

**Proceedings of the sitting on 19-12-2008 at 1500 hrs of Hon'ble
Member Shri Tsering Samphel with Secretary, MoS&PI and
Secretary, DOP&T**

A list of officers present in the sitting is at Annexure.

ISSUE

The promotion of Shri J. R. Meena to the post of Assistant Director (JTS of ISS), which was ordered on 13.07.2006, should have been done retrospectively, when the ST vacancies were there and eligible candidates from ST category were also available.

BACKGROUND

A representation dated 25.07.2007 was received in the Commission from Shri J. R. Meena regarding his promotion to the post of Assistant Director (JTS of ISS) from back date, as he was eligible and vacant ST post were also there.

Shri Meena has intimated that he joined as 'Senior Investigator' in Central Statistical Organization (CSO) on 09.07.1992 (deemed date 25.07.1991) through UPSC. As per the earlier RRs, a candidate with 4 years of service as Senior Investigator is eligible for promotion to JTS of ISS. The RRs were amended in 1997 and eligibility was raised from four years of service as SI to seven years. According to earlier RRs, he was eligible for promotion in 1995 and even if the new RRs are considered, he was eligible for promotion in 1998.

He has further mentioned that the department is carrying forward the three ST vacancies of JTS to subsequent years since 1997-98 on the grounds that eligible candidates are not available. This appears to have been done because of non-updation of eligibility list.

As per RRs, 40% of the vacancies are to be filled up through promotion quota. After introduction of Post Based Roster in July, 1997, the DPC of promotion to JTS of ISS was done in 2001, 2003 and 2004, but every time the three ST vacancies were left unfilled on the basis of non-availability of eligible candidates. Shri Meena was promoted in 2006.

Shri Meena has requested that his promotion should be made effective since 1998, as per new RRs, when the vacancies were also there. He has further mentioned that reasoning of the Department to keep the ST vacancies unfilled on account of the non-availability of eligible persons is also not correct.

This matter was taken up in the Ministry of Statistics and Programme Implementation. In their reply, Ministry has mentioned that RRs were changed on 12.10.1995, but due to temporary ban, the said rules could be notified only in 1997. It was also clarified that eligibility list was circulated on 07.03.1997 taking seven year criteria was as on 12.10.1995.

To have a better understanding of the problem and rule position, Shri Tsering Samphel, Hon'ble Member decided to have a discussion with Director/Reservation, DoPT on 26.09.2008. During discussion, Director/Reservation, DoPT intimated that as per RRs 40% of the vacancies in JTS grade are to be filled up by promotion quota. Whereas it appears that 40% promotion quota has been applied on the Post after implementation of the Post Based Roster in 1997. Due to this, the Department has adjusted the vacancies arising after 02.07.1997 with the excess posts filled up with promotion quota prior to 02.07.1997. This has resulted in conduction of DPC in 2001. Had the eligibility list been updated by the Department regularly, Shri Meena could have been considered for promotion in 2001. During this discussion, Shri Meena explained that as per the seniority list he was within the extended zone of consideration.

In view of the above, Shri Tsering Samphel, Hon'ble Member decided to have a discussion with Secretary, Ministry of Statistics and Programme Implementation and Secretary, DoP&T on 19.12.2008 at 1500 hrs in the Commission.

ANALYSIS

It appears that promotion of Shri J.R. Meena could not be effected at a proper time because of two reasons.

- i) Seniority list of Sr. Investigator was not updated after 12.10.1995, resulting in an impression that eligible ST candidates were not available, which was not correct.
- ii) As per RRs 40% of the vacancies in JTS grade are to be filled up by promotion quota. Whereas it appears that 40% promotion quota has been applied on the Post after implementation of the Post Based Roster in 1997. Due to this, the Department has adjusted the vacancies arising after 02.07.1997 with the excess posts filled up with promotion quota prior to 02.07.1997. This has resulted in conduction of first DPC only in 2003 after implementation of Post Based Roster.

DISCUSSION

The Commission explained that as per new RRs of JTS in ISS Shri J.R.Meena was eligible for promotion to JTS in 1998. Ministry had adjusted the vacancies arising after 1997 with the excess post after casting of Post Based Roster as a result of DoPT order in July,1997. With this approx. 130 vacancies during 1997 and 2001 were adjusted against excess posts. Whereas, as per RRs 40 % of the vacancies were to be filled by the promotion and balance by DR. Moreover, the eligibility list issued in 1997 as per 12.10.1995 data was used in DPC held in 2003 for the vacancies of 2001-2002 and was not updated in between. With this, the name of Shri Meena was not there in the eligibility list, as he became eligible only in 1998. All this happened in the light of the fact that 3 ST vacancies were lying vacant since 1998.

Commission is of the opinion that if the eligibility list of JTS cadre would have been updated regularly and regular DPC would have held to fill the 40 % of the vacancies of JTS, Shri Meen would have been promoted in 1998 itself.

Officers of the Ministry explained that as their officers are scattered in different Ministries/Departments, it is very difficult to update the eligibility regularly. They also mentioned that based on the orders of DoPT, they have amended their RRs and now 40% posts of JTS in ISS are to filled by promotion w.e.f. 2005.

Secretary, MoS&PI agreed that eligibility list would have been updated upto 2002 for the DPC held in 2003. He also mentioned that it is right that as per RRs prevailing at that time 40 % of the vacancies would have been filled by promotion by conducting DPC, but sometimes due to court directives and insistance by UPSC they have to differ from the RRs and follow the prevailing DoPT guidelines.

Shri J.R. Meena mentioned that he is having tentative seniority list of eligible officers in the feeder cadre of JTS in ISS and as per that he was well within the extended zone of consideration in all the DPC held in 2003 and thereafter. Secretary, MoS&PI directed his officers to take the help of Shri Meena and DoPT, if required, to draw the eligibility list for JTS in ISS cadre as on 2002 by updating the eligibility list issued in 1997.

RECOMMENDATION

The Commission recommends based on the discussion that as directed by the Secretary, MoS&PI the eligibility list of JTS in ISS cadre to be updated upto 2002 and to see whether Shri J.R. Meena falls within the extended zone of consideration or otherwise. Ministry may also work out,

when Shri J.R.Meena can be promoted by adjusting the senior officers in the eligibility list of JTS against the vacancies arising after 1997, as per the existing RRs prevailing at that time.

Though these recommendations were accepted in principle by the Ministry, it was decided that Ministry will respond of its acceptance of these recommendations with reference to legalities involved, latest by 15.01.2009. Ministry will also work out a time bound plan to implement these recommendations.

ANNEXURE

The following were present in the sitting on 19.12.2008 :

NCST

1. Shri Tsering Samphel, Hon'ble MemberIn Chair
2. Shri Vinod Aggarwal, Director

MoS&PI

1. Dr. Pranab Sen, Secretary
2. Shri P. C. Cyriac, Director
3. Shri Sunil Kr. Singh, Jt. Director

DoPT

1. Ms. Smita Kumar, Director(E)
2. Shri S. J. Kumar, Dy. Secretary

Petitioner

1. Shri J.R. Meena, SRO, Planing Commission.