

Proceedings of the Sitting taken by the Chairperson on 20/4/2012 at 1200 hrs with the Railway Board in connection with the representation received relating to reported discrimination and harassment to STs employees.

The list of the officials present in the meeting is annexed.

2. The following cases were discussed.

(i) Representation 30/7/2011 from Shri Samir Toppo, Ex. Chief Workshop Manager/Kharagpur regarding discrimination and harassment in posting as DRM, Ranchi.

Shri Toppo, with reference to his representation on 30/7/2011 raised the following points:

- a) Discrimination by the Railway Authorities :
Shri B.P. Swain as DRM/Raipur, Shri R.K. Gupta as DRM/Tinsukhia and Shri A.K. Sanwalla as GM/N.F.Rly were posted under similar circumstances, when vigilance investigations had been processed against them, while he was not allowed to join at DRM/Ranchi for 3 ½ months after issue of order on 7/4/2011, (which was cancelled subsequently).
- b) The order of DRM/Ranchi were cancelled on 29/7/2011, even before the CVC advice was given/ received by the CVC/Railway on 1/8/2011 & 5/8/2011 respectively.
- c) His entire future career has been affected, as unless he does DRM-ship, he cannot be considered for placement as GM.
- d) The allegations were motivated as the allegations were for defrauding Railways of Rs.16 crores, while the charge sheet quoted it only for Rs.33 Lakh, and that too, without any charges of defrauding the Railway, corruption, moral turpitude and loss caused to the Railways, while the case was related to procurement of materials and handled by the officers of Stores Deptt.
- e) He has already given reply to the charge sheet issued by the Railways (which are fabulous in nature). Now, even if he is exonerated, and a new panel of DRM is formed, he will not be eligible for the post of DRM/ Ranchi or other places, despite no fault of his. This should be viewed as discrimination, as it reflects that the case was motivated to deny him DRM ship.

3. On a query from the JS, NCST, the Railway Board clarified that though Shri Samair Toppo was shortlisted for posting as DRM for the year 2010 -2011 and order were accordingly issued on 7/4/2011 posting him as DRM/Ranchi, it came to the notice that certain allegations against Shri Toppo were under investigation by the Vigilance Deptt. and as such he was not cleared from the Vigilance angle. The Railway Board further clarified that DRM is a premier post requiring officials of a very high integrity and only those officers who are clear from vigilance angle are posted as DRMs. Even if Shri Toppo would have been posted as DRM in pursuance of the order dated 7/4/2011, the nature of the vigilance case was such that he would have been removed from the post of DRM which would have been embarrassing both for the officer as well as for the Railway Board. The Railway Board further clarified that instances have occurred when under similar circumstances, the officers having been posted as DRM, were removed from the post of DRM taking into consideration the gravity of the vigilance case. Shri Toppo had also filed a case before the CAT as well as High Court which has been dismissed. The Chairman, Railway Board emphasized that there has not been any intention on the part of the Admn. to discriminate Shri Toppo for being posted as DRM on the basis of caste as apprehended by him.


4. The Commission observed that Shri Toppo had not represented against the major penalty imposed on him as a result of the vigilance case. In case, he has any reservations about the process adopted in the process of investigation and noticed any deficiencies therein, he should make an appeal to the Competent Authority with additional facts, if any, in the case. Chairman, Railway Board mentioned that the appeal if made by Shri Toppo would be examined expeditiously. Chairperson, NCST, desired that Shri Toppo should submit his appeal within a week and Railway Board should communicate the final outcome within a period of 2 months.

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(ii) Representation 16/11/2011 from Dr. P.M. Singhdeo, DIG/MIS/NC Railways Allahabad regarding victimization and harassment in promotion.

5. Dr. Singhdeo raised the issue regarding victimization and harassment in promotion which was evident from non-payment to the salary to him for 5 months from April to September, 2011 without any valid grounds, forceful dispossession from office by the order of CFC, RPM and discrimination in promotion in relation to two similar situated officers of upper caste, as per the details given below:

Facts	RPF officer – Dr. P.M. Singhdeo (Petitioner)	IRTS officer- V. Shankar	Remarks
Category	ST	Gen.	
Service Batch	1985	1990	Petitioner is 05 year senior
Promotion for	SA grade	SA grade	Same Grade
Officer's Status	Pending investigation in CBI case	Pending investigation in CBI case	No difference
Under sections	13(1)(E) of PC Act	120-B R/W 420, 468 & 471 of IPC & 13(2) R/W 13(1)(D) of PC Act	Shri V. Shankar was facing multiple and more serious charges
Suspected offence	Disproportionate assets	Offences under PC Act as well as IPC offences of Criminal conspiracy, cheating, forgery for the purpose of cheating use of forged documents as genuine and abuse of official position by public servant.	Nature of offence against Shri V. Shankar are more serious & grave
Status of CBI case	Pending investigation	Pending investigation	No difference
Mode of information to Railway Board	Copy of FIR sent to Secretary Railway Board	Copy of FIR sent to Secretary Railway Board by CBI	Both CBI cases were within the knowledge of Vigilance branch at the


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		dated 30-11-2009 Letter sent by Dy. CVO/ NW Rly. On 08.12.09	time of DPC
ACR grading	All five years Outstanding & Fit	01 very good, 04 outstanding & Fit	Performance of petitioner was far superior
Vigilance remarks	Agreed list	Agreed list	No difference
DPC assessment	Placed in sealed cover	Fit	Discrimination as Shri Singhdeo was also fit as per the DPC Rules.
Decision of DPC	Placed in sealed cover	Promoted within two days of DPC	Shri V. Shankar -- promoted Shri Singhdeo -- DPC recommendations kept in sealed cover

6. Shri Singhdeo mentioned that since DPC was held on 18/11/2010 and another officer viz., Shri V. Shankar was promoted in December, 2010, justice demanded that his promotion should have been considered from the same date i.e. w.e.f December, 2010 itself, when Shri Shankar was promoted.

7. The Railway Authorities mentioned that the position in the matter has been communicated to the Commission vide their letter dated 26/3/2012. The Chairman, Railway Board regretted the issues relating to non-payment of salary and forceful dispossession of Shri Singhdeo from office. Regarding reported forceful disposition of Shri Singhdeo, Railway Board will take appropriate action against the concerned officer(s). Regarding promotion, the Railway Board authorities explained that the DPC took note of the adverse remarks against the integrity column by the Controlling officers in respect of Shri Singhdeo, and based thereon, his promotion was kept in a sealed cover. Chairperson, NCST observed that the prescribed procedure should have been followed by the concerned officials in relation to the recorded observations regarding integrity of the officer, while arriving at a decision to keep the recommendation of the DPC in a sealed cover. At that stage, the case was only under investigation and no decision was taken in the case. In the light of the observations of the Chairperson, NCST, the Chairman, Railway Board agreed to re-examine the case including date of promotion of Shri Singhdeo based on the extant rules. The position/ decision in the matter would be communicated to the Commission within 4 weeks.

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iii) Representation dated 17/2/2010 from Shri R.B.S. Negi, EDF (Estt.) and others, Railway Board regarding discrimination against SC/ST officers of RBSS in assignment of seniority/promotion.

8. The Commission noted that the representation pertains to the 3 SA Grade officers of the Railway Board Secretariat Service (RBSS) who have mentioned that under the relaxation clause applicable to SC/ST officers of the RBSS incorporated vide notification dated 6/12/2985 in the RBSS Rules 1969 in rule 8, in sub-rule (3), they were eligible and available for promotion from Section Officers Grade to Under Secretary /Deputy Director Grade but were denied natural justice by the Administration, who instead, favoured Direct Recruit Officers of the reserved community who were not even eligible for promotion from Section Officers Grade to Under Secretary/Deputy Director Grade.

9. The petitioner also desired to know whether the relaxation proviso issued vide notification dated 6/12/1985 was applicable to Assistant to Section Officers (SOs) or Section Officers to Under Secretaries (USs) or both levels, and Direct Recruits (DRs) or Promotee/ or both. The petitioners also requested a list of eligible officers for promotion from Section Officers Grade to Under Secretary/Deputy Director Grade as on 6/12/1985 (i.e. date of incorporation of aforesaid notification) alongwith a chronological list of all eligible officers for promotion from Section Officers Grade to Under Secretary/Deputy Director Grade as on 1/07/1986 onwards upto and covering all the 3 representees. The Commission desired that the Railway Board may provide requisite information/ details to the petitioners within a fortnight.

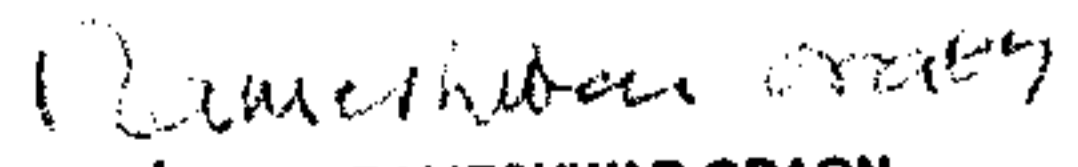
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10. The Commission noted that the comments of the Railway Board on the representation dated 17/2/2010 were sought vide NCST letter dated 8/3/2010. However, these were communicated after a lapse of about a year vide letter No. ERB-1/2010/16/3 dated 19/4/2012. Chairperson, NCST desired that, in future, such delays should be avoided and the Railway Board should nominate a officer responsible for timely submission of the comments of the Railway Board in such matters positively within a month. Chairman, Railway Board regretted the delay occurred in the case and informed that Shri K. Mal, Executive Director, Estt. is the nominated officer for dealing with such cases and all such cases should be forwarded to him by the Commission.

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11. Secretary, Railway Board apprised the Commission that the Railway Board vide letter dated 19/4/2012 have furnished detailed comments on the issues raised by the petitioners in their representation. He mentioned that the issue of seniority between direct recruits and promotee officers of RBSS is sub-judice before Hon'ble High Court of Delhi, vide the WP(C) 7899/2011, filed by Shri N.K. Sharma & Ors against the Hon'ble CAT order dt. 28/3/2011. He further mentioned that the contention of the applicants that there was no seniority list in RBSS is a misconceived one which is also self-contradictory. Railway Board has also furnished factual position of the career progression of the petitioners vide letter dated 19/4/2012. The promotion of these officers to Grade-1 were made w.e.f. 1987, 1989 and 1990 and at that point of time, they never raised the issue of seniority list. On the other hand, they not only accepted the said promotions but also accepted further promotions till SAG based on the same Grade-1 promotion. The fact that they are raising the issue of seniority list pertaining to their Grade-1 promotions at this stage, is sufficient enough to suggest that they have no genuine grievance. Even otherwise, questioning a promotion w.e.f. 1987, 1989 or 1990 almost two decades thereafter is hit by limitation. He also mentioned that the representationists are questioning the validity of gazette notification dated 6/12/1985 vide their rep. dated 17/2/2011 while vide a subsequent rep. dated 21/11/2011 demanding its implementation in their individual cases. This amply suggested that the representationists are not genuine and their contentions are devoid of merits. The Chairperson, NCST desired that the comments received from the Railway Board vide their letter dated 19/4/2012 should be communicated to the petitioners. The position regarding eligibility of the petitioners for promotion in accordance with the RBSS Rules 1969 in rule 8, in sub-rule (3), may also be communicated to them.

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