

**NATIONAL COMMISSION FOR SCHEDULED TRIBES**

**No. K-7/Rly-30/2007/Services/RU-I**

**Proceedings of the Sitting held on 23.06.2010 of Shri Oris Syiem Myriaw, Hon'ble Member with Addl. Member (Staff), Railway Board**

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

**ISSUE**

Issue of Charge sheet by NCR to Shri L. S. Bainada, APO/NCR (now SSA/ALD) for charges in which he has sufficient documents to prove his innocence.

**BACKGROUND**

A representation dated 29.10.2009 from Shri Lal Singh Bainada, APO/NCR (now SSA ALD) regarding issue of charge-sheet by NCR to him was received. Following charges were mentioned in the representation.

- i) Shri Bainada had married with Smt Sanskriti Meena but medical reimbursement availed with the name of Mrs. Seema Meena. Hence, he was guilty of having two wives.
- ii) Wrong ad-promotion to ST community employee named Nibor Sing from grade Rs 3350-4590/- to grade Rs. 4000-6000/- on 10.02.04.
- iii) Destroying the Service Record of Nibor Sing, Cook/N. Delhi.


Shri Bainada had explained that regarding charge no (i) legal divorce in Tribal Caste is not relevant and applicable as Hindu marriage Act 1955 is not applicable to him being from ST Community. Hence, codal provision of conduct rule is also not relevant and applicable to him. Moreover, complainant Smt. Sanskriti Meena had already withdrawn her complaint vide letter dated 01.03.2007, admitting that complaint made was instigated by certain people.

Regarding the charge no (ii), Shri Bainada explained that the proposal for promotion was put up by the section and the order was signed after confirmation of due approval of competent authority. Moreover, the case of Nibor singh, Cook/N.Delhi is pending before CAT/ALD vide OA No. 937/2005, hence case is subjudice.

Regarding the charge no (iii), he mentioned that DO letter dated 19.03.2008 by CPO/NCR addressed to DRM/Jhansi requesting 24 Service Records along with leave account (including that of Sh Nibor Singh) from Jhansi Division to Agra Division is a sufficient proof in his favour. This clearly indicates

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that Service Record of Sh Nibor Singh was not available with Agra Division at that time.

The grievance of Shri Lal Singh Bainada was taken up with the Railway Board vide letter dated 19.11.2009, followed by reminders dated 07.01.2010, 25.03.2010. A communication dated 30.04.2010 from the Railway Board mentioned that the power to lead the disciplinary proceedings to their logical conclusion is vested with the Disciplinary Authority and a reminder is also being sent for expediting the matter.

In view of the above, Shri Oris Syiem Myriaw, Hon'ble Member, NCST decided to have a Sitting/ discussion with Addl. Member, Railway Board on 23.06.2010 at 1130 hrs in the Commission.

Shri Bainada intimated vide his letter dated 18.06.2010 has inquiry has been completed in the case and ex-parte report has been submitted by IO to the Disciplinary Authority without hearing him.

Railway Board vide their letter dated 22.06.2010 intimated the status of inquiry as received from NCR, Allahabad. It was mentioned that as the proceeding are half-way and to be decided by the Disciplinary Authority, it will be premature to comment on the merit of the case and points brought out by Shri Bainada in his representation dated 29.10.2009.

## DISCUSSION

The three charges leveled against Shri Lal Singh Bainada were discussed with the officials of the Railway Board, based on the documents provided by Shri Bainada and observation of the Commission thereon, as follow:

i) The first charge is that Shri Bainada is guilty of having two wives and claimed medical re-imburement for Smt. Seema Bainada, based on the complaint by Smt Sanskriti Meena. It was informed by Shri Bainada that Complaint was given by Smt Sanskriti Meena in 2005 and was withdrawn by her on 01.03.2007, whereas charge sheet was issued to him on 06.02.2008.

The Commission observed that while the Complaint of Smt Sanskriti Meena was considered for issue of charge sheet, why the withdrawal of complaint by Smt Meena was not considered. When Smt Meena had withdrawn her complaint vide her letter dated 01.03.2007 (copy also available in Railway records, as confirmed during the discussion), charge sheet should not have been issued to Shri Bainada. At least now the withdrawal letter dated 01.03.2007 of her complaint by Smt Sanskriti Meena should be considered while deciding the case. The decision in the case will lead to the decision of genuineness of the medical reimbursement of Smt Seema Bainada.

ii) The second charge is that Shri Bainada had allowed ad hoc promotion on 10.02.2004 to Shri Nibor Singh Meena, cook from Cook grade Rs 3050-4590/- to Cook grade Rs 4000-6000/- without taking any approval of competent authority.

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The Commission observed that Shri Bainada signed the promotion order after confirmation of due approval of competent authority as per his representation. Shri Bainada further mentioned that OA No. 937/2005 is also pending in CAT/ALD in case of promotion of Shri Nibor Singh and also Shri Nibor Singh was the senior most ST candidate available for the promotion against ST vacancy. Railway officials mentioned that though there is a stay in OA No. 937/2005 by CAT/ALD filed by Shri Nibor Singh, it do not restrict Railway Authorities to validate its process by which Shri Nibor Singh was promoted.

iii) The third charge is that Shri Bainada had destroyed the Service Record of Shri Nibor Singh. Shri Bainada mentioned that DO letter dated 19.03.2008 by CPO/NCR addressed to DRM/Jhansi requesting 24 Service Records along with leave account (including that of Sh Nibor Singh) from Jhansi Division to Agra Division is a sufficient proof in his favour. It was further confirmed by Railway officials from NCR, Allahabad that Service Record of Shri Nibor Singh is available at present in Agra Division, which clear indicates that the service record of Shri Nibor Singh was not destroyed.

The Addl. Member (Staff) explained that there is a well laid down procedure in the Railway to issue charge sheet to its employees. As the inquiry in this case is over and Disciplinary Authority can only take decision in this case. It would not be proper to comment on the merits of the case. He further assured that views/observations of the Commission will be forwarded to the Disciplinary Authority for consideration while taking decision in this case.

## RECOMMENDATION

In view of the above discussion, the Commission recommended that Shri Lal Singh Bainada, SSA/ALD should be heard in person by the Disciplinary Authority and following observations/views of the Commission may be considered in each of the three charges (as mentioned above), before deciding in the matter.

- i) The withdrawal letter dated 01.03.2007 from the complainant Smt Sanskriti Meena, even before the issue of charge sheet dated 06.02.2008.
- ii) Approval of competent authority may be personally verified by the disciplinary authority in case of ad hoc promotion of Shri Nibor Singh on 10.02.2004 and the fact that Shri Nibor Singh was the senior most ST candidate available for the promotion against ST vacancy.
- iii) The Service Record of Shri Nibor Singh is presently available in the Agra Division as confirmed by Railway officials from NCR, Allahabad during discussion, which certifies that Service record of Shri Nibor Singh was not destroyed.

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