

## **National Commission for Scheduled Tribes**

**Sub: Proceedings of the hearing held in the NCST on 23.10.2008 at 03.00 PM to discuss the case of Shri Jai Mal Meena, Dy. Manager, OICL, Jaipur regarding promotion from the grade of Branch Manager (Scale-II) to Dy. Manager/Divisional Manager (Scale-III) with retrospective effect from March, 2000.**

The following were present:

### **NCST**

1. Shri Maurice Kujur, Hon'ble Vice-Chairperson (in Chair)
2. Shri Aditya Mishra, Joint Secretary
3. Shri R.C. Durga, Director
4. Shri R.P. Vasishtha, Deputy Secretary,
5. Shri K.C. Behera, PS to Vice-Chairperson

### **OICL**

1. Shri M. Ramadoss, CMD
2. Shri P. Mahajan, DGM
3. Shri Satvir Singh, Liaison Officer.
4. Shri Hemal, AO

### **Petitioner:**

1. Shri J.M. Meena, Dy. Manager, OICL, Jaipur

**Issue: Claim of Shri J.M. Meena for promotion to Dy. Manager/Divisional Manager Scale-III w.e.f. March, 2000 instead of July, 2005.**

### **Background**

A petition dated 30.05.2005 was received from the General Secretary, All India SC/ST General Insurance Employees Welfare Association, Rajasthan Unit, Jaipur regarding denial of promotion to Shri Jai Mal Meena from the post of Branch Officer (Scale-II) to Deputy Manager/Divisional Manager (Scale-III) by the OICL management on the ground of some baseless charges against him. The matter was taken up with the OICL on 04.06.2005 and thereafter discussed in the Commission on 03.04.2006 in the Chamber of Hon'ble Chairman, National Commission for Scheduled Tribes. Vide letters dated 10.04.2006 and 19.04.2006, OICL informed that after conclusion of disciplinary proceedings, Shri Jai Mal Meena had been promoted w.e.f. 22.07.2005 and posted at Jaipur. Shri Jai Mal Meena again represented about date of his promotion claiming for promotion with retrospective

effect as per original offer of promotion dated 02.03.2000. It was revealed from OICL letter, dated 19.04.2006 that Shri Jai Mal Meena had been promoted w.e.f. 22.07.2005 instead of March, 2000 on the pretext of disciplinary proceedings pending against him before that date. It was however, noticed from the records available in the Commission that Shri Jai Mal Meena was posted on promotion in the Regional Office of OICL at Vadodara vide OICL offer, dated 02.03.2000. Shri Meena had requested for posting at Jaipur and also submitted his acceptance and also sent his joining report dated 31.03.2000 by FAX to the OICL Regional Office, Jaipur. However, he was again advised vide letter dated 31.03.2000 (delivered to him on 10.04.2000), to join his duty at Vadodara. Since no office order relieving him from Jaipur was issued, he continued to serve at Jaipur. It was also noticed that his representation for posting as a DM/Sr. BM at Jaipur or near Jaipur was duly forwarded by the Regional Manager, Jaipur to the Manager (Pers.), Head Office, New Delhi for favourable consideration.

The matter was taken up again with the CMD, OICL, Delhi on 29.01.2007 and a hearing of the case was also held on 04.04.07 in the Chamber of Chairperson, NCST when CMD, OICL assured the Commission to take necessary action in the matter within one month. The Company sent a reply, dated 03.05.2007 rejecting the claim of Shri Meena for promotion to Scale-III with retrospective effect from March, 2000. The issue was taken up again vide this Commission's d.o. letter, dated 17.09.2007 addressed to CMD, OICL recommending promotion of Shri Meena to Scale-III with retrospective effect but the company did not accept this position. It was therefore decided to discuss the matter in yet another hearing in the Commission on 23.10.2008.

### **Discussion**

CMD, OICL explained that the promotion of Shri Jai Mal Meena to Scale III was from the Contingency List which was valid upto 31.03.2000 only and that Shri Meena was well aware of this position. He further stated that in the promotion order, dated 02.03.2000 it was clearly laid down that he was required to join at Vadodara, the place of his posting on promotion, within 15 days of the receipt of the promotion order. He also made out the point that the circumstantial evidence showed that Shri Meena avoided receiving the promotion order which was eventually received by him on 27.03.2000. According to the view held by the Company, Shri Meena did not join duty at Vadodara by the 31st March, 2000 even after receiving the promotion order on 27.03.2000 and therefore, as per the Promotion Policy of OICL the offer of promotion made to him vide letter dated 02.03.2000 lapsed on 31.03.2000.

It was pointed out by the Commission that Shri Meena had sent his joining report to the Company on 31.03.2000 through FAX and therefore he had expressed his willingness to avail promotion to Scale-III. Shri Meena was ill and it should not be expected from an ill person to join duty till he recovers from illness. He joined duty in the Company's office at

Jaipur on 10.04.2000 but was not relieved from Jaipur to enable him to proceed to Vadodara to join duty in the promotion post. The Commission also noted that Company's order dated 02/03/2000 as well as letter, dated, 31.03.2000 (delivered to Shri Meena on 10.04.2000) also did not mention that the promotion offer made to Shri Meena would stand lapsed on 31.03.2000 if Shri Meena fails to join in the promotion post. The Commission also invited the attention of CMD, OICL to the following contents of the orders passed by the Hon'ble Rajasthan High Court, Jaipur Bench on 22.12.2000 in the Writ Petition filed by Shri J.M. Meena for seeking the directions of the Hon'ble Court for granting him promotion to Scale-III against the vacancies pertaining to the year 1999-2000:-

"Suffice to say in this regard that once petitioner was duly promoted on the post of Assistant Manager by DPC his promotion can not be legitimately allowed to lapse merely because he failed to join at Vadodara as his representation to allow him to continue at Jaipur on his promotional post was pending consideration. It is held that once by virtue of promotional order right to hold promotional post of Assistant Manager accrued to the petitioner, he can not be divested from his vested right to hold his promotional post, merely delay in joining arbitrarily, specially when his representation was pending consideration. Although it is true that the conduct of the petitioner is not joining his promotional post in pursuant to posting order which was received on 27.03.2000 is reprehensible yet looking to the fact that his representation to allow him to join at Jaipur being a candidate of Scheduled Caste (Tribe) was pending, hence it deserves to be condoned. Looking into the totality of the facts and circumstances the petitioner is hereby directed to join his duty in pursuant to his posting order which was received on 27.03.2000 within 10 days from today (i.e.. 22.12.2000). It is made clear that if the petitioner fails to join his promotional post in pursuant to his posting order within the aforesaid period then it shall be presumed that he has foregone his promotional post".

As per directions of Hon'ble High Court, Shri J.M. Meena after obtaining the copy of the order, visited Vadodara to join the duty on 29.12.2000, but he was not allowed to join. He is stated to have sent his joining report by Fax. Yet his joining report was not accepted. In view of this situations, Hon'ble High Court directed that it was not necessary for Shri. J.M. Meena, to join the duty at Vadodara.

## **Conclusion and Recommendations**

The Commission is of the view that the spirit of the above order of the Hon'ble High Court clearly lays down that there was sufficient justification for keeping the promotion offer, dated 02.03.2000 alive for a reasonable period beyond 31.03.2000. Although, the above order was subsequently recalled by the Hon'ble High Court, on the request of the petitioner as he was assured justice by the company in consonance with the spirit of the same on the application submitted by him for out of court settlement.

Taking into account the position explained above, the Commission found that the request of Shri J.M. Meena for granting him promotion to Scale-III with retrospective effect from March, 2000 as genuine, justified and based on merit. The Commission accordingly reiterates its recommendations that OICL should reconsider their stand in the light of the viewpoint of the Commission and promote Shri J.M. Meena from the grade of Branch Manager (Scale-II) to Dy. Manager/Divisional Manager (Scale-III) with retrospective effect on the basis of offer of promotion, dated 02.03.2000.