 520007(Krishna, Andhra Pradesh)
Email- Chekre99@Gmail.Com , Mob No- 9849525510

Copy for information to:-

1. PS to Hon'ble Member, NCST
2. NIC, NCST (please upload on the Commission's website).

National Commission for Scheduled Tribes

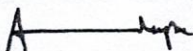
(F. No. NCST NCST/SER-278/AP/9/2022-SSW)

Minutes of the sitting held under the Chairmanship of Sh Ananta Nayak, Hon'ble Member, NCST, in the case of Shri Dharavathu Krishna Naik who approached the Commission seeking notional promotion retrospectively to the post of Superintending Engineer.

Date of the sitting: 11.08.22

Participants in the sitting: As per Annexure

- The main contention of the petition is that Shri Dharavathu Krishna Naik is working as Executive Engineer in APCPDCL (Andhra Pradesh Central Power Distribution Company Limited). One Shri Devarkonda Subba Rao (ST) was promoted from SE to Chief Engineer on 31/12/2021 and one clear vacancy for ST person has arisen in the cadre of Superintending Engineer. Despite this, the APCPDCL authority claims that ST representation is adequate. The petitioner seeks notional promotion with retrospective effect to the post of Superintending Engineer
- The Commission had issued notice to Principal Secretary, Energy and Infrastructure Department, Govt of Andhra Pradesh and Chairman, APCPDCL on 22-02-2022.
- The CMD of APCPDCL filed a reply on 15-03-2022 stating that from 1-09-2020 to 31-08-2021, Shri Subba Rao Belonging to ST category had been promoted to Superintending Engineer. The roster point no. 8-ST(W) raised in the panel year 1.09.2020 to 31.08.2021 is not carrying forward vacancy since the adequacy in the category of ST is already achieved. In the current panel year, it started with Roster no 9(OC) and ended with Roster no 11(OC). The case of Shri D Krishna Naik who is at serial number 48 in the seniority list will be examined as per his turn.
- The petitioner filed a rejoinder on 22-06-2022 stating that the APCDPCL authorities have wrongly mentioned that ST adequacy has been achieved. The petitioners admit the contention regarding panel year 2020-21. However, in panel year 2021-2022. Adequacy has not been achieved. Even though the petitioner is at Roster No 25, he should have been promoted as an ST candidate as per reservation policy, but instead non ST candidates from Roster no 9(OC) to Roster No 11(OC) were promoted.
- The CMD, APCDPCL stated that in the previous panel year, one ST Officer was present in the cadre and ST adequacy was met. Since he was promoted in December 2021, the cadre of 13 Superintending Engineers has zero STs. This will be filled when



अनंत नायक/ANANTA NAYAK

सदस्य/Member

राष्ट्रीय अनुसूचित जनजाति आयोग

NATIONAL COMMISSION FOR SCHEDULED TRIBES

भारत सरकार/Govt. of India

नई दिल्ली/New Delhi

the petitioners turn comes roster wise. He admitted that ST adequacy was not being met at present and also that the petitioner had fulfilled all the criteria for promotion. But he insisted that promotion would be done when the petitioner's turn comes roster wise.

- The petitioner stated that the cadre of 13 Superintendent Engineers has 1 ST reserved post and he is the senior most and fully qualified to be promoted to this post. By not having any ST in the 13 members sanctioned, the purpose of reservation policy would be defeated. He also stated that it may take more than 10 years for his promotion if APCPDCL promoted roster wise and the 13 sanctioned posts which has 1 ST reserved employee would not have any ST employee for this whole period.
- The Commission questioned the CMD as to how a ST reserved post had been filled by non-ST candidate. Judgment of Supreme Court in RK Sabhrwal and Ors. Vs State of Punjab and subsequent DOPT Guidelines (OM No. 36012/2/97/Estt(Res) dated 02/07/1997) were also pointed out which entails that vacancies released by retirements, resignations, promotions etc. belonging to any category are to be filled by appointment of persons belonging to that respective category only. The CMD, APCPDCL assured that they will look into the judgment and subsequent DOPT circular and communicate the company's position on the matter within 15 days.
- After hearing both the sides, the Commission recommends the followings: -
 - The CMD, APCPDCL have to look into the Supreme Court orders and DOPT guidelines discussed in the sitting according to which a strong case for the petitioner's promotion seems to be made out.
 - An ATR to be submitted within 15 days regarding the promotion of the petitioner

The Commission has scheduled the next date of sitting on 18.09.2022



अनंत नायक/ANANTA NAYAK
सदस्य/Member
राष्ट्रीय अनुसूचित जनजाति आयोग
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List of participant of the sitting held on 11.08.2022 at 10:30 AM under the Chairmanship of Shri Ananta Nayak, Hon'ble Member, National Commission for Scheduled Tribes in the case of Shri Dharavathu Krishna Naik, Executive Engineer, Andhra Pradesh Central Power Distribution Company Limited (APCPDCL) for not giving notional promotion to the post of SE by the Management of APCPDCL.

I.	<u>APCPDCL</u>
1	Shri J. Padma Janardhan Reddy, CMD
2	D Sri Lakshmi, General Manager
II.	<u>Petitioner</u>
1	Shri D.K. Naik.
2	Shri B. Chekre Naik, State Chairman, All India ST Employees Welfare Association, Andhra Pradesh, State Committee Vijayawada.