

**Proceedings of sitting on 10.12.2008 of Hon'ble Chairperson
with Secretary, Ministry of Civil Aviation and DGCA**

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

ISSUE

Representation of Shri K. L. Meena, Assistant Director, Air Safety, DGCA Hqrs. New Delhi to get his transfer order to Hyderabad cancelled.

BACKGROUND

A representation was received in the Commission in July 2007 from Shri K. L. Meena, Assistant Director, Air safety, DGCA Hqrs. New Delhi to get his transfer order to Hyderabad cancelled on the basis of his domestic circumstances. He mentioned that his transfer order has been issued discriminately and not as per practice.

The Commission took up the representation of Shri Meena with DGCA. The Commission was informed that Shri Meena happened to be the senior most Assistant Director Air Safety and that he had been posted at Delhi (Hqrs.) for the last 18 years and that he had not done any field posting which was desirable for an officer of his level to give exposure in every sphere of job. The Commission, however, found that there were few officers belonging to general category who had joined the Hqrs. of DGCA and promoted there itself to higher posts and all along retained at the Hqrs. or in Delhi region. On the contrary, Shri Meena was transferred to Kolkata in July 2004 without any promotion (which was cancelled on intervention of this Commission) and again he had been transferred, without any promotion to Hyderabad. The Commission further noted that 5 days before Shri Meena transfer order, Shri Manish Kumar Chopra was promoted as Dy. Director of Air Safety and retained at the same place i.e. Hqrs., although the posts of Regional Controller of Air Safety/ Dy. Director of Air Safety were vacant since August 2003 and January 2007 at Kolkata and Hyderabad respectively.

To resolve the issue, his case was discussed in a hearing held by Secretary, National Commission for Scheduled Tribes with DGCA on 16/10/2007. In the said hearing, DGCA had agreed to consider favorably one of the two suggestions of the Commission either to retain Shri Meena at New Delhi by transferring him from the Hqrs. to Delhi region and making some other arrangements for Hyderabad office by posting some other Assistant Director of Air Safety/ Sr. Air Safety officer or transferring Shri Meena from the Hqrs. to Delhi region and assigning him the additional charge of the Hyderabad office. The suggestions of the Commission, however, were not accepted by the DGCA.

In view of the position stated in the preceding Para, the matter was discussed again by the Hon'ble Chairperson, National Commission for Scheduled Tribes with DGCA in a hearing held in her chamber on 21.11.2007. DGCA had agreed in that meeting to reconsider his decision either by transferring one Shri Moitra from Delhi region to Hyderabad and transferring Shri K.L. Meena in his vacancy to Delhi region or by working out some other solution to retain Shri Meena in view of his family problems.

As the matter continued to drag on without any solution, the Chairperson, NCST again discussed the matter with Secretary, Civil Aviation and DGCA on 22 January 2008. It was decided in this meeting **to keep the order transferring to Shri Meena to Hyderabad in abeyance till 30 June 2008** to enable him to have the education of his son completed without any interruption and orders to that effect were issued by DGCA on 22 January 2008.

In the meanwhile, Shri K.L. Meena vide his representation dated 07.05.2008 pointed out several discrepancies in the presentation of facts to the Commission during the course of three hearings held to discuss his case. These discrepancies were brought to the notice of DGCA vide the Commission's letter of even No. dated 17.06.2008. As desired by the Chairperson, DGCA was requested in the same letter to furnish the facts on **an affidavit under oath** within a week based on which the decision was taken to relieve Shri Meena on 30.06.2008. The Commission found that in response to its letter, DGCA had supplied certain information on plain paper without any supporting documents. The Commission, accordingly, requested DGCA on 15.10.2008 to furnish the documents/ references related to the information furnished in the affidavit on a plain paper. The Commission also noted that Shri Meena had been relieved of his duty on 20.10.2008 without providing the statutory information sought by the Commission as enshrined in the Constitution. **The Commission, accordingly, requested DGCA to reconsider his decision.**

The Office of the DCGA vide its letter dated 30 October 2008 informed the Commission that it needed more time for compiling the documents/ references related to the information furnished in the Affidavit as this required taking out old files and scrutinizing them minutely for selecting the correct papers.

The Commission vide its letter dated 05.11.2008 addressed to DGCA has requested him to consider maintaining the status quo as on 30.06.2008 in the case of posting of Shri K.L. Meena till such time the information already furnished before the Commission by DGCA is verified after the receipt of documents/ references from DGCA to see whether the

facts presented by the DGCA to justify the transfer of Shri Meena to Hyderabad are in order or otherwise. The Commission understands that Shri Meena, in complete disregard of the Commission's advice is being asked to report for duty at Hyderabad. The requisite information along with supporting documents/ references have been furnished to the Commission on 11.11.2008.

The Commission came to know a number of facts from the documents received from DGCA. Hon'ble Chairperson decided to have a discussion with Secretary, Ministry of Civil Aviation and DGCA on 10.12.2008 in the Commission.

ANALYSIS

Discrimination with Shri K.L.Meena started with his first transfer order to Kolkata in 2004. Though he was not senior most among Assistant Directors. Again in July 2007 his transfer order to Hyderabad was issued without disturbing the seniors. Moreover, in issuing these transfer orders, the Transfer Policy of DGCA was not at all considered.

DISCUSSION

It was explained by DGCA that as per the recommendation of the Commission in its meeting on 22.01.2008, Shri Meena was retained in the DGCA Hqrs. up to 30.06.2008. The required information on an affidavit signed by DG,CA himself and supporting documents were supplied to the Commission as requested. It was further clarified by DG,CA that the transfer order of Shri Meena is done on the basis of the operational requirement.

The Commission explained that :

- i) Discrimination started with Shri K.L.Meena, when his was first transfer order to Kolkata was issued in 2004, which was cancelled after intervention of the Commission. At that time Shri Meena was at number three in the seniority.
- ii) In earlier meetings, it was expressed by DGCA that Shri Meena is being posted to Hyderabad for field experience and at the same time it is also mentioned that Shri Meena is posted there as in charge. These two things are contradictory, if Shri Meena is to be given some field experience, he must be posted under some senior officer, to have proper guidance and support.
- iii) It is generally mentioned by DGCA that the transfer of Shri Meena is done on the basis of operational requirement. If it

is so, why the post of Kolkata and Hyderabad are lying vacant since 2003 and 2007 respectively. It appears that these post are to be filled by posting Shri K.L.Meena on the basis of operational requirement, otherwise these are to be kept vacant.

- iv) Shri Meena's transfer order was issued on 24.07.2008 and Shri Manish Kumar was given covering ad hoc promotion on 07.08.2007 w.e.f. 19.07.2008. This is done to show that senior most Assistant Director is being transferred, whereas on the date of transfer order Shri Manish Kumar was the senior most Assistant Director.
- v) The post of Hyderabad is of the rank of Dy. Director. It is not understood why an Assistant Director is being posted there. In this regard Shri Manish Kumar Chopra could have been the best available option.
- vi) During the discussion in the meeting on 22.01.2008 in the Commission, it was informed by the DGCA that since Shri Chopra has been reverted back to AD, he cannot be considered for transfer to Hyderabad, whereas as per earlier statement of DGCA, they have transferred the senior most AD, in this regard Shri Chopra could have been transferred to Hyderabad in January 2008.
- vii) The transfer order of Shri Meena was issued in violation of clause number 4 of the transfer policy of the DGCA, which states that education of the children will be another guiding factor and transfers generally in the academic seasons will not be affected.

RECOMMENDATIONS

In view of the above discussion the Commission recommends that Secretary, MoCA may order an enquiry to review the circumstances / conditions under which he transfer order of Shri K.L.Meena o Hyderabad was issue and Shri Manish Kumar Chopra was promoted as Dy. Dir on ad hoc basis for six months.

Commission also recommends that senior most Dy. Dir may be considered for transfer to Hyderabad as the post there is of the rank of Dy. Director.

An action taken report on the recommendations of the Commission may be forwarded by Ministry of Civil Aviation within 15 days of issue of these proceedings for perusal of the Commission.

ANNEXURE

The following were present in the sitting on 10.12.2008 :

NCST

1. Smt. Urmila Singh, Hon'ble ChairpersonIn Chair
2. Shri Aditya Mishra, Jt. Secretary
3. Shri Vinod Aggarwal, Director
4. Shri K. N. Singh, PS to Chairperson

Ministry of Civil Aviation

1. Shri M. M. Nambiar, Secretary

Directorate General of Civil Aviation

1. Shri N. A. Zaidi, DG, Civil Aviation

Petitioner

1. Shri K. L. Meena, AD, Air Safety, DGCA