

## **NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**PROCEEDINGS of the hearing regarding promotion of Shri Thakur Hansda, Joint Director (Audience Research), Doordarshan Bhawan held on 21.10.2008 at 1500 hrs in the Chamber of Smt. Urmila Singh, Hon'ble Chairperson, National Commission for Scheduled Tribes.**

The following were present:

### **National Commission for Scheduled Tribes**

1. Smt. Urmila Singh, Hon'ble Chairperson
2. Shri R.C. Durga, Director
3. Shri K.N.Singh, PS to Chairperson

### **Ministry of Information and Broadcasting**

1. Ms. Sushma Singh, Secretary,
2. Ms. Johra Chatterjee, Joint Secretary (B),
3. Shri V.K. Bhardwaj, Deputy Secretary (BA),
4. Shri Raj Kamal, DDG, AIR, Prasar Bharati Nigam
5. Shri S.C. Sharma, DDA(P), Prasar Bharati Nigam

### **PETITIONER**

1. Shri Thakur Hansda, Joint Director (Audience Research) Doordarshan, New Delhi.

### **ISSUE**

2. Denial of promotion to the post of Director (AR) to Shri Thakur Hansda, Joint Director (AR) since June, 2004 although he fulfilled the eligibility condition for promotion.

### **BACKGROUND**

3. National Commission for Scheduled Tribes had received a representation in October, 2007 from Shri Thakur Hansda regarding denial of promotion to the post of Director, Audience Research. The matter was taken up with the Secretary, Ministry of Information & Broadcasting vide letter dated 20.11.2007. In spite of reminders in this case, Commission did not receive any reply from either the Mol&B or the DG, Prasar Bharati. Last reminder was sent on 20.09.2008.

4. The petitioner recently informed that office of DG, Prasar Bharati had already forwarded the proposal for his promotion to the post of Director (AR) vide their letter dated 28.07.2008 to the Ministry of Information & Broadcasting. A reminder was also sent by his office to the Ministry on 28.08.2008. The facts of this case is that as required under the Recruitment Rules for the post of Director(AR), the petitioner is due for promotion to the post of Director(AR) since June, 2004 when he completed more than 10 years of combined service as DD(AR) and JD(AR). In terms of RRs for the post of Director (AR) (copy enclosed). Two posts of Director (AR) is stated to be vacant since the date of retirement of the then Directors (AR) in the year 2003 and the petitioner has been carrying out the duties

and responsibilities of Director (AR) in addition to his duties and responsibilities of JD(AR) in DG, Doordarshan since February, 2004. It has also been stated in the representation that his two immediate seniors were given ad-hoc promotion to the post of Director (AR) in the scale of Rs. 14300-18300 **directly from the post of DD(AR)**. Both of them have since retired in the year 2003, and the posts of Director vacated by them are stated to be still lying vacant.

5. From the grievance of the petitioner and the fact that the Ministry of I & B has not replied to any of the letter sent by National Commission for Scheduled Tribes during the last one year it appears that the Ministry, which has been taking the duties of Director (AR) in addition to the duty of JD (AR) from the petitioner who belongs to a Scheduled Tribe community, and is due to retire on 31.10.2008, is not keen to give actual promotion in the pay of the post of Director (AR) to the petitioner because he belongs to Scheduled Tribe community. This impression is strengthened from the fact that he became due for promotion in June, 2004 and two posts of Directors have been lying vacant since 2002 and 2003, and still no any efforts have been made by the Ministry to promote Shri Hnasda, let alone making extraordinary efforts by going out of the way having regard to the interest of an officer belonging to a weaker section i.e. Scheduled Tribes, and, on the other hand, the Ministry has all along been making promotions in various categories of posts. In view of this situation, the Secretary, Ministry of Information & Broadcasting was called for hearing in this case at 3:00 PM on 14.10.2008 in the chamber of Hon'ble Chairperson, NCST. However, at the request of the Ministry of Information & Broadcasting the hearing was rescheduled for 21.10.2008.

## DISCUSSION

6. The Commission was informed as follows:

- (i) Prasar Bharati Nigam was formed by separating Doordarshan and All India Radio from the Ministry of I&B and transfer of the staff and officers working in Doordarshan and AIR was made to the Prasar Bharati Nigam treating them on deputation basis. The officers and staff still continue to be on deputation as none of them have opted for absorption in Prasar Bharati Nigam. As the Recruitment Rules for various posts under Prasar Bharati Nigam, quoted by the petitioner, are applicable to the staff and officers belonging to the cadre of Prasar Bharati Nigam only, the same are not applicable to the present staff and officers of PBN, all of them being on the strength of Ministry of Information & Broadcasting. Therefore, the Recruitment Rules for the post of Director, JD, DD, and AD of Audience Research, notified by Prasar Bharati Nigam on 11.03.2002 were not applicable in the case of the petitioner, Shri Thakur Hansda also.
- (ii) One post of Director in the scale of Rs. 14300-18300 was vacated on 30.09.2002 due to retirement on superannuation of the then Director(AR) Shri Ramesh Chandra. Another post of Director was vacated on 31.10.2003 due to retirement on superannuation of the then Director (AR) Shri Murthy. They were appointed in the post of Director by promotion from the post of Dy. Director. After their retirement there was no eligible candidate and, therefore, it was decided to fill these vacant posts by deputation which did not materialize. As the posts could not be filled by any method, both these posts are deemed to have been abolished and, therefore, it was not possible for giving promotion to any officer to the post of Director (AR) without reviving those posts. Moreover, Shri Thakur Hansda was promoted to the post of Joint Director in June, 2004 and there was no provision for making promotion from the post of JD (AR) to Director (AR).
- (iii) Shri Ramesh Chandra and Shri Murthy were appointed Director on ad-hoc basis only and were holding the scale of Rs. 12000-16500 and they retired

from the post of Director in the scale of Rs. 12000-16500 only. The post of Joint Director held by Shri Thakur Hansda also carries the scale of Rs. 12000-16500. Initially there were no posts of Joint Director in the cadre of Broadcasting Service. These posts were created while implementing the recommendations of the Fifth Pay Commission and Rules have not been framed for promotion from the post of JD to Director in Prasar Bharati Nigam.

- (iv) The officers holding the post of Joint Director (AR) are generally performing the duties of Director (AR) and some of them only are given the additional charge of Director (AR) as the posts of Director(AR) are limited.

7. The Commission noted that the promotions in various categories of posts under Prasar Bharati Nigam were being made till date and, **therefore, the Rules and procedure under which these promotions were being granted should also be applicable in the case of Shri Thakur Hansda, JD.** Moreover, if the requisite Recruitment Rules have not been framed several years after the creation of Prasar Bharati Nigam and creation of various posts in the Prasar Bharati Nigam, the Commission felt, that it was indicative of the slackness and unwillingness on the part of the Govt. to ensure smooth functioning of the Prasar Bharati Nigam, thereby defeating the very objective of setting up Prasar Bharati Nigam. It was also noted from the copies of Office Orders produced in the meeting by the petitioner that the posts of Directors were still alive as the Office Orders were signed by the officers as Director (I/C) and it was informed that requisite orders had been issued for holding charge of Director by the incumbents signing the Office Orders.

8. The petitioner informed during the hearing that both Mr. Ramesh Chandra and Shri Murthy were holding the posts of Director in the scale of Rs. 14300-18300 and both of them had retired from the post of Director in the same scale. The officers of Prasar Bharati Nigam and Ministry of Information & Broadcasting stated that they were not sure whether both these officers held the posts of Director in the scale of Rs. 14300-18300. The Commission pointed out with surprise that the promotion of Shri Thakur Hansda from the post of JD (in the scale of Rs. 12000-16500) to the post of Director ( in the scale of Rs. 14300-18300) after vacancy due to retirement of the above named officers is the main issue of the petition and yet the Ministry as well as Prasar Bharati Nigam officers were not aware about the scale of the post of Director held by the two retired officers, even though the officials from the Ministry informed the Commission in the beginning of the hearing that one post each of Director in the scale of Rs. 14300-18300 was vacated in the year 2002 and 2003 respectively. Secretary, Ministry of Information & Broadcasting agreed that Shri Thakur Hansda deserved to be promoted to the post of Director if the vacancies in that post were actually in the scale of Rs. 14300-18300. [The Commission has obtained from the petitioner a photocopy of the extracts (copy enclosed), from the pension papers in respect of Shri Ramesh Chandra who retired on 30.09.2002 which confirms that Shri Ramesh Chandra retired from the post of Director in the scale of Rs. 14300-18300].

## **CONCLUSION AND RECOMMENDATION**

9. As per the Recruitment Rules for the post of Director notified by the Govt., which have not been revised for several years, DD with five years regular service in the post is eligible for promotion of to the post of Director. These Rules are still in operation due to non-implementation of the Recruitment Rules notified by Prasar Bharati Nigam and it was on the basis of these Rules that Shri Ramesh Chandra and Shri Murthy were promoted as Director in the scale of Rs. 14300-18300. The Commission observed that Shri Hansda's promotion to the post of Director by no stretch of imagination could be barred on the ground that he was Joint Director. The Commission strongly felt that gross injustice had been done to Shri Hansda by denying him his rightful promotion all along since June, 2004. The Commission further felt that it would be very illogical to hold a view that promotion of Shri Thakur Hansda

to the post of JD would undo the services rendered by him in the post of DD and JD combined together. Besides, the Recruitment Rules notified in March, 2002 provide for appointment to the post of Director by promotion of officers having combined experience of 10 years or more in the post of DD and JD. Shri Thakur Hansda who was appointed DD in the year 1992 was in fact eligible for promotion to the post of Director in the year 2002 itself when the vacancy in the post of Director had arisen due to retirement of Shri Ramesh Chandra. His eligibility was, in fact, further strengthened after his appointment in the post of JD in June 2004. Further, Ministry has been granting promotions in various categories of posts by seeking clarifications or relaxations from UPSC and other authorities for making appointments/ promotions on the basis of existing Recruitment Rules and the spirit of the Recruitment Rules framed by the Prasar Bharati Nigam.

10. In view of above Shri Thakur Hansda is also eligible for promotion to the post of Director even if revised Recruitment Rules have not been framed for promotion from the post of JD to Director in Prasar Bharati Nigam. As some of the officers have been working as Director(I/C) under the orders of the Govt., the posts of Directors appear to be still alive, the petitioner Shri Thakur Hansda also should have been considered for promotion to the post of Director from the date of his eligibility for promotion. Denial of promotion to the post of Director in the scale of Rs. 14300-18300 has put to a great social and financial loss in the past beside huge financial losses on account of less payments to him towards pensionary benefits. The right of the Scheduled Tribe Officer has to be safeguarded and for the same purpose this matter has been brought before the National Commission for Scheduled Tribes, a constitutional Commission vested with the duty to safeguard the rights of the Scheduled Tribes.

11. The concerned authorities have not taken requisite action to fill the post of Director or not taken steps to convene DPC meeting to consider the case of promotion of the petitioner Shri Thakur Hansda to the post of Director (AR). The Ministry as well as Prasar Bharati Nigam have also not taken any action in the matter even after receipt of the communications from the National Commission for Scheduled Tribes since the last one year. The information on various points relating to promotion made available during the hearing was also not confirmed and specific. It led the Commission to conclude that the Ministry as well as Prasar Bharati Nigam were not inclined to grant the genuine right of promotion to a Scheduled Tribe officer and allowed the posts of Directors to lapse as deemed abolished (although it does not appear to be actually true). In case the Ministry of Information & Broadcasting genuinely believes that the posts of Directors are actually deemed abolished, the revival of these posts, which is also in the interest of the Prasar Bharati Nigam, may not be possible before 31.10.2008 when Shri Thakur Hansda is due to retire on superannuation. The Commission, accordingly, recommended that the Ministry of Information & Broadcasting may take immediate step **to upgrade the post of Joint Director held by Shri Thakur Hansda to the post of Director in the scale of Rs. 14300-18300 on supernumerary basis** from the date of his eligibility for promotion till the date of his retirement on superannuation, with all financial and consequential benefits as he has already been concurrently discharging the duties and functions attached to the post of Director (AR).

12. Ministry of Information & Broadcasting may take requisite action on top priority so that necessary orders for grant of promotion to Shri Thakur Hansda are issued before 31.10.2008 the date of retirement of Shri Thakur Hansda. Action taken by the Ministry may also be intimated to this Commission **by 31.10.2008.**