

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Sub: Representation of Shri. S.K. Meena, Administrative Officer, OICL for promotion as Assistant Manager (Scale-II).

Shri S.K. Meena had represented to the Commission that against 105 vacancies in the post of Assistant Manager, scale-II to be filled up by promotion from amongst Administrative Officers, scale-I, a total of 120 Administrative Officers were actually promoted as Assistant Manager. Shri Meena had stated that he was at S.No.110 of the seniority list of the Administrative Officers and, therefore, he should have been promoted as Assistant Manager by giving him the benefits of Protection Clause in terms of the instructions issued by DoPT vide their O.M. No.36028/21/2003/Estt.-Res. dated 29 January, 2004 which provides that in promotions by selection to posts within Group 'A' (Class-I) which carry an ultimate salary of Rs. 18,300/- or less in the revised scale of pay in case of officers working in Central Ministries/Departments following DA pattern and Rs.20,800/- w.e.f.1.1.1996 with reference to the officers working in PSUs following the IDA pattern, the SC/ST officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn, would be included in that list, provided they are not considered unfit for promotion.

2. The Commission was informed by OICL in November, 2006 that in the promotion exercise, 2006-07 (from scale-I to scale-II), the scale-I officers upto S.No.363 of the updated seniority list have been considered and the name of Shri Meena appeared as Sl.No.110 and further that Shri Meena was considered based on various parameters as he was within the zone of consideration for promotion, and since the marks secured by him on various parameters like seniority, technical qualification and work record/performance appraisal was less than the required benchmark, he was not included in the select list. The petition of Shri Meena was discussed in the Commission in the hearing held on 4 April, 2007 in the Chamber of Shri Gajendra Singh Rajukhedi, the then Vice-Chairperson, NCST in which the Commission was informed that while drawing the list of successful candidates, a contingency list was also issued to cover the vacancies caused due to resignation, voluntary retirement and non-acceptance of promotion (if any) by the selected officers. The Commission had pointed out that the zone of consideration should have been drawn in accordance with the number of vacancies actually filled i.e. against 120 vacancies and Shri Meena being at Sl.No.110 should have also been considered for promotion. CMD, OICL had assured the Commission that the whole exercise will be reviewed and the interests of Shri Meena will be safeguarded. OICL vide their letter dated 3.5.07 informed this Commission that in view of the discussions and recommendations of NCST, they had made a reference to GIPSA for a uniform approach, as the implementation of the Protection Clause was common to all the nationalized companies. It was also stated that before holding a meeting of the Lower Management Committee, OICL would take approval from the Board for sanctioning of additional vacancies. The Commission noted that this action on the part of OICL was not as per the discussions held in the meeting on 4.4.2007. In the said hearing the OICL did not disclose to the Commission that they were proposing to make a reference to GIPSA.

3. The case was against discussed in the Chamber of Chairperson, NCST on 16.08.07. The discussions with the OICL officials revealed that OICL had committed a series of gross procedural errors in preparing the select list for promotion to the post of Assistant Manager with reference to the vacancies for the year 2006-07 which are as follows:-

- (i) The Commission observed that a grave mistake was committed by OICL in drawing up the zone of consideration. The zone of consideration, which should have been drawn up with reference to 105 vacancies, was drawn up with reference to 120 vacancies. It was stated that as per the promotion policy being followed by OICL, they were required to prepare a contingency panel/select list of 15 Administrative Officers to fill up the contingent vacancies which could arise in future due to resignation or voluntary retirement or non-acceptance of the promotion offers by some of the Administrative Officers included in the select list of Assistant Manager. The Commission further observed that the second grave mistake committed by OICL was that Shri S.K. Meena was not given the benefit of Protection Clause by virtue of his name appearing at Sl.No.110 of the Seniority List and being covered within the number of vacancies i.e. 120 even though the method of calculation of the vacancies by adding the number of contingency vacancies was wrong.
- (ii) The Commission observed that if it was essential to prepare a contingency list of 10 to 15 officers to take care of the future vacancies in the post of Assistant Manager, it should have been prepared from amongst the Administrative Officers in the zone of consideration with reference to the actual vacancies **i.e. 105**. Contrary to this, the OICL decided to add 15 vacancies to the actual 105 vacancies to make it 120 and to draw the zone of consideration accordingly i.e. with reference to 120 vacancies instead of 105 actual vacancies. This resulted into the zone of consideration being enlarged from 315 (the zone of consideration being three times the number of vacancies as per the OICL promotion policy, as the NCST was informed during discussions) to 363, which, in turn, was responsible for large scale supersessions. On the other hand OICL management ignored the provision of Protection Clause, available to Shri S.K. Meena, on raising the number of vacancies from 105 to 120. The attention of the OICL authorities was drawn to the instructions issued by DoPT vide their O.M. No.22011/2/76-Estt.(D) dated 30 April, 1976 which provide that only clear vacancies arising due to death, retirement, resignation and long term promotions of the incumbents in the feeder grade to higher posts should be taken into account while fixing the number of vacancies and that purely short-term vacancies should not be taken into account for this purpose nor should any addition be made to cover unforeseen vacancies. The Commission observed that in view of these instructions, the action of the OICL to prepare a contingency list/panel of 15 A.Os by adding this number to the number of actual vacancies and accordingly extending the zone of consideration was not correct.
- (iii) As stated in the preceding para, the Commission was informed that as per the promotion policy laid down by OICL, the zone of consideration in selection promotions was required to be three times the number of

vacancies plus the remaining officers of the batch in the feeder posts who were being considered for promotion. It was pointed out that this policy of OICL was not consistent with the instructions issued by the Govt. of India (DoPT). It was stated that till 6 January, 2006, the zone of consideration, as per DoPT's instructions was required to be two times the number of vacancies plus four and after this date i.e. 6 January, 2006, the zone of consideration with respect to vacancies upto ten was required to be twice the number of vacancies plus four, and with respect to vacancies exceeding ten it was required to be one and a half times the number of vacancies, rounded off to the next higher integer, plus three but shall not be less than the size of zone of consideration for ten vacancies. It was also clarified to OICL officials that the size of the zone of consideration had no relevance to the inclusion of all the officers of a particular batch and that it was strictly required to be drawn up with reference to the above-referred instructions. A copy of the DoPT's O.M. No.22011/2/2002-Estt (D) dated 6 January, 2006 in relation to the revised zone of consideration was provided to the CMD, OICL on his request. A copy of this O.M. is, however, enclosed for facility of convenience. The Commission pointed out that the OICL being a Central Public Sector Enterprise (CPSE) was bound to follow the instructions of the Government of India regarding reservation and the size of zone of consideration in selection posts and, therefore, the OICL was required to revise its existing instructions regarding zone of consideration to make them consistent with the above-referred instructions of Government of India.

4. CMD, OICL informed the Commission that the GIPSA, whom reference was made matter regarding giving the benefit of Protection Clause to Shri S.K. Meena in the event of extension of zone of consideration on account of addition in the actual vacancies due to inclusion of 10% contingency vacancies, had further referred the matter for advice of the Department of Personnel & Training. The Commission stated that the instructions of the DoPT regarding providing the benefit of Protection Clause were very clear and there was no need to make a reference by GIPSA to the DOPT. The Commission, however, desired that a copy of the reference made to DoPT by GIPSA may be made available to the Commission for its perusal.

5. The Commission observed that the actual number of clear vacancies was 105 and the correct size of the zone of consideration in terms of the revised instructions of DoPT dated 6 January, 2006 should have been 161 against which the size of the zone of consideration was wrongly drawn upto 363 by OICL by inflating the actual vacancies by adding the contingency vacancies and, therefore, the entire action taken by OICL in preparing the select list for the Assistant Manager (scale-II) was *ab initio* wrong and needed to be reviewed and the select list prepared afresh with reference to the actual number of clear vacancies as on date. The Commission further observed that from the reference made by OICL to the GIPSA it appeared that the actual number of vacancies filled up by promotion was 120 and, therefore, the zone of consideration in terms of the revised instructions of DoPT dated 6 January, 2006 (referred to above) should be 183 and since Shri S.K. Meena, whose name appears at Sl.No.110 of the seniority list should also be considered for promotion to the post of Assistant Manager by extending him the benefit of Protection Clause. CMD OICL assured that he would take corrective action as per observations of the Commission.

6. The above observations of the Commission were communicated to OICL vide letter, dated 21.08.07 requesting them to furnish an action taken report within 15 days. A further letter, dated 21.09.07 was also sent to CMD, OICL requesting him to let the Commission know the names of ST officers included in the Select List and the reasons of non-inclusion if any, alongwith their performance grading as assessed by DPC against the be required for promotion as Assistant Manager. OICL was further requested to send copies of the ACR's of five years in respect of those ST officers who have not been included in the Selected List/Panel to the Commission.

On being persistently followed up by the Commission, CMD, OICL informed vide his letter dated 15.10.07 that Shri. S.KL. Meena was considered for promotion to Scale-II but could not be promoted since marks secured by him on the above parameters of seniority, technical qualification (Insurance) and performance/work record (as assessed through ACRs) were less than the marks secured by the last selected candidate. It was further mentioned that Shri. S.,K. Meena had secured 64.28 marks as against the cut marks of 72.32 for the last selected candidate. One ST officer, Shri. P.K. Brahma, appearing at S.No. 104 of the seniority and who secured 55.26 marks was promoted under the protection clause. The ACRs of the ST officers as called by the Commission in the letter, dated 21.09.07 were not furnished by

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