

NATIONAL COMMISSION FOR SCHEDULED TRIBES

PROCEEDINGS of the hearing regarding implementation of reservation policy in Madhya Pradesh State Electricity Board, Jabalpur and its five Subsidiary Companies in the State of Madhya Pradesh chaired by Shri Maurice Kujur, Hon'ble Vice-Chairperson National Commission for Scheduled Tribes on 24.10.2008 at 1500 hrs.

The following were present:

National Commission for Scheduled Tribes

1. Shri Maurice Kujur, Hon'ble Vice-Chairperson
2. Shri Aditya Mishra, Joint Secretary
3. Shri R.C. Durga, Director
4. Shri K.C. Behera, PS to Vice-Chairperson

Madhya Pradesh State Electricity Board.

1. Shri P.K. Vaishya, Secretary
2. Shri S.K. Tiwari, ED (Pers.)
3. Shri S.K. Gupta, Dy. Secretary
4. Shri S.K. Talreja, EE(Civil)
5. Shri Sudhir Kumar Pandey, Liaison Officer
6. Shri Mridul Khare, Dy. Secretary, MP East Discom.

PETITIONERS

1. Shri R.K. Temurkar, Secretary, ST/SC Union
2. Shri Anil Kumar Chouhan, AE, MPSEB
3. Shri S.K. Sachdev, General Secretary, ST/SC Union
4. Shri K.K. Wajani, Secretary of ST/SC Union
5. Shri A.P. Paras, State Secretary, ST/SC Union
6. Shri Hemraj Shakya
7. Shri S.L. Parte

ISSUE

2. Denial of promotion to various posts of Engineering cadre and denial of appointment against reserved posts of Accounts Officer in Madhya Pradesh State Electricity Board and its subsidiary companies.

BACKGROUND

3. Assistant Engineers (Generation) belonging to Scheduled Castes and Scheduled Tribes employed in Madhya Pradesh State Electricity Board and SC/ST Employees Association of MPSEB represented to the Bhopal Regional Office of the Commission regarding denial of promotion to the post of Executive Engineer (Generation) from the date of original promotion in the year 1999. As the matter could not be resolved, the matter was transferred to the Commission Hqrs. Office for suitable action under Article 338A. The matter was also referred to the Commission by Smt. Jamuna Devi, Leader of Opposition in the MP Legislative Assembly. The Commission Hqrs. took up the matter with the Madhya Pradesh State Electricity Board authorities. The last communication in this regard was sent on

20.12.2007. The Board submitted its reply vide their letter dated 26.03.2008. In its reply the Board refused to give the benefit of seniority on the basis of their first promotion and their subsequent absorption against regular vacancies. The letter from the Board confirmed that, the seniority of the Executive Engineer on promotion in April, 2007 is being counted from April 2007. It is also noted that the representation of Scheduled Tribes among various categories of posts in Madhya Pradesh State Electricity Board and Subsidiary Companies is not more than 2% against prescribed reservation of 20%, as the Scheduled Tribes in the State constitute more than 20% of the total population as per Census 2001.

4. Another petition was received from Ms Shlesha Parte, Bhopal stating that she had applied for the post of Accounts Officer against 7 vacancies reserved for Scheduled Tribes in MP Poorv Kshetra Vidyut Vitaran Co. and two other subsidiaries of Madhya Pradesh State Electricity Board in response to an advertisement given by MP Poorv Kshetra Vidyut Vitaran Co. It was alleged that she was not appointed even after her selection on the ground that the no. of posts of Accounts Officer reserved for Scheduled Tribes had been cut from 7 to 3. It was also alleged that the total no. of posts to be filled by that recruitment process had been reduced by 25% (from 26 to 20) while no. of posts reserved for Scheduled Tribes had been cut down by more than 50% (from 7 to 3). As the matter was serious in relation to non-implementation of reservation policy for Scheduled Tribes, this matter was also taken up for hearing during the same meeting.

5. The hearing was to be attended by CMD (Madhya Pradesh State Electricity Board). It was stated that due to sudden announcement of the election to the Legislative Assembly of the State of Madhya Pradesh, the CMD, Madhya Pradesh State Electricity Board who is also Chief Secretary of the State could not attend the hearing.

DISCUSSION

6. The Commission was informed by the Madhya Pradesh State Electricity Board and the Officers of the MP Poorv Kshetra Vidyut Vitaran Co. Ltd., as follows:

- (i) Madhya Pradesh State Electricity Board was divided into following 5 Companies in the year 1999 :-
 - (1) MP Poorv Kshetra Vidyut Vitaran Co. Ltd.
 - (2) MP Paschim Kshetra –Vitaran Co. Ltd.
 - (3) MP Madhya Kshetra Vidyut Vitaran Co.Ltd
 - (4) MP Power Generating Co. Ltd.
 - (5) MP Power Transmission Co. Ltd
- (ii) After creation of Chhattisgarh State out of erstwhile Madhya Pradesh State in the year 2000, the then existing Madhya Pradesh State Electricity Board and its subsidiaries were divided among two States and the Officers and staff of the erstwhile Madhya Pradesh State Electricity Board was allocated among various companies under the respective State Electricity Board. However, the bifurcation of Officers and staff among the two State Electricity Boards and companies under each Board has not been finalized so far. These Officers & employees in fact belong to Madhya Pradesh State Electricity Board and are on loan to the subsidiary companies and the rules for the new posts created in these companies are not yet applicable to them. The subsidiary companies are therefore, implementing the reservation rosters to only those posts which have been created afresh in respect of each company independently.
- (iii) The Madhya Pradesh State Electricity Board is following the instructions relating to reservation issued by the State Govt. from time to time. MP Public Service

(Promotion) Rules, 2002 has also been adopted fully by the Madhya Pradesh State Electricity Board.

- (iv) Appointment to the posts of Jr. Engineer and Assistant Engineer in the Board is made by Direct Recruitment also and the applicable reservation Rules were being followed and the unfilled reserved vacancy is retained as backlog vacancy and no general candidate is appointed against the backlog vacancy.
- (v) 40% of the posts of Assistant Engineer are filled by promotion from the post of Jr. Engineer. All those JEs who have completed prescribed service of 7 years have been promoted to the post of Assistant Engineer. However, after adoption of MP Public Service (Promotion) Rules, 2002 by the Board, reservation rules were being followed in making promotion to all posts
- (vi) There is no provision for appointment in Group 'A' posts by Direct Recruitment. Therefore, due to non-availability of eligible candidates in the feeder grade, several posts meant for reserved category candidates could not be filled. Same is the position with regard to promotion from Jr. Engineer to Assistant Engineer, as sufficient number of ST candidates were not available among Jr. Engineers.
- (vii) There is ban on Direct Recruitment since 1992 in the Madhya Pradesh State Electricity Board. The Successor Companies were filling the newly created posts as per their own service conditions, and after approval from the State Govt.
- (viii) As the exercise relating to the actual strength of the Officers & employees to be finally transferred to each discom is not yet complete, the rosters can not be made applicable to the Madhya Pradesh State Electricity Board Officers & staff on loan to each discom.
- (ix) As regards the issue relating to grant of seniority on promotion from Jr. Engineer to the post of Assistant Engineer since 1999, 154 backlog vacancies for Scheduled Castes and Scheduled Tribes in the post of Assistant Engineer were available in 1999. To fill these posts, Time Bound Promotion Scheme issued vide Order dated 07.05.1999 was implemented and 53 Jr. Engineers belonging to reserved categories who fulfilled the prescribed eligibility conditions of 15 years of service were promoted in September/ October, 1999 to the post of Assistant Engineer (TBPS). Assistant Engineer (TBPS) posted in Transmission & Distribution and Production Wing were adjusted against the vacant backlog vacancies in the year 2000. There was, however, ban in all categories of promotion during the years 2001 to 2003. Therefore, the remaining Assistant Engineer (TBPS) were considered for promotion alongwith general category candidates during the years 2005 to 2007. However, this scheme was finally not agreed by the Madhya Pradesh State Electricity Board and therefore, all those promotions could be regularized in the year 2007 only. Their seniority is therefore being counted from the year 2007.
- (x) However, some of the Jr. Engineers had filed WP in the High Court of Madhya Pradesh at Indore Division against the above promotions. Against the judgment of the High Court, the Madhya Pradesh State Electricity Board has filed Special Leave Petition in Hon'ble Supreme Court of India and the Hon'ble Court has issued Orders for maintenance of *Status quo* in the matter of promotion and therefore, any further action in the matter of Assistant Engineers from reserved category promoted during 2005-2007 could not be taken.
- (xi) Vide Order dated 01.09.2000, the appointment on compassionate ground has been banned due to poor financial conditions of the Board. The dependents of the deceased employees were, therefore, being paid Annuity Pension. Similarly, dependents of the employees who died due to accident or murder while on duty were also being paid compassionate financial relief every month
- (xii) As regards, promotion from the posts of draftsman and other subordinate posts to the post of JE (Civil) for those who have acquired requisite qualification and experience and have become eligible for promotion , the exercise could not be taken as there

were no vacancies in the post of JE (Civil). In view of this, the short fall in the post of JE (Civil) against reserved seats for Scheduled Tribes also could not be made up.

- (xiii) As to the complaint received from Ms. Shlesha Parte relating to recruitment to the posts of Accounts Officer, the no. of posts originally advertised were miscalculated inadvertently. After reassessment of actual requirement, the no. of posts was reduced from 26 to 20 only.
- (xiv) The calculation for the no. of posts reserved for Scheduled Tribes, Scheduled Castes & OBCs out of 26 posts was done using wrong rosters inadvertently. This error came into notice while estimating the actual requirement. Therefore, by applying the correct reservation rosters the no. of posts of Accounts Officer reserved for Scheduled Tribes was calculated to be 1 for each discom, totaling to 3 out of 20 posts, which were finally approved and filled.

CONCLUSION AND RECOMMENDATION

- (i) It is a sorry State of Affair that the allotment of offices and staff from Madhya Pradesh State Electricity Board to its successor companies has not been finalized even after about a period of one decade since these companies were set up. The matter should be shorted out on priority as it was creating hurdles in filling the vacant post and hampering on the implementation of reservation orders. It is also likely to create confusion as well as problem in determining the seniority of the employees who will be finally allotted these companies and those who were being appointed against the newly created posts in each Successor Company.
- (ii) Madhya Pradesh State Electricity Board and its subsidiary/ Successor Companies will prepare a **Status Paper** on the basis of the staff already available with each of them, the posts already created and the additional requirement if any, and indicate the actual position relating to the posts filled by Scheduled Tribes against their actual share in each category of posts as per the reservation rules applicable in the State of Madhya Pradesh. The National Commission for Scheduled Tribes would be shortly visiting the State of Madhya Pradesh and have review meeting with the CMD, Madhya Pradesh State Electricity Board and its subsidiary/ Successor Companies on the basis of presentations to be made by each of them. Therefore, the **Status Paper** so worked out should be sent to the Commission within 15 days.
- (iii) A copy each of the Writ Petition filed in the matter of promotion by the Jr. Engineers in the Indore Division of High Court of Madhya Pradesh, the interim as well as final Orders of the Hon'ble High Court, the SLP filed by Madhya Pradesh State Electricity Board in the Supreme Court of India and the interim Orders issued by the Hon'ble Supreme Court of India may be sent to this Commission immediately for perusal of this Commission to assess their impact on the implementation of reservation policy for Scheduled Tribes.
- (iv) The representation of Scheduled Tribes among the Jr. Engineers as well as Draftsman and other subordinate posts is also negligible due to non-implementation of reservation policies even at the level of Group 'C' and 'D' posts in Madhya Pradesh State Electricity Board since its inception inspite of the fact that the percentage of ST population in the State of undivided Madhya Pradesh at that time was around 25% and there should have been no difficulty in making recruitment at Group 'C' and 'D' level in Madhya Pradesh State Electricity Board from amongst Scheduled Tribes. The Madhya Pradesh State Electricity Board will have to safeguard the rights of Scheduled Tribes by providing their due share in various categories of posts. The posts of Jr. Engineers were available in various Departments and there is also heavy shortfall/backlog for Scheduled Tribes in each Deptt., while the eligible ST employees available in the feeder grade for promotion to the post of Jr. Engineers is very small. Under the circumstances the ST employees holding the posts of Draftsman and other subordinate posts, after having acquired the requisite qualification and experience and

have become eligible for promotion to the post of Jr. Engineers may be promoted against the posts of Jr. Engineers available in other Deptts. and posted in those Deptts., if necessary Secretary, Madhya Pradesh State Electricity Board assured that the matter relating to promotion of ST employees working in the post of Draftsman and other subordinate posts to the post of Jr. Engineers will be taken up on priority and all the eligible ST employees among them will be immediately promoted to the post of Jr. Engineers.

- (v) Madhya Pradesh State Electricity Board and its Successor Companies may take requisite action on top priority so that the long pending issues relating to implementation of policy of reservation for Scheduled Tribes could be resolved without further delay.
