

## **National Commission for Scheduled Tribes**

**Minutes of the meeting held with the Chief General Manager and Deputy General Manager, State Bank of Bikaner and Jaipur on 04.02.2008 at 12:00 noon to discuss the petition of Shri Durga Prasad Meena, Ex. Clerk-cum-Cashier in that bank regarding withdrawal of the penalty of discharge from service.**

It was noted that Shri Durga Prasad Meena, Ex. Clerk-cum-Cashier, Khetri Nagar Branch of the State Bank of Bikaner and Jaipur, District Jhunjhunu (Rajasthan) submitted a representation dated 25.04.2006 to the Commission against the penalty of discharge from service imposed on him by the Bank in March, 2005. He had alleged that he had been discharged from service on the basis of baseless allegations of stealing of cheque books, irregularity in cheque payment and accepting bribes etc. The Commission took up the case with the Bank. As the replies received from them were not found to be satisfactory, the case was discussed with MD and other officers of the Bank in a hearing held in the chamber of the then Chairman, NCST on 07.11.2006. The Commission observed that there were a number of deficiencies on the part of the Bank authorities in handling the case of Shri Meena, which were listed in the proceedings. The Commission found that there was no case of termination of the service of Shri Meena and, therefore, the Managing Director of the Bank in the said hearing had agreed to get the entire matter re-inquired and to give fair opportunity to Shri Meena to present his case. MD had also promised that the fresh inquiry would be completed in two months and necessary orders would be issued accordingly under intimation to the Commission.

2. The proceedings of the hearing (referred to above) were sent to the Bank on 17.11.2006 for taking follow-up action on the Commission's advice. MD informed the Commission vide his letter dated 17.01.2007 that he had directed the Appellate Authority to consider the matter afresh. The Bank in its subsequent letter dated 19.03.2007, however, informed the Commission that the case had been referred to the Central Vigilance Commission (CVC) for advice whether the present Appellate Authority was competent to modify the decision of the original Appellate Authority (who had since been transferred). The Commission was also supplied with a copy of said reference to the CVC. It was noted that during the course of the examination of the case on the basis of advice of the Commission, the Chief Vigilance Officer of the Bank had

opined that once the penalty had been duly decided and communicated to the employee, the same Appellate Authority or for that matter, the new Appellate Authority (consequent upon the transfer of the original Appellate Authority) could not revise the punishment as decided. His (CVO's) contention was that the successor in office could not re-appraise the evidence already appraised by the predecessor, as it was a quasi-judicial decision based on appraisal of evidences. The Commission also noted that the Bank's Law Officers had differed with the CVO and had held that the successor in office was empowered to change the decision of his predecessor provided he/she considered it appropriate and justified.

3. In reply to various communications from the Commission regarding checking up of the action taken on its advice, the Bank informed the Commission again and again that the advice from the CVC was awaited despite reminders. The Bank also requested this Commission to take up the matter with CVC for an early reply. As the Commission felt that the matter was being unduly delayed by the Bank by referring the matter to CVC, the Hon'ble Chairperson decided to call the MD of the Bank to discuss the matter with him on 04.02.2008 at 12:00 noon in her chamber. The hearing took place as per schedule. Shri S. Chatterjee, Chief General Manager and Shri Rajendra Bhargav, Deputy General Manager attended the hearing. Shri Wilfred Lakra, Secretary, Shri Aditya Mishra, Joint Secretary, Shri R.P. Vasishtha, Deputy Secretary and Shri K.N. Singh, Consultant assisted the Hon'ble Chairperson during the discussions.

4. The Commission was informed by the Bank that they were not in a position to decide the case of Shri Meena, based on the advice of the Commission pending receipt of CVC's advice in reply to the reference made to them. It was stated by the Bank that the opinion of the Chief Vigilance Officer of the Bank in vigilance matters was essentially required to be obtained as per the procedure/ guidelines laid down by the Govt. and accordingly they had sought the CVO's advice who had opined that the Appellate Authority was not competent to modify its own decision. It was stated that in the situation, they were left with two options. The first was to take action as per CVO's advice and informed the Commission accordingly. The second option was to get the

correctness of the CVO's advice from CVC. The Bank decided in favour of the second option and to refer the matter to the CVC for favour of their advice. The Commission pointed out that the referral note (i.e. the one which was sent to CVC), inter-alia, stated that the present Appellate Authority though not finding any factual evidence to the contrary had, however, on humanitarian grounds, proposed to pass an order reducing the penalty from 'discharge' to 'reduction in time scale of pay' increments (which also falls within the ambit of major penalty). The Commission observed that the present Appellate Authority without going into the merits of the Commission's advice had opined that it did not find any factual evidence to the contrary of the decision already taken. It was recalled by the Commission that in the last hearing held on 07.11.2006 (referred to above), it had pointed out several glaring shortcomings in the entire proceedings adopted by the Bank which put serious question marks on the propriety of the action taken by the Bank to impose the penalty of discharge including the following:-

- (i) Shri Meena had made the payment of the requisite amount on the basis of the cheque which had been passed by the passing officer and the possibilities of the cheque number having being tampered by the passing officer could not be ruled out. Moreover, if the allegation, that the passed instrument was not returned to the passing officer after payment, is accepted, how it could be concluded that Shri Meena had tampered with the instrument. As the charges of tampering of the cheque number had not been proved on the basis of any documentary evidence and was based only on an apprehension, the penalty of removal from service was not at all warranted.
- (ii) When the passing officer discovered that the voucher in question was missing, he did not make a complaint about the non-receipt of the said voucher.
- (iii) While the passing officer had been let off with a minor penalty of reduction of his pay by one stage for one year only, Shri Meena was awarded the extreme penalty of removal from service in the absence of any convincing evidence of malafides or committing any fraud.

5. The Commission also observed that there was no mention of the Commission's above-mentioned and other observations in the referral note sent to CVC, on which grounds the Bank had been asked by the Commission to re-inquire into the case of Shri Meena and that to that extent the said referral note was not complete as it would lead to preferment of opinion by CVC on the basis of the one side of the picture only. It was clarified by the Bank that the allegedly wrong payment of the amount on the basis of cheque (which had been passed by the passing officer) did not constitute the sole grounds for imposing on him the penalty of discharge from service and that there were several other charges particularly relating to stealing/ missing of cheque books which had been found proved in the report of the inquiry officer and further that the disciplinary authority had taken an overall view of these irregularities including the release of payment and had decided to impose the penalty of discharge on Shri Meena. The Commission noted that there was no specific reference to the allegations relating to alleged stealing of the cheque books by Shri Meena in the proceedings drawn up on the basis of its first hearing held on 07.11.2006 and felt that it was necessary to have another round of discussions with the Bank officials on the findings of the Inquiry Officer on other ten charges (other than the release of payment) relating to alleged involvement of Shri Meena in the loss of cheque books vis-à-vis the defence statement of Shri Meena that he was in no way responsible for the loss of the cheque books/ cheques in question. The officers of the Bank were advised to attend the next hearing alongwith all documents/ papers relating to the vigilance proceedings initiated against him, leading to his termination. The next date of hearing will be intimated to the Bank in due course.