

National Commission for Scheduled Tribes

PROCEEDINGS**Sub: Violation of rights of Scheduled Tribes in appointment on regional basis in National Fertilizers Ltd. — Discussion held on 04.02.2008.**

National Commission for Scheduled Tribes had received a representation from the Coordination Committee of SCs & STs Employees Welfare Associations of National Fertilizers Ltd., Panipat, alleging that Bhatinda (Punjab) and Panipat (Haryana) Units of National Fertilizers Ltd. have not followed the reservation rules while making appointment to Group 'C' and 'D' posts in both the Units. The matter was discussed in the hearing held at 3:00 PM on 04.02.2008 in National Commission for Scheduled Tribes, New Delhi. The meeting was chaired by Smt. Urmila Singh, Chairperson, National Commission for Scheduled Tribes. Shri Wilfred Lakra, Secretary, National Commission for Scheduled Tribes was also present in the hearing. As CMD, National Fertilizers Ltd. however, could not attend the hearing due to some unavoidable commitments, Shri K.B. Verma, CGM (HR) alongwith other officers of National Fertilizers Ltd. attended the hearing. The representative of the petitioner Coordination Committee was also present during the hearing. List of all those present in the hearing is enclosed at **Annexure**.

2. For making appointment to various categories of Group "C" and "D" posts the reservation for Scheduled Castes, Scheduled Tribes and OBCs is made on regional basis as per population percentage of these communities in the region or the State, as the case may be. However, reservation of 15% for Scheduled Castes and 7½% for Scheduled Tribes is provided while making Direct Recruitment on All India Basis. It was brought to the notice of the Commission that DR appointment to various Group 'C' and 'D' posts in Bhatinda and Panipat Units of National Fertilizers Ltd. have been made on All India Basis but reservation to SCs & STs have been provided on regional basis only and consequently no reservation has been provided for STs on the ground that there is no Scheduled Tribes in the States of Punjab and Haryana. Since appointment has been made by inviting applications and making selection on All India Basis, a benefit of 7½% reservation was admissible to the Scheduled Tribes candidates from various States. Commission noted that the process adopted by NFL has also encroached upon the rights of Scheduled Castes of Punjab and Haryana respectively. By making appointments to SC reserved posts more than 50% candidates have been selected from States other than Punjab and Haryana respectively. Had the appointment been made by inviting applications on regional basis, the Scheduled Castes of Punjab and Haryana only would have been selected against the reservation percentage provided on regional basis.

3. CGM (HR), National Fertilizers Ltd. informed the Commission that the notice for recruitment was initially sent to the Regional Employment Exchange. Later on an advertisement containing that notice was published in Employment News and other Newspapers for wider choice, as per instructions dated 2nd November, 1998 issued by Department of Public Enterprises, on the basis of guidelines laid down by Hon'ble Supreme Court of India in making appointment through Employment Exchanges. Commission was of the view that guidelines laid down by Hon'ble Supreme Court of India did not mention that reference to recruitment being made on regional basis may be excluded from the content of the advertisement. In fact the conditions applicable while making recruitment on regional basis should also be applicable while issuing advertisement in the Employment News or Newspapers. The purpose of making recruitment on regional basis and providing reservation on the basis of regional population is defeated by applying regional percentages of reservation while making recruitment on All India basis. It has greatly marred the interests of the local population including Scheduled Castes and the family members of those employees of

Central or State Govts. or their Organisations who belong to Scheduled Tribes and have been posted in Punjab and Haryana States on transfer from their native places in other States/ UTs. Commission was of the view that the advertisements were not clear as there was no mention about reservation percentages. Since the posts were primarily meant to be filled on the regional basis the advertisements should have clearly mentioned that the applicant should belong to either Punjab State or Haryana State as the case may be.

4. The National Fertilizers Ltd. officers produced photo copies of advertisements issued by the Steel Authority of India Ltd., Bhilai and ONGC (Western Offshore Unit, Mumbai) in various Newspapers for inviting applications for filling various Group 'C' and 'D' posts. It was stated that these advertisements also did not mention that the selection will be from amongst regional candidates or on the basis of regional percentage of reservation. Both the advertisements were stated to have invited applications on all India basis, and, therefore, the action taken by National Fertilizers Ltd. was not different.

5. Commission was of the view that on receipt of representation on the subject from the SC & ST Employees Associations soon after the advertisement issued by National Fertilizers Ltd., the Management should have consulted the Administrative Ministry (Ministry of Chemical and Fertilizer) and the Department of Personnel and Training and a revised advertisement, if necessary, could have been issued after receipt of advice from the Ministry/ DoPT. In the instance case there are no STs in the States of Punjab and Haryana and therefore, there is no such loss to the Scheduled Tribes but it has certainly put to a great disadvantage to the SC & OBC population of these two States. Same situation would have occurred if the appointments in Group 'C' and 'D' posts were to be made in respect of regions having ST population. However, if the reservation was agreed to be provided on all India basis, it would have certainly benefited the Scheduled Tribes on all India basis.

6. During the course of discussion it was also pointed out that the Bhatinda and Panipat Units were facing another typical problem in the matter of promotion from Group 'D' to Group 'C' within Group 'C' and from Group 'C' to Group 'B' posts as reservation in promotion for Scheduled Tribes is 7½% while there is no reservation for Scheduled Tribes in DR and therefore no ST candidates are available for promotion against reserved quota. It was mentioned that this situation was prevailing in every State since percentage of reservation for STs in appointment by DR is on the basis of local/ regional percentage while reservation of 7½% is admissible in promotion. Since an overall percentage of reservation @ of 7½% for Scheduled Tribes has to be maintained, it is necessary that certain minimum percentage of reservation should be provided for Scheduled Tribes at the stage of initial recruitment in Central Govt. Offices and Central Organisations. This will be within the spirit of the judgment and guidelines laid by Hon'ble Supreme Court of India in the matter of providing reservation @ 7½% for Scheduled Tribes in the services under Union Territory of Pondicherry and Govt. of NCT of Delhi

7. Since the candidates selected on the basis of advertisement have already been appointed, the best course of action for National Fertilizers Ltd. will be to consult the Administrative Ministry for finding a solution so that appropriate benefits could be given to the Scheduled Tribes in view of the selections made on all India basis. As regards the contents of advertisement inserted by all Central Organisations the National Commission for Scheduled Tribes would take up the matter with DoPT, Ministry of Public Enterprises. It is also to be decided that when selection takes place on all India basis, in stead of regional or local basis, 7½% should be reserved for STs and that in no case it should be zero percentage in any State.

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