

**Proceedings of the Hearing held in the National Commission for Scheduled Tribes (NCST) on 05.03.2010 at 03.00 P.M. to discuss the case of Shri T. Sadar Lal, SE/DPE, APNPDCL, Warangal, AP regarding the harassment and non-promotion to the post of Chief Engineer**

The following were present:-

**NCST**

1. Shri Tsering Samphel, Hon'ble Member (in Chair)
2. Shri Aditya Mishra, Joint Secretary
3. Smt. K.D. Bhansor, Deputy Director
4. Shri N. Balasubramanian, Research Officer

**APNPDCL, Warangal**

1. Shri G. Veeramallu, CGM (HRD), O/o CMD
2. Shri K. Giridhar, PO/Corporate Office
3. Shri M.V. Ramanna Reddy, PO/Corp. Office

**Petitioner:**

Shri T. Sadar Lal

(Note: Shri B. Suresh, DE/KTPS, State General Secretary of State S.T. Employees Welfare Association, Khammam Distt. also attended the Hearing with prior permission of Member/TS).

**Issue: Shri T. Sadar Lal, SE/DPE, APNPDCL, Warangal, AP: Harassment and non-promotion to the post of Chief Engineer.**

**Background**

Shri T. Sadal Lal, SE/DPE, APNPDCL, Warangal, Andhra Pradesh submitted a representation dated 20.08.2009 to the National Commission for Scheduled Tribes (NCST) regarding alleged harassment and non-promotion to the post of Chief Engineer. The matter was taken up with the CMD, APNPDCL, Warangal vide this Commission's letter dated 01.09.2009. In response to the Commission's above mentioned letter, the CMD, APNPDCL furnished comments vide their letter No. CMD/CGM(HRD)/ GM(S)/ AS(Estt.)/PO-A/454-A3/09 dated 16.09.2009 and 25.09.2009. The APNPDCL vide their letter dated 25.09.2009 intimated that the

punishments proposed and awarded to Shri T. Sadar Lal, SE emanated from three disciplinary cases during his tenure as ADE/Op/Sathupally, DE/Op/Kamareddy and SE/Op/Warangal commensurate with the gravity of charges proved against him. APNPDCL vide there letters quoted above had also communicated to the Commission that the charges against Shri Sadar Lal involved financial and procedural irregularities and punishment were granted against him after conduct of the departmental enquiries/documentary evidence. Therefore his allegation of harassment by the CMD/NPDC and Director (HRD)/NPDCL was far from the truth. These comments were communicated to Shri T. Sadar Lal vide Commission's letter dated 03.10.2009. APNPDCL also communicated that on the date of holding the DPC (31.07.2009), the following punishments for the charges established against Shri Sadar Lal were existing:

Sl.No.	Order Reference	Punishment.
1	Memo. No. CMD/Dir(HRD)/CGM(HRD)/GM(S)/AS- DC/PO-C/F. No. 2053-C/07-13, Dt. 11.06.2009	Awarded with CENSURE  (Working as SE/Op/Warangal)
2.	Memo. No. CMD/Dir(HRD)/CGM(HRD)/GM(S)/AS- DC/PO-C/F. No. 1234-C/07-9, Dt. 18.07.2009	Proposed Stoppage of one Annual Grade Increment with cumulative effect. (Working as ADE/Sattupalli)
3.	Memo. No. CMD//CGM(HRD)/ AS- DC/F. No. 2180-D/05-40, Dt. 29.07.2009.	Awarded with Stoppage of Two (2) Annual Grade Increments with cumulative effect. ( Working as DEO/Kamareddy )

Considering the above punishments, as per the rules in vogue, the name of Shri T. Sadarlal was not considered for promotion by the DPC. The APNPDCL had also intimated vide letter dated 16.09.2009 to the Regional Office, NCST, Bhubaneswar that the provisions of the Government of AP circular Memo No. 15813/Ser.C/2007, dated 11.09.2007 were not violated by APNPDCL (as alleged by shri Sadar Lal).

2. Shri T. Sadar Lal vide rejoinder dated 27.10.2009 refuted the facts reported by the APNPDCL. The matter was again taken up with the CMD, APNPDCL vide this Commission's letter dated 11.11.2009. Subsequently Shri Sadar Lal has submitted rejoinders dated 23.11.2009, 25.11.2009 and 09.12.2009 to the Commission.

3. Vide his letter dated 09.12.2009, the petitioner highlighting certain deficiencies in the procedure adopted by the APNPDCL in award of the punishments against him. The Commission sought comments of the APNPDCL in the matter vide letter dated 12.01.10. The APNPDCL vide letter dated 03.02.2010, while forwarding requisite comments also, informed that the Appeal of Shri T Sadar Lal, SE would be examined by the Appellate Authority at an early date, taking into consideration merit of the case.

4. In respect of case at Sl. No. 1, it was explained by the APNPDCL that the punishment of Censure was imposed on Shri Sadar Lal taking into account the documentary evidence in support of the deviations effected by him in issuing orders for transfer of employees with disregard to the stipulated guidelines. In the instant case, since the disciplinary authority proposed to award a minor penalty against the petitioner, an enquiry officer was not appointed in accordance with 10(2)(a) of D&A Regulations, which stipulate appointment of enquiry officer only when the disciplinary authority proposes to award a major penalty against the delinquents depending on the gravity of misconduct. The contention of the petitioner that he was not giving opportunity to defence his case is far from truth and he is also passing misinformation to the Commission. Before imposing the punishment, he was also called for the explanation and after receipt of the explanation, a Show Cause Notice was also issued to him. Not only this, in the final orders imposing the punishment, he was given an opportunity to prefer a Appeal to the Appellate Authority as per the above quoted Regulations.

5. Regarding case at Sl. No 2, the APNPDCL informed that there was no truth in the averment of the incumbent on providing of documents sought by him. In fact, the documents/records were provided to him by the Enquiry Officer to permissible

extent to defend his case effectively. Further, the petitioner was extended provision of verifying all the records related to the charges with the Enquiry Officer and the same was availed by him.

6. Regarding case at Sl. No. 3, the APNPDCL informed that the petitioner was found responsible for arranging payments to the bills received to the Contractor which were without covering letter with many corrections applying white fluids and without confirming bill amount in words. However, Shri Sadar Lal's submissions were considered favourably by reducing the punishment to the extent possible. In addition to the petitioner, departmental action was also initiated against other officials who were found against whom the procedure lapses were noticed.

7. Taking into consideration protracted correspondence in the case, Shri Tsering Samphel, Hon'ble Member fixed up the case for Hearing on 05.03.2010. The CMD of APNPDCL was called in person with all relevant records.

8. The CMD, APNPDCL did not attend the Hearing. However, CGM, APNPDCL submitted a letter dated 18.02.2010 to the Commission explaining complete background of the case. In the said letter, CMD, APNPDCL sought dispensation from attending the Hearing on the ground that he was required to attend a meeting of review of progress and also for future plans for future power supply during the summer season on 5<sup>th</sup> March, 2001. CMD, APNPDCL also mentioned Shri G. Veeramallu, CGM (HRD), APNPDCL was being deputed with relevant records to attend the Hearing. Shri G. Veeramallu CGM (HRD) requested that their Standing Council may be allowed to attend the Hearing.

9. Member/TS expressed his displeasure over the fact that the inability of the CMD, APNPDCL was being reported to the Commission at the last moment though a letter dated 18.02.2010 which was not received in the Commission so far. Member/TS also observed that the Standing Council may not be allowed to attend the Hearing.

10. Member/TS desired that Shri Sadar Lal should be given opportunity to explain his position and officers of the APNPDCCL could give their comments during the discussion.

**10.1 Case at Sl. No.1:**

Shri. Sadar Lal highlighted that the order for transfers were issued by him in accordance with the procedure prevalent in the Department and similar orders were also issued by other SE's in the past too. This procedure has been continued for the last 15 years. However, no action had been taken against any other officer in the past.

Taking into consideration the position brought out by Shri Sadar Lal, the Commission desired APNPDC to clarify following:

- (i) Why APNPDCCL did not proceed with cancellation of the transfer orders issued by Shri Sadar Lal, once it was revealed that these orders were issued not as per the stipulated guidelines?
- (ii) Whether in the past, similar transfer orders were issued ? if yes, what action was taken against the defaulting officers?. Whether such transfer orders which were not found confirming to the stipulated guidelines were cancelled in the past?
- (iii) Whether the factual position against (i) and (ii) above was taken into account by the Deptt. while considering imposition of penalty on Shri Sadar Lal?

The CGM, APNPDCCL indicated that the queries raised by the Commission would be examined while considering the Appeal of Shri Sadar Lal.

**10.2 Case at Sl. No.2:**

Shri Sadar Lal mentioned that the case did not belong to him at all but involved Shri Vinod Babu, Assistant Engineer. He pointed out that as mentioned in his letter dated 09.12.2009 also, the charges were pertaining to the year 2002, when

he was working as ADE/OP/Sathupally and the transaction related to work done during the year 2002, while charges were framed during 2008, when he was working as SE/OP/Warangal on verge of promotion as CE by the Management with ulterior motive to deny him his due promotion. In the subject case, Shri Vinod Babu had drawn material (200 number of poles) and was responsible for maintenance of relevant records. But APNDCL instead of taking action against Shri Vinod Babu and other officers (DE and AE), framed charges only against him. Shri Sadar Lal also mentioned in the final order, the CMD had awarded punishment of stoppage of one annual grade increment with cumulative effect against charge No. 1 and 10, ignoring the convincing evidences submitted by him at the time of enquiry, which had also been submitted alongwith the Appeal filed by him.

The CGM (HRD), APNDCL explained that the poles were drawn by Shri Vinod Babu who was appointed on contract basis and had left the job. Therefore, the action could not be taken against Shri Vinod Babu. Member/TS observed that APNDCL need to explain the reasons for not proceeding with any action to Shri Vinod Babu as he had been projected as a key person by Shri Sadar Lal in this case. Member/TS also noted that the charges against Shri Sadar Lal should have been examined taking into consideration the role played by Shri Vinod Babu. He also desired to know whether such deficiencies in the case were taken into consideration by the Departmental Enquiry and by the competent authority while recommending penalty on Shri Sadar Lal.

The CGM, APNDCL mentioned that view of the Commission would be taken into account while considering Appeal of Shri Sadar Lal.

### **10.3 Case at Sl. No.3:**

Regarding the charge relating to passing of bills and making payments based thereon, Shri Sadar Lal mentioned that while scrutinizing the bills on 09.09.2005, he had noticed correction/alterations etc. and also informed the Assistant Divisional Engineer, Rural, Kamareddy to attest the corrections/alterations. At the same time, he had instructed the JEO to return the bills and obtain initials of the ADE wherever alteration/corrections were made. He also mentioned that Sri B. Srinivas Rao, ADE,

Operation, Rural Kamareddy, was also informed of corrections/alterations, during his visit to Division Office on 06.06.2005. The ADE agreed on corrections vide letter No. dated 15.06.2005. Shri T. Sadar Lal also mentioned that he had conducted a Joint meeting in his office with the contractor and ADE. The ADE/Contractor agreed that the M. Book was not written by the AE/ADE but was written by the Contractor. He also emphasized that AE is the M. Book recording authority and ADE is the custodian of M. Books and check measuring authority as per the stipulated instructions of the APNPDCL. But AE/ADE failed in honouring their responsibilities. in this regard. These facts were not considered by the Enquiry Officer.

Shri. Sadar Lal mentioned that there was no fault on his part and no financial loss had occurred to the APNPDCL as the total amount Rs. 4.5 lakh of the contractor was still pending.

Shri. Sadar Lal further mentioned that Charge No. 9 was not related to him as it was pertaining to the period 2002-03, when he was not working in Kamareddy at all. It was relating to 59 other officials including Shri N. Narasimulu, DE who retired as SE/Project/APNPDCL. No action was initiated against them till now. But APNPDCL took action against him who detected the alterations, rejected the bills and returned these to the concerned officials for corrective actions. In fact, he had noted the corrections in the M-Book in respect of K2 Agreement Nos. 9,10,11,12,13,19,20,21 and 22 of 2004-2005 belonging to Shri V. Venugopal, contractor, from Shri Ramulu, UDC/PAS/Kamareddy for which passing order was stopped by him. Shri Sadar Lal also re-iterated that the payment of the Contractor has not been paid till date. Shri Sadar Lal also mentioned that the original agreement bills and check measurement books were also not taken into account before framing the chargesheet as well as during the enquiry. In this connection, he also requested to refer his letter dated 09.09.09.

The CGM, APNPDCL mentioned that the incumbent was conveniently furnishing such information which was in his favour. The fact that he was found responsible for arranging payments to the bills received from the contractor which were without covering letter, with many corrections applying white fluid and without confirming bill amounts in words. However, his submissions were considered

favorably by reducing the punishment to the extent possible instead of proposed punishment.

The Commission observed that the APNPDCL need to take into account verifiable facts, projected by Shri Sadar Lal in the matter specially the circumstances under which the corrective actions on the bills as pointed out by Shri Sadar Lal were not implemented by his juniors. Further, the Commission has also been given to understand that no action was taken against the Juniors, especially ADE in the matter.

#### 11. **Conclusion**

Considering the position indicated above, the Commission desired that the APNPDCL should examine the Appeal submitted by Shri Sadar Lal in an objective and justifiable manner and issue a Self-speaking Order addressing the issues raised by Shri Sadar Lal in his Appeal for consideration of his promotion with retrospective effect. APNPDCL should also submit an affidavit, containing the factual position with reference to the observations of the Commission against SI. No. 1.

