



भारत सरकार

Government of India

राष्ट्रीय अनुसूचित जनजाति आयोग

National Commission for Scheduled Tribes

(A Constitutional body set up under Article 338A of the Constitution of India)

6th floor, 'B' Wing, Loknayak Bhawan
Khan Market, New Delhi-110 003

File No. SCB/1/2019/MRLY1/DEOTH/RU-I

Dated: 08/07/2019
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To,

The Chairman,
Railway Board, Rail Bhawan
Rafi Marg, New Delhi- 110001

The General Manager,
Eastern Railway,
17, Netaji Subhash Road,
Kolkata- 700001
(Tel: 033- 22307596)
(Fax: 033- 22107340)

Sub: Various issues related to employees of Eastern Railways and Central Organization of Rail Electrification (CORE)- a representation from Shri Samir Kurnar Das, Zonal Secretary, All india SCs and STs Railways Employees Association, Kolkata.

Ref: (1) Eastern Railways letter No. E-220-1/1/RR/Rep/Commn/ST/Pt.II dated 27.05.2019 & 30.05.2019.
(2) General Manager, Eastern Railways letter No. E-220-1/1/RR/Rep/Commn/ST/Pt.II dated 07.06.2019.

Sir,

I am directed to refer to the subject cited above and to enclose a copy of the minutes of Sitting held in the Headquarters of National Commission for Scheduled Tribes on 11/06/2019 at 02:00 PM under the Chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairperson, National Commission for Scheduled Tribes in the matter.

It is, therefore, requested that action taken on the suggestions / recommendations of the Commission may please be sent to the NCST at the earliest.

Encl: As above.

Yours faithfully,

(Rajeshwar Kumar/ राजेश्वर कुमार)

Assistant Director/ सहायक निदेशक

Ph: 24641640

Copy to:

Shri Samir Kumar Das,
Zonal Secretary,
All India SCs & STs Railway Employees Association,
3, Old Koilaghata Street, CCM Building, (1st Floor),
Eastern Railway, Kolkata- 700001
(Mob: 9433446793)

Copy for information to:

1. PS to Hon'ble Chairperson, NCST
- ✓ 2. NIC (please upload on the Commission website)

Government of India
National Commission for Scheduled Tribes

(SCB/1/2019/MRLY1/DEOTH/RU-I)


Minutes of sitting held in the NCST's Headquarters on 11/06/2019 at 12:30 P.M. onwards under the Chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairperson, NCST in the cases mentioned in the representation dated 01.03.2019 of Zonal Secretary, All India SCs and STs Railways Employees Association, Eastern Railway, Kolkata.

List of participants is annexed.

The Zonal Secretary, All India SCs and STs Railways Employees Association, Eastern Railway, Kolkata vide representation dated 01.03.2019 has raised the problems regarding (i) Non-promotion of Shri Ghanshyam Tamsay, CMM/Sales, Eastern Railway, Kolkata. (ii) Non-promotion and upgradation of Shri Oliver Minz, CLA (arbitration) under SDGM, Eastern Railway, Kolkata. (iii) Non- Reinstatement of Shri Manoj Kumar Thakur, Ex- cook Mate/ RPF/HWH-1. (iv) Non- consider of compassionate appointment of Smt. Laxmi Hembram W/o Shri Panchu Murmu, Ex- helper under ASTE/UFD/Lilluah. (v) Non-consider HOD/IOD of Smt. Nilima Hembram, Tech-1 CWM/LLH/Eastern Railway. (vi) Non-promotion of Shri D.C. Murmu, APO/Bill/ Eastern Railway, Kolkata (vii) Non- consideration of transfer and non- correction of APAR of Shri S.P. Saren, Dy. CSTE/RE/KKK under GM/CORE/Prayagraj and requested for justice. The NCST vide letter dated 15.04.2019 referred the representation to General Manager, Eastern Railway, Kolkata and General Manager, Central Organization of Rail Electrification (CORE), Prayagraj for facts and comments. The response was not received from the concerned agencies. Hence, Hon'ble Chairperson fixed the sitting for 11.06.2019 at 12.30 PM to discuss the matter with the concerned GM and Chairman, Railway Board.

The General Manager, Eastern Railway, Kolkata vide letter No. E. 220/1/1/RR/Rep/Comm/ST/Pt. II dated 07.06.2019 informed that Chief Personnel Officer (Admin) will attend the sitting and requested for exemption for personal appearance. None of the representative and no communication received from the GM, CORE, Prayagraj. Representatives of Railway Board appeared in the sitting. Zonal Secretary, All India SCs and STs Railways Employees Association, Eastern Railway, Kolkata and the petitioner (s) were appeared. The Hon'ble Chairperson observed that attitude of the present representative of Eastern Railway is not cordial with the ST employees. The officials of Eastern Railway need to be sensitized, who deals with the cases of ST employees. This can be assessed in the case of Smt. Nilima Hembram, who fighting with Eastern Railway for justice.

Eastern Railway vide letter No. E. 220/1/1/RR/Rep/Comm/ST/Pt. II dated 27.05.2019 furnished the facts and comments in respect of six cases except Shri S.P. Saren. Brief of the case, discussion and recommendations of the Commission is given below:


डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
राष्ट्रीय अनुसूचित जनजाति आयोग
National Commission for Scheduled Tribes
भारत सरकार/Govt. of India
नई दिल्ली/New Delhi

- (i) **Shri Ghanshyam Tamsay, CMM/Sales, Eastern Railway, Kolkata- Regarding Non-promotion due to not up-to mark grading in his APAR by the Railway authority.**

The representatives of Eastern Railway informed that the facts in the matter was communicated to Shri Ghanshyam Tamsay. It was apprised that as per extant rules of Indian Railways representation of Shri Tamsay against his APAR for 2017-18 had been sent to the competent authority, whose verbatim is reproduced below:

“I have gone through the representation of Shri G. Tamsay, SAG/IRSS/ER against the grading in his APAR for the year 2017-18 entered as CMM/Sales/E.Rly. I have also taken into consideration in the remarks of the Reporting and Reviewing Authorities on the representation of the officer”.


“I find the performance of the officer has been rated by the Reporting and the Reviewing Authority as 7.25 while the Accepting Authority has rated the performance of the officer as 7.75. After perusal of the performance of the officer as reflected in his APAR (2017-18), his representation regarding up gradation of grading and his performance record of the last five years, I find that no new fact have been brought out by the officer which merit up gradation of his APAR. Further based on the above, I am inclined to agree with the assessment made and rating assigned by the Reporting and Reviewing Authorities.”

The Hon'ble Chairperson, asked the petitioners to explain the problems. The petitioner informed that the officers of Eastern Railways harassing him being ST candidate, as the other officers have been promoted. The reply given by Railway authority is not correct.

After detailed discussions with the representatives of Eastern Railway, Railway Board and petitioner in the matter, the Commission recommends that the matter should be re-examined by the GM, Eastern Railway in consultation with Railway Board. It was also advised that a referral Board to be constituted by the Railway Board in consultation with DoPT and other stake holders for deciding such type of disputed cases, for justice to ST candidates.

- (ii) **Shri Oliver Minz, CLA (arbitration) under SDGM, Eastern Railway, Kolkata- Regarding Non- promotion and upgradation.**

The representatives of Eastern Railway informed that consequent upon implementation of 6th CPC recommendations due to merger of two revised scales (post of Law Assistant and Law


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Superintendent and designated as Chief Law Assistant). The petitioner got promotion from the post of Law Assistant to the Law Superintendent on 02.08.2007. In absence of any specific guidelines/ instructions regarding status of promotion made between date of effect and date of implementation of 6th CPC, the revised seniority list was published on 18.04.2011 ignoring the promotion of the applicant from the post of Law Assistant to the post of Law Superintendent on 02.08.2007, wherein seniority position of the applicant was shown as 25, due to ignoring promotion, seniority of the applicant was assigned and became ineligible to be called to appear in the selection. Based on the said seniority selection was held to the post of Group B gazetted post of Law Officer, written test of which was held on 10.09.2011 and 14.10.2011. The applicant did not come with the zone of consideration (three time of number of vacancy) and was ineligible to be called for the above selection/ written test against the vacancy of 7 (UR-6, SC-1, ST-Nil). 20 (UR-16, SC-2, ST-2) candidates were called in the examination. Subsequently, the petitioner appeared in the next cycle of selection's written test held on 18.03.2015, but could not get success. He has also filed a case before the Hon'ble CAT, Kolkata Bench, Kolkata and matter is subjudice and next date of hearing is fixed on 12.06.2019.

The Hon'ble Chairperson asked the petitioner to explain his problems. He informed that the Railway authority is misguiding the Commission as the Hon'ble CAT already given directions for upgradation.

After detailed discussions with the representatives of Eastern Railway, Railway Board and petitioner in the matter, the Commission recommends that the matter should be re-examined by the GM, Eastern Railway in consultation with Railway Board, in pursuance of directions of the Hon'ble CAT at Kolkata and other Courts, if any, and directions of the Hon'ble Court in the hearing scheduled for 12.06.2019.

(iii) Shri Manoj Kumar Thakur, Ex- cook Mate/RPF/HWH-1 Good Yards post deputation under RPF/PCSC/ERLY/NKG/Kolkata- Regarding Non- reinstatement in service.

The representative of Eastern Railway apprised that Shri Manoj Kumar Thakur, was issued a major penalty charge sheet on 09.05.2006 for his misconduct as he had submitted a false ST certificate which was not issued from the office of the SDO/ Sadar/ Alipur/ 24 Parganas (South) at the time of appointment. Accordingly, following due procedure he was dismissed from the service vide letter No. DSC/RPF/HWH-1/ER's R.O. No. 448/08 dated 27.10.2008. The petitioner has filed a write petition before the Hon'ble High Court of Kolkata and presently he has filed a restoration application on 14.03.2019 before the Hon'ble High Court of Kolkata against order dated 15.02.2019. The present status of the said Court case is pending. Therefore, the Railway authority is unable to re-instate in service.


डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
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The Hon'ble Chairperson asked the petitioner to explain the problems and facts in the matter. Shri Manoj Kumar Thakur agreed that his caste certificate was false, but he belongs to ST category. The fresh ST certificate has been issued by the concerned authority. The Railway authority is still not considering for reinstatement.


After detailed discussions with the representative of Eastern Railway, Railway Board's and petitioner, the Commission recommends that the petitioner should provide a copy of the fresh ST certificate to the Eastern Railway authorities. The Eastern Railway management should examine the case and re-instate Shri Manoj Kumar Thakur in service as per Rules. Shri Manoj Kumar Thakur should withdraw the case from the Hon'ble High Court of Kolkata. The action taken/ to be taken by Eastern Railway authority may be submitted to the Commission within one month from the receipt of the proceedings of the sitting.

**(iv) Smt. Laxmi Hembram W/o Shri Panchu Murmu, Ex- helper under ASTE/UFD/Lilluah-
Regarding Non- consider of compassionate appointment.**

The Eastern Railway representatives apprised that Smt Laxmi Hembram widow of Late Shri Panchu Murmu had applied on 26.04.2018 for her own appointment on compassionate ground due to his husband expired on 20.10.2017. The school transfer certificate dated 04.05.2000 in support of her date of birth and education qualification issued by Head Master of Sasanga High School, P.O. Sasanga, District- Burdwan found fake. Smt. Laxmi Hembram trying to mislead the Railway Administration by producing false school certificate therefore, her request was not considered by the Management.

The Hon'ble Chairperson asked the petitioner to explain the grievance and facts. The petitioner Smt. Laxmi Hembram and representative of Association informed that there is no bar for education qualification for compassionate appointment in the Railway's. The certificate as stated by was obtained from the illegal sources by the petitioner as advised by the Railway representative to her. The Railway authority be asked to provide the compassionate appointment in the Railway, as the economic condition is very poor.

After detailed discussions with the representative of Eastern Railway, Railway Board's and petitioner, the Commission recommends that the Eastern Railway should consider for issuance of order for compassionate appointment of Smt. Laxmi Hembram, if there is no bar for educational qualification for compassionate appointment. The action taken/ to be taken by Eastern Railway authority may be submitted to the Commission within one month from the receipt of the proceedings of the sitting.


डॉ. नन्द कुमार साय/DR. Nand Kumar Saini
अध्यक्ष/Chairperson
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- (v) Smt. Nilima Hembram, Tech-1 CWM/LLH/Eastern Railway- Non consideration of HOD/IOD.

The representatives of Eastern Railway apprised that Smt. Nilima Hembram was run over by one Shunting Engine No. 36078/WDS 6R at West side of wagon Painting Shop (Bally end) near Year Master office on 13.09.2018 around 09.20 hrs and got injury on both leg. She was admitted to Railway Orthopaedic Hospital, Howrah. It was also informed that she had not punched her GA Card on 13.09.2018 and she has not yet resumed her duty till date. Since, she was not on duty on that day, granting of HOD/IOD is not feasible as per Rule.


The Hon'ble Chairperson asked the petitioner to explain the grievance and facts. The petitioner Smt. Nilima Hembram, who was not able to stand on leg (brought before the Commission in a bedridden form by the two members) and not able to speak due to weakness appeared before the Commission. The representative of Association informed that she was coming to office for punching the GA Card meanwhile, the accident occurred in the campus of the workshop. Therefore, she could not punched the GA Card. The Railway authority is not cooperating with Nilima Hembram as she is completely helpless. The Railway authority should consider the case on the humanitarian ground, as the accident occurred in the complex of the workshop.

After detailed discussions with the representative of Eastern Railway, Railway Board's and petitioner, the Commission recommends that the Eastern Railway should re-consider the case of Smt. Nilima Hembram, in consultation with Railway Board. The HOD/IOD may also be issued on the humanitarian ground, as the accident occurred in the complex of the workshop. The action taken/ to be taken by Eastern Railway authority may be submitted to the Commission within one month from the receipt of the proceedings of the sitting.

- (vi) Shri D.C. Murmu, APO/Bill/ Eastern Railway, Kolkata- regarding Non- promotion.

The representatives of Eastern Railway informed that a penalty of reduction to lower stage in the time scale of pay by two stages for a period of three months was imposed which was made operative on 13.09.2018 and completed on 12.12.2018. He was promoted to Sr. Scale Officer (SPO/ M&E) vide order dated 06.03.2019 after expiry of his penalty period. Shri D.C. Murmu vide letter dated 28.02.2019 addressed to Hon'ble Chairperson, NCST has informed that his representation dated 08.08.2018 has been withdrawn, since the case has been resolved by the Railway authority.

The Hon'ble Chairperson asked the representatives of Association on the status of case. The representatives of Association supported the facts submitted by the representatives of Eastern Railway. Accordingly, the Hon'ble Chairperson decided to close the case.


डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
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(vii) Shri S.P. Saren, Dy. CSTE/RE/KKK under GM/CORE/Prayagraj- Regarding Non-consideration of transfer and non- correction of APAR.

The representatives of Eastern Railway informed that Shri S.P. Saren, recently has been transferred from Central Organization of Rail Electrification (CORE) Prayagraj to Eastern Railway on his own request. Therefore, Eastern Railway is not in position to comments correction of APAR.

The Hon'ble Chairperson asked the petitioner to explain the problems. Shri Saren informed that he has been transferred from CORE to Eastern Railway, but APAR has not been corrected by the Eastern Railway. The APAR requires to be corrected by Eastern Railway.

After detailed discussions with the representative of Eastern Railway, Railway Board's and petitioner, the Commission recommends that the Eastern Railway should re-examine the APAR of Shri S.P. Saren, as per Rules. The action taken/ to be taken by Eastern Railway authority may be submitted to the Commission within one month from the receipt of the proceedings of the sitting.

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डॉ. नन्द कुमार साय/DR. Nand Kumar Sai
अध्यक्ष/Chairperson
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(F. No. SCB/1/2019/MRLY1/DEOTH/RU-I)

List of participants of the sitting held on 11/06/2019 at 12:30 PM under the Chairmanship of Dr. Nand Kumar Sai, Hon'ble Chairperson, NCST in the issues raised by Shri Samir Kumar Das, Zonal Secretary, All India SCs and STs Railways Employees Association, Eastern Railway, Kolkata.

I National Commission for Scheduled Tribes

1. Dr. Nand Kumar Sai, Hon'ble Chairperson **In Chair**
2. Shri H.K. Damor, Hon'ble Member
3. Shri H.C. Vasava, Hon'ble Member
4. Shri A.K. Singh, Secretary
5. Shri S.K. Ratho, Joint Secretary
6. Dr. Lalit Latta, Director
7. Shri Rajeshwar Kumar, Assistant Director
8. Shri R.S. Misra, Senior Investigator

II Railway Board, New Delhi

1. Shri Manoj Pandey, DG (Personnel)
2. Shri S.P. Mahi, EDE (Res)

III CORE Pravagraj

Nil

IV Eastern Railway, Kolkata

1. Shri Surya Prakash, CPO(A) RB
2. Shri Ashok Kumar Bhuria, Dy. CPO/R/ER

V Petitioners

1. Shri Ghanshyam Tamsoy
2. Shri Chandsi Paswan, Zonal Working President, AISCSTREA, Eastern Railway
3. Shri Kamkan Kumar Gunhi, Headquarter Secretary, AISCSTREA, Eastern Railway
4. Shri Oliver Minz
5. Shri Sankar Prasad Saren
6. Shri Manoj Kumar Thakur
7. Smt Laxmi Hembram (Murmu)
8. Smt Nilima Hembram
9. Shri Samir Kumar Das, Zonal Secretary AISCSTREA, Eastern Railway