

National Commission for Scheduled Tribes

Minutes of the meeting held at 2.00 P.M. on 28.11.07 in the Chamber of Hon'ble Chairperson, NCST to discuss the representation of Shri S.K. Meena, Administrative Officer, The Oriental Insurance Company Ltd. (OICL) regarding denial of promotion to him to the post of Assistant Manager (Scale-II)

This Commission received a representation from Shri S.K. Meena, Administrative Officer (Dev.) in Oriental Insurance Company Ltd. alleging that he was denied promotion to the post of Assistant Manager although he was senior enough to be covered within the number of vacancies filled by the Company in the promotion process conducted during 2006-07 and was, therefore, entitled to the benefit of Protection clause.

2. The matter was examined and it was found that the instructions relating to Protection clause available for SCs/STs in the matter of promotion by selection had not been followed by OICL in the case of Shri S.K. Meena and other Scheduled Tribes who were within the number of vacancies in the zone of consideration. As the reply received from OICL was not found to be satisfactory, the case was discussed with CMD, OICL in a meeting called by the then Vice-Chairperson, NCST on 4.4.2007. The Commission was assured that the whole promotion exercise would be reviewed and the interests of Shri Meena and other STs would be safeguarded. However, no action for redress of the grievance of Shri Meena was taken by The Oriental Insurance Company Ltd. and the Commission had to call CMD, OICL again for discussion in the Chamber of Chairperson, National Commission for Scheduled Tribes on 16.8.2007. The Commission again advised the CMD, OICL to promote Shri Meena by giving him the benefit of Protection clause as his name was covered within the number of actual vacancies. As the OICL authorities did not accept the advice of the Commission to promote Shri S. K. Meena, which was based on the clear-cut instructions of the Government, the matter was discussed again by Secretary, NCST in a meeting with OICL on 12.11.2007 which was attended by General

Manager (Personnel) and other officers from OICL. Even in that meeting, the OICL maintained their earlier stand and refused to reconsider their decision on the ground that the out of 116 promotions made by them in the grade of Assistant Manager, 105 promotions were against actual vacancies and the remaining 11 promotions were against contingent vacancies and that Shri Meena's position being at 110 in the seniority list (zone of consideration) was not covered within the number of actual vacancies i.e. 105. The Commission was also informed that the OICL had sought clarifications on the issue from GIPSA, who, in turn, had taken up the matter with the Ministry of Finance (Insurance Division) for obtaining the advice of DoPT.

3. The Commission found that there was no need to make a reference to GIPSA as the instructions of the Department of Personnel & Training were very clear regarding the Protection clause and that the reference to GIPSA had been made only with a view to delay the matter in regard to Shri Meena's promotion rather disallow the promotion to him on one pretext or the other. It was accordingly decided by the Hon'ble Chairperson, NCST to discuss the matter with Secretary, Financial Sector, Secretary, DoPT and Chairman, GIPSA at 2.00 P.M. on 28.11.2007 to resolve the issue. The meeting was held as scheduled and it was attended by Shri Tarun Bajaj, Joint Secretary, DFS (Department of Financial Services), Shri M. Ramadoss, Chairman, GIPSA and CMD, OICL, Shri A.K. Singhal, Vice-President, (HR), GIPSA, Shri K.G. Verma, Director, DoPT and Shri D. Singh, GM and other officers of OICL Shri Wilfred Lakra, Secretary, Shri K.N. Singh, Joint Secretary, Shri Vinod Aggarwal, Director and Shri R.P. Vasishtha, Dy. Secretary assisted the Chairperson during the discussions. The following points emerged out of the discussions:-

- (i) Director, DoPT confirmed the observations of the Commission that there was no concept of contingent vacancies in promotion by selection and that the clear vacancies arising out of promotion to higher grades on regular basis, resignations, retirement, death etc. were required to be taken into

- consideration for working out the total number of vacancies for the purpose of drawal of the select list and, therefore, the action taken by OICL all along to make two categories of vacancies namely- actual vacancies and contingent vacancies and to extend the benefit of Protection clause to SC/ST candidates with reference to the first category and not on the total vacancies (including the contingent vacancies) was in violation of the DoPT's instructions on the subject.
- (ii) Joint Secretary, DFS and Director, DoPT agreed with the Commission's observations that as the number of officers included in the select list as well as promoted as Assistant Director was 116, Shri S.K. Meena (being at Sl.No.110 of the zone of consideration) and other ST officers appearing in the zone of consideration within 116 should have been given the benefit of Protection clause and promoted.
 - (iii) JS, DFS informed the Commission that he had already consulted the Department of Personnel & Training about application of the Protection clause with reference to the actual number of vacancies filled up i.e. 116 and had issued instructions to OICL to rectify the error committed by them by restricting the benefit of Protection clause to SC /ST candidates figuring in the ZOC only upto Sl. No.105.
 - (iv) There were in all 8 candidates belonging to reserved categories (5 SC and 3 STs- upto Sl.No.116) who had not been promoted by giving them the benefit of Protection clause. OICL informed the Commission that they would now promote these 8 reserved category candidates by allowing them the benefit of Protection clause.
 - (v) The Commission was informed that in the earlier years also the contingent vacancies had not been taken into account for the purpose of extending the benefit of Protection clause. It was further stated that there were

several SC/ST candidates who were not given the benefit of Protection clause and thereby not promoted in the initial year of the promotion exercise and were promoted in the following year by giving them the benefit of Protection clause.

4. The Commission enquired as to how these 8 reserved category candidates including 3 STs would be promoted against the 2006-2007 vacancies as 116 promotions had already been effected against the 116 vacancies. The Commission was informed that the OICL would take the approval of the Board to accommodate these 8 reserved category candidates against the vacancies of 2007-2008. The Commission observed that it would not be a step in the right direction as Shri Meena and other reserved category candidates were entitled for promotion against the 2006-2007 vacancies. The Commission further observed that Shri S.K.Meena and other SC/ST candidates should not be allowed to suffer for no fault of theirs. Their non-promotion was due to wrong policy adopted by OICL. On suggestion of the Commission, JS, DFS and CMD, OICL, Chairperson GIPSA and the Vice-President (HR), GIPSA agreed to take the following actions:-

- (i) To review the promotions made in the past to the post of Assistant Manager from 2001 onwards by preparing a fresh year-wise select list. While doing so, the actual and the contingent vacancies will be clubbed for the purpose of extending the benefit of Protection clause to SC/ST candidates. For example if the number of actual vacancies plus contingent vacancies was 200, all SC/ST candidates figuring in the ZOC within that number would be given the benefit of Protection clause.
- (ii) To accord notional seniority to SC/ST candidates including Shri S.K. Meena (ST) on their promotion as Assistant Director through the review exercise from the date of the inclusion of their names in the select list of the respective year.

5. The Commission was assured that the above-stated review exercise will be completed by 31 December, 2007 and the Commission will be suitably informed in this regard after issue of the fresh promotion orders (year-wise) after review.

6. The Commission also advised the Joint Secretary, DFS and GIPSA to write to the remaining three public sector Insurance Companies asking them to undertake the review of promotions made by them in the past from 2001 onwards on the line of the promotion exercise carried out by OICL in 2006-07, by clubbing the contingent vacancies with actual vacancies for the purposes of extending the benefit of Protection clause and inform the Commission of the action taken position in this regard.

7. The Commission enquired whether the new promotion policy framed by OICL and other Insurance Companies effective from 2006 in which the element of qualifying written examination and/ or interview had been introduced had the approval of the Department of Financial Services. It was mentioned by OICL that the new promotion policy had been formulated with the approval of the Board. The Commission pointed out that the new promotion policies suffered from several infirmities. It was stated by the Commission that under the new policy, the those SC/ST officers who were within the number of actual vacancies will be deprived of the benefit of Protection clause in case they do not qualify in the written examination and to that extent this policy would seriously hamper the prospects of SC/ST officers in the matter of their promotion to the higher grades including the promotion to Scale-II i.e. Assistant Manager. The Commission observed that this situation called for immediate review of the new promotion policy to ensure that the very purpose of introducing the concept of Protection clause by the Government by way of concessions to SC/ST candidates in their promotion by selection was not defeated. The Commission further pointed out that in the minutes of the meeting held by it with the Chief Liaison Officers/

Liaison Officers of the 4 public sector Insurance Companies including OICL on 17.10.2007 (the minutes of which were sent to the CMDs of all the 4 Companies on 22.11.2007), it had found that the new promotion policy did not provide for any concession to SC/ST candidates by way of lower qualifying marks for them (in comparison to general category candidates) and observed that this would lead to denial of promotion by providing the benefit of Protection clause to SC/ST candidates who were within the number of actual vacancies in the zone of consideration and who do not secure the minimum qualifying marks in the written examination and/ or interview. The Commission had accordingly recommended that the new promotion policy should be revised in such a way that the candidates belonging to SC/ST category get the benefit of Protection clause in their promotion to higher posts. The Commission was assured by JS, DFS, the Vice-President, GIPSA and Chairperson, GIPSA and CMD, OICL that they will have a fresh look into the observations of the Commission.
