

## National Commission for Scheduled Tribes

PROCEEDINGS

**Sub: Violation of rights of Scheduled Tribes—pending cases of ST employees and demands/ grievances of SC/ ST Employees Welfare Association of Department of Atomic Energy - hearing held on 31.01.2008.**

Pending cases of ST employees and demands/ grievances of SC/ ST Employees Welfare Association of Department of Atomic Energy were discussed in the hearing held at 3:00 PM on 31.01.2008 in National Commission for Scheduled Tribes, New Delhi. The meeting was chaired by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. Shri Wilfred Lakra, Secretary, National Commission for Scheduled Tribes was also present in the hearing. Secretary, Department of Atomic Energy, however, could not attend the hearing due to some unavoidable commitments. The petitioners and the representatives of the Associations were also present during the hearing. List of all those present in the hearing is enclosed at **Annexure**.

2. After detailed discussion in each case the following action point emerged.

2.1 Action taken in connection with appointment of Shri K.C. Arya, as ST candidate in Raja Ramanna Center for Advance Technology (RRCAT), Indore (M.F.)

2.1.1 Commission was informed that Shri K.C. Arya was initially appointed in the post of Draftsman in BARC and later on transferred to RRCAT, Indore and the previous records relating to Shri Arya during his posting at BARC were not available in RRCAT and, therefore, papers relating to his appointment were not available. It was surprising to note that the Service Book of Shri Arya which was initiated at the time of his appointment in BARC and later transferred to RRCAT had an entry showing him as ST but copies of appointment order, caste certificate and other educational certificates relating to Shri Arya (which were stated to have been verified) were not available in the Service Book. The appointment order would have confirmed regarding his appointment as ST candidate or as UR candidate. In case Shri Arya was appointed as ST candidate but he (knowingly) did not object to his appointment as ST candidate, it will lead to the conclusion that he obtained the job fraudulently and such act. on calls for disciplinary action against him. Besides this, action on the part of Shri Arya has deprived a genuine ST candidate of his right of appointment in the post of Draftsman in Department of Atomic Energy. Commission recommended FIR to be lodged against Shri Arya and steps to be taken to remove him from work. Commission also directed that the original records relating to appointment of Shri K.C. Arya and other six candidates selected/ appointed in the post of Draftsman in the year 1978 alongwith the documents relating to qualification and social status submitted by Shri Arya and other candidates may be produced before the Commission. Department of Atomic Energy will also verify the social status of all other ST employees particularly those who were appointed in 1995 and onwards.

2.2 Grievances/ demands of SC/ ST Employees Welfare Association of the Department.

2.2.1 The main grievance of the Association related to recognition by the Department. The Department of Atomic Energy informed the Commission that recognition of the Association was not granted keeping in view directives of the Department of Personnel and Training. It was clarified that the directives of the DoPT was against recognition of Association on the basis of a particular Scheduled Caste or a Scheduled Tribe and almost every organisation was having one or more recognized Welfare Associations of its SC/ ST employees. Therefore, recognition should also be granted to the SC/ ST Employees Welfare Association of the Department of Atomic Energy. This measure will also help timely and amicably resolve the grievances of SC and ST employees of the Department. JS, Department of Atomic Energy agreed to look into the matter including

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grievances of the Associations and take decision at the earliest.

2.3 Grant of relaxation in qualifying standard to ST employees in matter of promotion- illustrative case of Shri N.L. Meena, Scientific Assistant, Heavy Water Board, Rawatbhata (Raj).

2.3.1 Article 335 of the Constitution provide that

"nothing in this article shall prevent in marking of any provision in favour of the members of the Scheduled Castes and the Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State".

2.3.2 It was, however, represented before the Commission that Department of Atomic Energy was not providing relaxation in marks in the additional qualification acquired by ST employees, in the matter of promotion. A case of Shri N.L. Meena, Scientific Assistant was cited. Shri Meena had completed AMIE (equivalent to BE Degree) in 2003 securing 54.4% marks but he was denied promotion to the post of Scientific Officer on the ground that the minimum requirement, as per revised promotion policy applicable since 2003, is 60% marks in the additional qualification and it was uniform for all candidates whether General/ SC/ ST. Commission was also informed that the promotion policy was confidential and the same was not circulated among the employees. DAE in its written reply had also mentioned that the promotion policy/ guideline was confidential. The Commission viewed it seriously as Department of Atomic Energy was not maintaining transparency. Unless an employee is aware of the parameters/ conditions for the promotion, how can he/ she make required efforts to avail the benefits of additional qualification. Moreover, those employees, who were given permission prior to 2003 for acquiring an additional qualification, have to be governed by the then existing rules. Any revision in a policy or a rule has to be effective prospectively, i.e. it will be applicable in respect of those employees who seek permission for such studies after notification of the revised policy/ rule.

2.3.3 An other important fact is that ST candidates are not available and if a ST candidate makes hard work and sincere efforts to acquire additional qualification beside performing his duties efficiently, his efforts have to be suitably rewarded otherwise the policy of reservation and special provisions in favour of Scheduled Tribes will have no meaning. Besides, Department of Atomic Energy has also to consider for giving relaxation in qualifying marks as per proviso under Article 335 of the Constitution. This proviso was added by the Constitution (82nd Amendment) Act, 2000 and, therefore, not providing relaxed standards of evaluation in respect of Scheduled Castes and Scheduled Tribes candidates by any Department or Organisation of the Government will amount to violation of this constitutional provision by the said Department or Organisation.

2.3.4 In view of above and also in view of the fact that he was given permission prior to notification of the new policy and he had also obtained the additional qualification before actual implementation of the revised policy, the Commission, therefore, recommended that Department of Atomic Energy should consider the case of promotion of Shri N.L. Meena on the basis of his having qualified the AMIE examination and also prescribed lower qualifying standards for ST candidates than those prescribed for general candidates in matter of appointment as well as promotion.

3. Commission also felt that a review of the HRD policy with regards to its provisions to support implementation of reservation policy in Department of Atomic Energy has to be conducted by the Commission in near future so that the existing short comings and anomalies could be sorted out at the earliest. The officials of the Department of Atomic Energy suggested that the proposed review at BARC would facilitate a wide ranging interaction on various related issues with the concerned officials. A suitable date for the review will be intimated to the Department of Atomic Energy in due course.

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## Annexure

## National Commission for Scheduled Tribes

Violation of service safeguards of ST employees and non implementation of reservation policy in Department of Atomic Energy- discussion in National Commission for Scheduled Tribes on 31.01.2008 at 15:00 PM- List of participants

S.No. Name and Designation

I. National Commission for Scheduled Tribes (Hq.), New Delhi

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|----|-------------------------------------|------------|
| 1. | Smt. Urmila Singh, Chairperson      | (In chair) |
| 2. | Shri Wilfred Lakra, Secretary       |            |
| 3. | Shri Aditya Mishra, Joint Secretary |            |
| 4. | Shri R.C. Durga, Director           |            |
| 5. | Shri K.N. Singh, Consultant         |            |
| 6. | Shri S.P. Meena, Assistant Director |            |
| 7. | Shri Y.K. Bansal, Sr. Investigator  |            |

II. Officers of the Department of Atomic Energy

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| 1. | Shri S. Mendiratta, Joint Secretary   | Branch Secretariat,<br>South Block, New Delhi |
| 2. | Smt. Lathika R. Goel, Deputy Secretary<br>and Chief Liaison Officer (SC/ST) | DAE, Mumbai                                   |
| 3. | Shri R.K. Saini, Director (P&A)   | HWB, Mumbai                                   |
| 4. | Shri T.N. Nair, Chief Administrative<br>Officer and LO (SC/ST)              | RRCAT, Indore                                 |

III. Petitioners

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|-----|----------------------|----------------------------------|
| 1.  | Shri Ramkrishan, T/G | HWP, Kota                        |
| 2.  | Shri B.B. Naik       | HWP, Kota (Raj.)                 |
| 3.  | Shri Prem Singh      | NPCIL, R.R. Site, Kota<br>(Raj.) |
| 4.  | Shri N.L. Meena      | HWP, Kota (Raj.)                 |
| 5.  | Shri M.L. Meena      | HWP, Kota (Raj.)                 |
| 6.  | Shri B.S. Meena      | NPCIL, R.R. Site, Kota (Raj.)    |
| 7.  | Shri Atar Singh      | RRCAT, Indore (MP)               |
| 8.  | Shri R.K. Meena      | RRCAT, Indore (MP)               |
| 9.  | Shri C.P. Verma      | RRCAT, Indore (MP)               |
| 10. | Shri Pratap Singh    | BARC, Tarapur (Mah.)             |