



Government of India
National Commission for Scheduled Tribes
6th floor, 'B' Wing, Loknaya Bhawan
Khan Market, New Delhi-110 003.

File No. TMR/1/2015/MRLY1/SEPROM/RU-I

Date: 12/06/2017

To

The Director,
Indian Railways Institute of Signal,
Engineering and Telecommunications (IRISET),
Secunderabad – 500017 (Telangana).
Fax No.: 040 – 27823922.

Sub: Representation dated 15/12/2015 received from Shri T. Madhava Rao, S/o Late Shri T. Venkaiah, Sr. Technician, Indian Railways Institute of Signal Engineering and Telecommunications (IRISET), R/o 1303/2, RB-III, New Mettuguda, Secunderabad - 500017, Telangana regarding request for promotion to the ST Reserved Instructor (cadre) post in the Pay Scale of Rs. 9300-34800 with Grade Pay of Rs. 4600 (6th CPC) with all consequential benefits w.e.f. 01/10/2010.

Sir,

I am directed to enclose a copy of the minutes of Sitting held in the National Commission for Scheduled Tribes on 06/06/2017 on the above mentioned subject for necessary action.

It is informed that next date of sitting has been fixed by the Hon'ble Member (Shri H. C. Vasava), NCST on 07/07/2017 at 3:00 P.M. with you in person with all concerned officers. You are requested to attend the above sitting with all relevant records / documents of the case on the above scheduled date and time. The petitioner / representationist may be asked to attend the sitting.

Encl: As above.

Yours faithfully,

(Rajeshwar Kumar)
Assistant Director

Copy to:

1. Shri T. Madhava Rao,
S/o Late Shri T. Venkaiah,
R/o 1303/2, RB-III, New Mettuguda,
Secunderabad - 500017,
Telangana.

2. Shri M. Mallaiah,
President,
Telangana Scheduled Tribe Employees
Welfare Association,
74, HIG Phase-3,
Annamayya Enclave,
BHEL, Ramachandrapuram,
Hyderabad-502032 (Telangana).

Copy for information to:

1. PS to Hon'ble Member (HCV), NCST
2. SSA NIC (for hosting on Commission's website)

GOVERNMENT OF INDIA
NATIONAL COMMISSION FOR SCHEDULED TRIBES
(A Constitutional body set up under Article 338A of the Constitution of India)

File No. TMR/1/2015/MRLY1/SEPROM/RU-I

DATE: 07-06-2017

Proceedings / Minutes of the Sitting of Shri H.C. Vasava, Hon'ble Member with Railway authorities along with Petitioners on 06-06-2017 at 3 PM.

Attendance of the members present for Sitting is attached at Annexure - I.

Issue

Denial of Promotion of the Petitioner Shri T. Madhava Rao, Sr. Technician, working in IRISSET at Secunderabad, to the ST reserved post of Instructor (cadre) in the Pay Scale of Rs 6500-10500 (5th CPC) / Rs 9300-34800 with Grade Pay of Rs 4600 (6th CPC) with all Consequential benefits including consequential seniority and all monetary benefits of pay, allowances and arrears wef. 01-10-2010.

Background

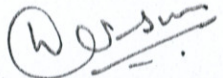
A representation Dated 15-12-2015 received from Shri T. Madhava Rao and also another representation Dated 03-06-2016 received from Shri M. Mallaiah, President of Telangana Scheduled Tribe Employees Welfare Association (TSTEWA), Hyderabad regarding denial of promotion to Shri T. Madhava Rao to the Instructor (cadre) post wef 01-10-2010.

Discussion

The petitioners explained their contentions as follows.

According to the Railway Board's circular No. E(NG)I/96/PM1/19 dated 21.10.97 that anticipated vacancies on account of retirements in next 15 months are also to be considered for promotions while issuing selection notice. Due to sudden death of Mr R. Balasundaram and due to anticipated vacancy on account of superannuation retirement of Shri Laiq Ahmed Owais, the Two (2) posts of Instructor (cadre) in the scale of Rs 6500-10500 (first post is for Un-Reserved and Second post is for Scheduled Tribe category) are available for promotion as on 01-10-2007 itself. But, Mr. BLV Prasad (Chairman of South Central Railway Mazdoor Union of IRISSET Branch) has influenced the Director of IRISSET to issue Selection Notice only for the first vacancy of UR category, so that he can grab the second post of Instructor (cadre) of ST Reserved under the wrong theory of de-reservation of single vacancy of reserved category to Un-Reserved category. Accordingly, without taking any approval from Railway Board, the Director of IRISSET has accepted to Mr. BLV Prasad and issued the Selection notice for first post of Instructor (cadre) and Mr SVK Hanuman (Secretary of the said SCRMU Trade Union) has been promoted on 26-11-2007.

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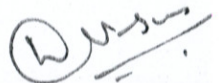

Harshadbhai Vasava
Member
National Commission for Scheduled Tribes
Govt. of India
New Delhi

As such Mr. BLV Prasad wanted to grab the Scheduled Tribe reserved post of Instructor (cadre) in the scale Rs 6500-10500 (5th CPC) / Rs 9300-34800 with grade pay of Rs 4600 (6th CPC) of Telecommunications wing, he has influenced the Director of IRISSET to merge the different units in Telecommunications wing by wrongly applying the Railway Board Circular No. 2001/Tele/MW/7/C/Pt. Dated 29-03-2006/04-04-2006, so that Mr. T. Madhava Rao shall not reach to the immediate feeder grade to the said Instructor (cadre) post. Without having any approval from the Railway Board, the Director of IRISSET has accepted to Mr. BLV Prasad, and merged the different units in Telecommunications wing, in spite of written objections raised by Mr. T. Madhava Rao along with several staff working in the Telecommunications wing, and due to merger of different units in Telecommunications wing, Mr. T. Madhava Rao was thrown out of eligibility to immediate feeder grade to ST reserved Instructor (cadre) promotion.

It is pertinent to mention here that the said Railway Board Circular Dated 29-03-2006/04-04-2006 is not applicable to Central Training Institutes like IRISSET, as confirmed by the Chief Personnel Officer / South Central Railway vide his letter No. P/S&T/36/Misc Dated 20-07-2007 and also by the Railway Board vide letter no. RB/RTI/2011/010020547/Tele Dated 14-12-2011. But, the merger has taken place only to benefit Mr. BLV Prasad, so that he can grab the ST reserved Instructor (cadre) post to UR category under single vacancy de-reservation concept.

At this stage, Mr. T. Madhava Rao came to know about the whole episode, and he requested the Director/IRISSET to promote him to the post of Instructor (cadre) wef. 01-08-2008 by applying the Railway Board circular No. E(NG)62PM1/22 Dated 27-05-1963 by going into 3 levels below grades to the Instructor (cadre) post, since this circular is also applicable to IRISSET. It is pertinent to mention here that the said Railway Board circular Dated 27-05-1963 has been upheld by the Hon'ble Supreme Court of India on 11-01-1989 in Haribans Mishra vs. Railway Board (Reported in 1989 SCC (2) 84). But, unfortunately, under the influence and pressure of Mr. BLV Prasad, the Director/IRISSET has not considered the request of Mr. T. Madhava Rao. It is also pertinent to mention here that, till date, the Railway Board has not withdrawn the said circular Dated 27-05-1963 and also not issued any circular by superseding the said circular, since the said circular was upheld by the Hon'ble Supreme Court of India on 11-01-1989 as stated above. Hence, it is crystal clear that the said circular is valid till date.

Subsequently, the Director of IRISSET after realizing that he has committed an error apparent, has withdrawn the merger of the different units in Telecommunications wing, and accordingly Mr. T. Madhava Rao has been protected with the seniority and also got the promotion of Senior Technician (Telecom) wef 01-10-2008 with all consequential benefits, and Mr. T. Madhava Rao became eligible for promotion to the aforesaid Instructor (cadre) post in



Telecommunications wing wef. 01-10-2010 with all consequential benefits, as an immediate feeder grade candidate.

But, instead of promoting Mr. T. Madhava Rao to the said Instructor (cadre) post by waiting another 7 months time, the IRISSET Administration has downgraded the said Instructor (cadre) promotion post to that of Junior Instructor (Signal) of Direct Recruitment, and accordingly issued Direct Recruitment Notification Dated 06-03-2010 to recruit the said Junior Instructor post from outside Open market, by violating the presidential directive issued by the Government of India vide DOPT OM No. AB-14017/30/89-Estt (SCT) Dated 10-07-1990.

It is pertinent to mention here that, as per the Railway Board letter No. RB/RTI/2012/010020547/CPIO/39 Dated 23-01-2013, the Railway Board has not taken any consent letter /OM from the Department of Personnel and Training (DOPT - which is the nodal agency for implementing reservations for SCs/STs/OBCs in all Departments and all Public Sectors under the control of Government of India), before issuing the Circular No. 99-E(SCT)/I/25/10 Dated 14-05-1999 (RBE No. 102/1999), for downgrading of SC/ST reserved posts to the lower grades, and also not consulted the Hon'ble National Commission for SCs/STs, which is the mandatory requirement as per clause 9 of Article 338 and 338A of the Constitution of India. Hence, the Railway Board circular for downgrading of SC/ST posts to that of lower grades is illegal and unconstitutional, and the circular has no value at all.

It is pertinent to mention here that, the presidential directive Dated 10-07-1990 categorically states that, a candidate belonging to SC or ST is likely to become eligible for promotion in the near future, it may be preferable to keep the reserved vacancy unfilled till that time, rather than diverting the vacancy for Direct Recruitment of a candidate from outside.

Out of Two Instructor (cadre) posts, the first post was filled-up by promotion with an Un-Reserved candidate of Mr. SVK Hanuman against the replacement roster point no. 5.

Vide staff office order no. 46 of 2014 Dated 22-12-2014 and vide memorandum no. EGO/Cadre Instructors/I Dated 22-12-2014, Mr. BLV Prasad has already been promoted to the Instructor (cadre) post wef.01-11-2013 against the post arisen on cadre restructuring at IRISSET, and as such his case is settled and closed.

According to the petitioners, Shri T. Madhava Rao shall be promoted to Instructor (cadre) in the Pay Scale of Rs 6500-10500 (5th CPC) / Rs 9300-34800 with Grade Pay of Rs 4600 (6th CPC) with all Consequential benefits including consequential seniority and all monitory benefits of pay, allowances and arrears wef. 01-10-2010.

The Railway authorities present in the sitting did not counter or deny any of the allegations stated above, except mentioning that the OA No. 357/2010 filed by Shri T. Madhava Rao has been dismissed by the Hon'ble Central Administrative Bench at Hyderabad Bench.

The Petitioners further contended as follows.

Mr. BLV Prasad had challenged the said Direct Recruitment Notification before the Hon'ble Central Administrative Tribunal at Hyderabad Bench, vide OA No. 815/2010 against the Union of India represented by the Secretary (Establishment), Railway Board and others, and Mr. T. Madhava Rao has also filed implead in petition in OA No. 815/2010, and accordingly the Hon'ble CAT has allowed the implead petition, and also narrated the reply filed by Mr. T. Madhava Rao in the judgment Dated 31-12-2014, and the judgment is as follows.

"Thus, the entire exercise made by the respondents downgrading the post of Instructor on the ground that the same is meant for reserved category of ST and no ST candidates are available in the feeder category for promotion and placing the promotional post under direct recruitment quota vide notification dated 6.3.2010 is illegal and arbitrary and as such, the same is quashed and set aside with a direction to the respondents to fill up such vacancy in accordance with rules. Further, if the respondents want to treat such vacancy as reserved for ST category and intend to provide reservation, they have to satisfy the directions laid down by the Hon'ble Supreme court in the case of M. Nagaraj".

The Railway Administration did not prefer any appeal on the above said judgment of the CAT till date, and accordingly the same has become final and binding, and since Shri T. Madhava Rao is also impleaded party in OA No. 815/2017, as such benefit /result of OA No. 815/2017 is also applicable to Shri T. Madhava Rao, since the basic process of downgrading of post was quashed and set aside by the Hon'ble CAT of Hyderabad bench.

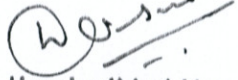
While the said OA No. 815/2010 was pending for adjudication, the Director of IRISSET has appointed one Mr. Katta Jeevan Nehamaiah S/o Shankaraiah, vide Staff Office Order No.8 of 2012 Dated 09-04-2012, in the downgraded post of Junior Instructor (Signal), in the pay scale of Rs 9300-34800 with grade pay of Rs 4200 (6th CPC).

The petitioners requested the Promotion to Shri T. Madhava Rao post of Instructor (cadre) in the Pay Scale of Rs 6500-10500 (5th CPC) / Rs 9300-34800 with Grade Pay of Rs 4600 (6th CPC) with all Consequential benefits including consequential seniority and all monetary benefits of pay, allowances and arrears wef. 01-10-2010, and also requested to adjust Shri Katta Jeevan Nehamaiah to the post vacated by Shri T. Madhava Rao, as such downgrading of post was occurred due to Administrative error, not by the mistake of Shri Katta Jeevan Nehamaiah.

The following irregularities are also brought to the notice of the Hon'ble Commission, by the Petitioners.

1. Through Direct Recruitment Notification, one Mr. BLV Prasad has been selected and posted as Chief Technician in Motor Vehicles wing in the office of the IRISSET in 1994. Being the Chairman of the SCRMU Trade Union and by influencing the Director of IRISSET, Mr. BLV Prasad has got two promotions, the first one as Junior Instructor in Telecommunication wing in 2002 out of his regular channel of promotion in Motor Vehicles wing and that too after diverting the Direct Recruitment quota post to Promotion quota, and the second one as Instructor in Signaling wing in 2007, and as such Mr. BLV Prasad got these two promotions without any approval from Railway Board.
2. The promotion of Shri SVK Hanuman to the post of Instructor (cadre) is also illegal, since promotion of two posts of Instructors was taken place at a time.
3. There are various posts of reserved category have been de-reserved in earlier years and given the benefit of Promotion to Shri Sudershan Rao, Mrs. Kamala and Mr. Mosses etc.,

At this stage, the Director / IRISSET sought Two months time from the Hon'ble Commission to verify the irregularities brought out as above, and assured the Hon'ble Commission to do the justice to Shri T. Madhava Rao after discussing with the petitioner. The Commission agreed for the assurance of Director / IRISSET and granted one month time and the next Sitting will be on 07-07-2017 at 3.00 PM.


Harshadbhai Vasava
Member
National Commission for Scheduled Tribes
Govt. of India
New Delhi

Annexure - I

Members Present in the Sitting on 06-06-2017

National Commission for Scheduled Tribes

1. Shri H. C. Vasava, Hon'ble Member.
2. Shri Manoj Mishra, PS to Member.
3. Shri P. T. Jameskutty, Deputy Secretary.
4. Shri Rajeshwar Kumar, Assistant Director.
5. Shri H R Meena, Sr. Investigator.

Petitioner / Representationist

1. Shri T. Madhava Rao, Sr. Technician, IRISSET, Secunderabad.
2. Shri M. Mallaiah, President, Telangana ST Employees Welfare Association, Hyderabad.

Ministry of Railways

1. Shri ANAND MATHUR, DG PERSONNEL, M/o RAILWAYS, RAIL BHAVAN, NEW DELHI.
2. Shri L. P SINHA, DIRECTOR, IRISSET, SECUNDERABAD.
3. SHRI S P MAHI, EDE(RES), RAIL BHAVAN, NEW DELHI.

To,

1. The Chairman,
Railway Board, M/o Railways, Rail Bhavan, Rafi Marg, New Delhi – 110001.
2. The Director,
Indian Railways Institute of Signal Engineering and Telecommunications (IRISSET),
Tarnaka Road, Secunderabad – 500017 (Telangana).

Copy to:-

1. Shri T. Madhava Rao, Sr. Technician, IRISSET,
R/o. 1303/2, RB-III, New Mettuguda, Secunderabad – 500017 (Telangana).
2. Shri M. Mallaiah,
President, Telangana Scheduled Tribe Employees Welfare Association,
74, H I G Phase 3, Annamayya Enclave,
B H E L, Ramachandrapuram, Hyderabad – 502032 (Telangana).


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