

Minutes of the meeting with Secretary, MUD, DG(W), CPWD and Jt.Secretary, DoPT with Chairperson NCST in her chamber on 12.2.08 at 1200 hrs.

The Following were present:

Smt. Urmila Singh, Hon'ble Chairperson, NCSTin chair

NCST

Shri Wilfred Lakra, Secretary
Shri Aditya Mishra, Jt. Secretary
Shri Vinod Aggarwal, Director

M/o Urban Development

Shri M. Ramchandran, Secretary,
DoPT
Shri C.B. Paliwal, Jt.Secretary

PETITIONERS(CPWD)

Shri J.K. Meena, A.E. (Civil)
Shri A.E. Meena, A.E. (Civil)

CPWD

Shri K. Srinivasan, D.G.
Shri Anil Mumar, ADG
Shri A.P. Singh, Chief Engineer
Shri Jagdish Arora, S.O.

ISSUES

Non-promotion of AEs belonging to ST category as EEs in CPWD even after a ruling by the Principal Bench, CAT, New Delhi. Whether the notional seniority given to them as AEs should be counted towards the qualifying regular service.

BACKGROUND

Representation from AEs belonging to ST category in CPWD was received in the Commission regarding their non-promotion to Executive Engineer grade by CPWD. Principal Bench, CAT, New Delhi has ruled vide their order in O.A. No. 1105/2006 dated 2.4.07 that these AEs should be given notional seniority and promotion from the date of occurrence of the vacancy. The Commission had meetings with officers of CPWD up to the level of DG to resolve this issue. Earlier, it was assured by CPWD that promotion of ST category AEs will be done as per their seniority and CPWD Rule 1996. Subsequently, in the

last meeting held on 7.1.08, it was mentioned by CPWD that promotion to ST category AEs can not be given because of their in-sufficient regular service. CPWD have quoted their RRs, according to which the promotion as EEs couldn't be granted. To settle this issue a meeting was convened with Secretary, DoPT, Secretary, MUD and DG, CPWD.

DISCUSSIONS

It was intimated by CPWD that they have referred this case to DoPT, which in turn has referred it to Legal Deptt. for their opinion. The petitioners informed that Principal Bench, CAT, New Delhi vide their decision in OA No. 1105/2006, have given a judgement on 2.4.07 that "DoPT OM has to be over ridden by judicial verdict which is yet to be set aside by the High Court. In such view of the matter, we dispose of this O.A. remanding back this case to the respondents for consideration of applicant's case for ad-hoc promotion in the cadre of Executive Engineer on the same principle as adopted in the case of applicants before the Chandigarh Bench i.e. counting of seniority and eligibility from the date of occurrence of vacancies and take final decision by a reasoned and speaking order within two months from the date of the receipt of the copy of this order." Though CPWD has given notional seniority to the applicants but the CAT judgement regarding promotion to them as EEs is yet to be implemented. In this connection, the petitioners have also filed a contempt petition in the Principal Bench, CAT, New Delhi. The hearing is listed on 19.02.2008.

It was noted that DoPT vide their O.M. No. 20011/1/2001-Estt.(D) dated 21.1.2002. paragraph 4(IV) has stipulated that "On the basis of the revised

seniority, consequential benefits like promotion, pay, pension etc. should be allowed to the concerned SC/ST Govt. Servants (but without arrears by applying the principle of 'no work no pay'). It is understood that initially DoPT was in favour of giving benefit of notional seniority for the adhoc promotion to the grade of Executive Engineer subject to final decision of Delhi High Court. But subsequently changed it into saying seniority and eligibility are two different things and the latter cannot be substituted by the former. However, the case has been referred to DOLA for legal advice.

The Commission expressed its concern on this issue that AEs from ST category have already suffered due to delay in their promotion as AE for no fault of theirs and if this injustice is not addressed, they will keep losing their right in perpetuity.

DECISION

Taking into consideration the undue delay which has taken place in deciding the issue finally and the fact that the contempt of court case is pending and the reference is under the consideration of DOLA, it was decided that no promotion from AE to EEs of any category would be resorted to by CPWD till such time the matter regarding promotion to ST category AEs stands resolved.