

Proceedings of the Hearing held in the NCST on 30.09.2009 at 03.30 PM to discuss the case of Shri. Rajendra Oraon, Draughtsman Gr.I (C), Dte. of Naval Design (SSG), New Delhi-48 regarding discrepancies in promotion for the grade of Chief Draughtsman (C) in Navy.

The following were present:

NCST

1. Shri Tsering Samphel, Hon'ble Member (in Chair)
2. Shri Aditya Mishra, Joint Secretary
3. Smt. K.D. Bhansor, Deputy Director
4. Shri N. Balasubramanian, Research Officer.

MOD (Navy)

CMDE OP Kaurapdep

Petitioner:

Rajendra Oraon

Brief of the case.

1.0 A representation dated 17.12.2007 was received from Shri. Rajendra Oraon, Draughtsman Gr.I (C), Dte. of Naval Design (SSG), New Delhi regarding discrepancies in his promotion to the grade of Chief Draughtsman (C) in Navy. The petitioner alleged that there had been violation with regard to exchange of vacancies of ST with SC.

2.0 The matter was taken up with the Chief of Personnel, IHQ, MOD (Navy), New Delhi on 19.12.2007 and 22.01.2008. Director (G), IH, M/o Defence (Navy) vide letter dated 07.02.2008 intimated that the cadre of CDM (C) had a strength of 44. In accordance with the Model Roster of SC/ST, Point No.14, 28 & 40 are reserved for ST candidates. It was clarified that no ST candidate was borne against these vacancies. The exchange of vacancies between SC&ST and vice-versa (in case of non-availability of candidate belonging to the particular community), was barred by the DOP&T vide O.M. No. 36012/17/2002-Estt (Res) dated 06 Nov 2003. However, prior to issuance of this order, the exchange of vacancies between SC&ST was

permissible in terms of DOP&T O.M. No. 10/41/73-Est.(SCT) dated 20 July 1974 as amended vide OM No. 36021/7/75-Est. dated 25.02.1976. Under this proviso, two vacancies that belonged to ST candidates were filled by SC candidates in the DPC year 2003-04 prior to receipt of the DOP&T OM dated 06 Nov 2003. Prior to the DPC meeting, one vacancy of ST candidate was filled in the year 1995 by a SC candidate under the proviso of exchange of reservation. These cases are to be re-opened in terms of DOP&T OM No. 36012/17/2002-Esst (Res) dated 06 Nov 2003. Thus, 03 vacancies reserved for ST were occupied by the SC candidates. On both occasions, no eligible ST candidate was available within the zone of consideration. It was also intimated that even in the event of availability of vacancy of CDM to date for ST candidate, Shri Oraon, D'Man-I(C) and another ST candidate viz Shri. C. Lakra (who is senior to Shri Oraon) would not have been eligible for being considered for promotion as the names of these individuals didn't fall within the prescribed zone of consideration for promotion to the selection post (05 times the number of vacancies). The same was communicated to the petitioner on 10.03.2008. However, he submitted a rejoinder on 16.04.2008 and sought the following clarifications:

- i) Reason of not maintaining ST quota and carry forwarding of the ST vacancies in last 4 DPC's, conducted by the Navy for the post CDM (C).
- ii) Not taking action for review DPC even after repeated representation of ST candidates against consideration of ineligible candidates (considered by mistake or intentional) and procedural irregularity committed by DPC.

3.0 The matter was again taken up with the Chief of Personnel, IHQ, MOD (Navy), New Delhi on 05.05.2008. The Principal Director of Civilian Personnel informed on 19.05.2008 that:

- a. Shri Oraon had passed the Departmental Qualifying Exam in Sep 2004 and accordingly, had become eligible to be considered in the DPC year 2005-06. Hence, he had no claim when the DPC for the post of CDM (Const) was held in Dec 2003. Therefore, review of DPC conducted in Dec 2003 is not warranted at this stage.
- b. Another ST candidate Shri C. Lakra who is senior to Shri Oraon also became eligible for promotion in the DPC year 2005-06. Both the candidates could not be considered since their names did not appear within the zone of consideration and also there was no reserved ST vacancy existed as explained above.

- c. Due to the sole reason of eligibility, the applicant could not be considered for promotion during the DPC meeting conducted in Dec. 2003. It is once again clarified that even if vacancies existed post 2003, the applicant would not have been considered since not covered within the extended zone of consideration.

4.0 The Commission observed that the position with regard to the reservation as on date in the grade of CDM (Const) was that the cadre has a strength of 44. Point No. 7,15,20,27, 35 and 41 are reserved for SC candidates and Point No. 14,28 and 40 are reserved for ST candidates. Against this, reservation of 06 SC and 03 ST, 09 SC candidates are borne. In the event of providing reservation for 03 ST candidates against the next 03 vacancies, the cadre will be represented by 09 SC and 03 ST candidates. Such a situation contravenes the concept of post based roster which was implemented by the Govt. in 1997 as a sequel to the ruling by the Hon'ble Supreme Court in case of RK Sabharwal & Ors Vs State of Punjab.

5.0 The NCST not being satisfied called for records relating to DPC matters, seniority list, recruitment rules and roster register maintained for Chief Draughtsman (C) for examiantion, Noting the discrepancies and non-adherence to the stipulated instructions/guidelines on reservation, a Hearing was taken by Hon'ble Member (TS) on 30.09.2009.

6.0 **Discussion**

During the discussion, the following observations were made by the Commission:

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| 1 | DOP &T OM No. 36012/17/2002-Estt.(Res.) dated 6/11/03 about non-permissibility of exchange between SC/ST has not been followed by the Department and DPC was held ignoring the said instructions. |
| 2 | In the light of the above quoted OM, before any other action, the case should have been submitted for de-reservation. Thus, the stipulated instructions/guidelines on de-reservation have not been followed. |
| 3 | The exact shortfall on the basis of post based roster has not been identified. Rosters are not maintained as per the DOP&T OM No. 36012/2/96-Estt (Pers) dated 02.07.1997. The date of appointment has not been shown in chronological order, Gaps have been left in roster. No |

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| | proper replacement has been shown. No summary has been made. Roster not certified up by the Liaison Officer/competent authority. |
| 4 | The roster, as submitted to the Commission vide letter No. CP(G) 2621/CDM/Const dated 08.09.09, is not as per the DOP&T OM dated 02.07.97. Thus, it needs to be re-cast on an urgent basis |

The petitioner who was also heard was asked to submit any other point relating to his case to the Commission for further examination.

7.0 **Conclusion**

The Hon'ble Member asked the authorities to look into the observations of the Commission, as mentioned above, and furnish their comments in the matter to the Commission within a period of 30 days.