

Proceedings of the sitting on 28-10-2009 of Hon'ble Member Shri Tsering Samphel with Secretary, DST and Secretary, DoPT

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

ISSUE

Promotion of Shri K. R. Meena, Addl. Surveyor General, Western Zone, Survey of India, Jaipur to the post of Surveyor General in the Department of Science and Technology under the Ministry of Science and Technology.

BACKGROUND

A representation dated 22.05.2009 was received in the Commission from Shri K. R. Meena, Addl. Surveyor General for not considering him for promotion to the post of Surveyor General in the Survey of India.

It was mentioned in the representation that as per the recruitment rules the post of Surveyor General is to be filled up by promoting an eligible departmental candidate, failing which, by deputation and in case of failure by deputation also, by direct recruitment. Survey of India is a highly technical and field operation oriented department and bringing an outsider should be the last resort. Shri Meena further mentioned that had the DPC and selection process completed by the administration in time as per the DoPT instructions, he would have been eligible for the post of the Surveyor General by this time.

It was complained that due to non availability of eligible candidate in the feeder grade department has approached UPSC for direct recruitment. When the DPC for 2 post of SAG was done in Feb'06, the likely vacancies in the ensuing period were not considered resulting in further delay. DPC for balance vacancies of 2005 and 2006 was held on 10.07.2006 and administration took 20 months for approval to effect the promotions w.e.f 22.02.2008 only. If the likely vacancies would have also been considered in the Feb'06, Shri Meena would have been promoted w.e.f. 01.07.2006. It is ruled by Hon'ble Supreme Court of India and CAT in various judgments that delay in holding DPC and other administrative process is no fault of the individuals. If the vacancies are there and eligible candidates are also there, they should be promoted and in case due to some administrative reasons, their promotions are delayed, they should not be penalized on that account. Hon'ble courts are giving notional seniority of this basis only.

Second issue, which Shri Meena highlighted that there is clear discrimination between Army Officers and Civilian Officers in the Survey of India, which is substantiated by various reports of the Committee set for this purpose, Pay Commission reports and also Hon'ble Supreme Court of India. This aspect is also supported by the fact that each post of three civilian posts of Addl. Surveyor General of India was occupied only for a period of 2-2.5 years in the last 8.5 years period. Each civilian post of Addl. Surveyor General of India was vacant for more than 6 years.

Shri Meena has requested that direct recruitment process should be stopped immediately and he should be promoted in view of the above, by relaxing the residency period in the feeder grade, if the need be so.

The matter was taken up with the Secretary, Department of Science and Technology vide this Commission letter dated 26.06.2009. DST vide their letter dated 20.08.2009 replied that the post of Addl. Surveyor General is in SAG grade and DPC's are convened by UPSC and promotions are given with the approval of ACC. Considerable time is involved in the process and department has made no intentional delay.

It was intimated by Shri Meena that Department is in process of giving officiating charge of Surveyor General to Maj Gen Manoj Tayal, who is junior to Shri Meena. Though Maj Gen Tayal is senior as per seniority w.r.t 1989 rules, but as per RRs, seniority for Surveyor General is decided by the residency period in SAG grade i.e Addl. Surveyor General. This aspect was brought to the notice of DST and DST vide their letter dated 9.10.2009 replied that based on the combined seniority as per 1989 rules, Maj Gen Manoj Tayal is senior to Shri Meena. It was further intimated that pending DR by the UPSC, a proposal is being moved for assigning additional charge of the post of the Surveyor General to the senior most Addl. SG.

In view of the above, Shri Tsering Samphel, Hon'ble Member decided to have a discussion with Secretary, Department of Science and Technology and Secretary, DoPT in the matter on 28.10.2009 at 1130 hrs in the Commission.

ANALYSIS

The following facts have emerged :

- i) Shri Meena was promoted against a vacancy on 01.07.2006 and Maj Gen Tayal was promoted against a vacancy on 01.09.2006.
- ii) Shri Meena was promoted on 25.02.2008 and Maj Gen Tayal was promoted on 27.02.2008.

- iii) From the records, it can be verified that Maj. Gen D.P. Gupta was appointed as SG on current duty basis on 01.01.1993, only because he was having 8 days longer service in feeder grade though he was junior to Shri P.R. Datta, Addl. S.G. in the combined seniority list. Similarly, Shri B.B. Sinha, Addl.S.G. was appointed SG on current duty basis on 1.08.1994 because he was having 35 days longer service in feeder grade though he was junior to Maj Gen S.P. Mehta.

If the DPC would have been done in Feb'06 as per DoPT guidelines considering the likely vacancies in the next one year, Shri Meena would have been promoted on 01.07.2006 and Maj Gen Tayal on 01.09.2006. Thereby, Shri K. R. Meena would have been senior to Maj Gen Tayal by 2 months. It is correct that both have been promoted in the same DPC and also as per the combined seniority Maj Gen Tayal is senior, but for Surveyor General combined seniority is not the criteria as the officers are entering from different streams as per their seniority in their own streams against the vacancies earmarked for their respective streams.

Shri Meena should be given notional seniority w.e.f 01.07.2006 and Maj Gen Tayal w.e.f. 01.09.2006. DoPT guidelines also stipulates that the person promoted earlier is the senior as compared to a person promoted after wards irrespective of their original seniority.

DISCUSSION

Commission explained the position as stated above and mentioned that Shri Meena is the senior most Addl. S.G. and that too from a Scheduled Tribe community, therefore Rules and regulations must be interpreted for their benefit to the extent possible.

DST officers insisted that Maj Gen Tayal is the senior most Addl. S.G. and they are processing to handover the additional charge of S.G. to him.

DoPT officer stated that it is not possible to decide the seniority during discussion. A number of factors are to be considered before a final decision is arrived in such cases. If the case is forwarded to them, DoPT will definitely examine it and offer their comments.

It was mentioned that at present Secretary, DST is holding the additional charge of Surveyor General of India and there is a lot of pressure on him. Secretary, DST desires that the issue of seniority should be decided at the earliest and the charge of S.G. to be handed over to the senior most Addl. S.G.

DST officials assured that this issue of seniority among Addl. S.G. would be forwarded to DoPT along with the representation of Shri K.R. Meena and views of the Commission for their comments. On receipt of clarifications from DoPT, the charge of S.G. shall be handed over to the senior most S.G. and till such time this charge will be retained by the Secretary DST.

RECOMMENDATION

In view of the discussion, the Commission recommended that the matter of seniority among Addl. S.G. along with the representation of Shri K.R. Meena and analysis and views of the Commission to be forwarded by DST to the DoPT for their comments (with a copy to the Commission) at the earliest and this exercise should be completed within one month. If required, DoPT may consult this Commission for any clarification related to its views. On receipt of the clarification from DoPT, the charge of S.G. shall be handed over to the senior most S.G. and in the mean time, the charge of Surveyor General of India to be retained by Secretary, DST.

ANNEXURE

The following were present in the sitting on 28.10.2009 :

NCST

1. Shri Tsering Samphel, Hon'ble MemberIn Chair
2. Shri Aditya Mishra, Joint Secretary
3. Shri Vinod Aggarwal, Director

Department of Science and Technology

1. Dr. T. Ramasami, Secretary
2. Shri Sanjiv Nair, Jt. Secretary

Deptment of Personnel & Training

1. Shri S. K. Sarkar, Jt. Secretary

Petitioner

1. Shri K. R. Meena, Addl. Surveyor General, Jaipur