



**Government of India**  
**National Commission for Scheduled Tribes**

6<sup>th</sup> floor, 'B' Wing, Loknayak Bhawan  
Khan Market, New Delhi-110 003.

File No. JNM/1/2016/MPNG1/SEOTH/RU-II (RU-I)

Date: 17/11/2017

To

The Chairman,  
Oil and Natural Gas Corporation,  
Tel Bhawan, Dehradun,  
Uttarakhand.

Sub: Representation dated 10/03/2016 received from Shri J. N. Meena, DGM (F&A), ONGC Ltd., Avani Bhawan, Ahemdabad regarding complaint under Article 338A of the Constitution of India against ONGC for promotion to the post of Chief Manager.

Sir,

I am directed to enclose a copy of the minutes of Sitting held in the National Commission for Scheduled Tribes on 03/11/2017 on the above mentioned subject for immediate necessary action. Action Taken Report in this regard may be submitted to the Commission at the earliest.

Encl: As above.

Yours faithfully,

(Rajeshwar Kumar)  
Assistant Director

Copy to:

Shri J. N. Meena,  
Ex-DGM (F&A),  
House No. C-336, Mahesh Nagar,  
80 Feet Road, Near JDA Park,  
Jaipur – 302015 (Rajasthan).

Copy for information to:

1. PS to Hon'ble Member (HCV), NCST
2. SSA NIC (for hosting on Commission's website)

F. No. JNM/1/2016/MPNG1/SEOTH/RU-II (RU-I)

**Minutes of sitting held in the Commission on 03/11/2017 at 12:00 Noon under the Chairmanship of Shri H. C. Vasava, Hon'ble Member, NCST in the case of Shri J. N. Meena, Ex-DGM (F&A), ONGC Ltd., Avani Bhawan, Ahmedabad regarding his promotion to the post of Chief Manager.**

List of participants placed at annexure A.

A representation dated 10/03/2016 received from Shri J. N. Meena, Ex-DGM (F&A), ONGC Ltd., Avani Bhawan, Ahmedabad regarding his promotion to the post of Chief Manager.

The matter was taken up with the Chairman, ONGC vide this Commission's letter dated 17/03/2016 for factual report.

In response to the above letter the ONGC replied vide letter dated 14/05/2016 that the recommendations of DPC provided that where the appointing authority does not accept any recommendation of the promotion committee it shall record the reasons thereof in writing. In the instant case, the reasons for not accepting the recommendations of the DPC in respect of Shri J. N. Meena has been recorded by Director (HR), and approved by CMD, the Appointing Authority. Further, in a number of similar cases promotions have been reviewed by the Company, based upon the inputs received from CVC/CVO. The decision taken by the Competent Authority not to promote such Officers, covers General candidates and also reserved candidates. Accordingly, promotion order of Shri J. N. Meena, DGM (F&A) could not be released w.e.f. 01/01/2002. However, he was subsequently promoted as Chief Manager (F&A) (E-5 level) w.e.f. 01/01/2006 and to DGM (E-6 level) w.e.f. 01/01/2012.

A copy of above reply of ONGC has been forwarded to Shri J. N. Meena vide this Commission's letter dated 24/05/2016 for his information and comments. The petitioner has submitted a subsequent representation dated 23/05/2016 and 08/06/2016 copy of which was forwarded to the Chairman, ONGC for their comments vide Commission's letter dated 30/05/2016 and 22/06/2016. In response to the Commission's above letter, the ONGC replied vide their letter dated 15/12/2016. A copy of above reply was sent to the petitioner for his information vide this Commission's letter dated 02/03/2017. Shri J. N. Meena has submitted further rejoinder dated 01/03/2017 which was forwarded to the ONGC vide Commission's letter dated 08/06/2017 for report. In response to the Commission's letter dated 08/06/2017 the ONGC replied vide their letter dated 10/08/2017 wherein informed that name of Shri J. N. Meena, then Manager (F&A) was included in the Agreed List of year 2004 and retained in the Agreed list of year 2005 based on the comments jointly signed by I/c Vigilance of the concerned work centre and SP, CBI Gandhi Nagar. Accordingly, promotion order to the post of Chief Manager (F&A) w.e.f. 01/01/2002 of Shri J. N. Meena could not be released. A copy of above reply was sent to the petitioner for information. Thereafter Shri J. N. Meena has again submitted a rejoinder dated 11/10/2017 to the Commission. Therefore, Shri H. C. Vasava, the Hon'ble Member, NCST has fixed a sitting with the concerned authority on 03/11/2017 at 12:00 Noon for discussion in the matter. Accordingly, a sitting notice has been issued to the Chairman, Oil & Natural Gas Corporation Ltd.

Shri Shashi Shanker, CMD, ONGC has requested vide their letter dated 02/11/2017 wherein informed that due to pre-scheduled Official engagements on the same day, he may kindly be granted leave of absence from the meeting with the Hon'ble Member, scheduled for November 3, 2017. He has advised his colleague on the Board of ONGC, Shri D. D. Mishra, Director (HR) alongwith other senior Officers of ONGC, who are well conversant with the issue, to attend the subject meeting on his behalf.

  
हर्षदभाई वसावा/Harshadhbhai Vasava  
सदस्य/Member  
राष्ट्रीय अनुसूचित जनजाति आयोग  
National Commission for Scheduled Tribes  
भारत सरकार/Govt. of India

Shri D. D. Mishra, Director (HR) alongwith other Officers, ONGC appeared before the Commission on behalf of the Chairman & Managing Director, ONGC on the day of sitting. Petitioner was also present in the sitting. The matter was discussed in detail. The Hon'ble Member asked to the petitioner about his grievances.

Mr J. N Meena submitted and quoted Para 3 of the Chapter 22 titled as "**Agreed List**"- **Maintenance of Doubtful Integrity-Periodic Review**" from the Book "**Facet of Vigilance, Prevention to Prosecution**"- written by Mr. K.L Malhotra, OSD, CVC Third edition 2001 that:

"3. It may be borne in mind that the mere inclusion of one's name in the Agreed list does not carry any penal implications. In other words, it is only a 'watch list' which remains in force for a year. In case, a year's watch does not bring out any actionable material /concrete result, his name will be removed automatically from the list. It is a sort of 'preventive vigilance'".

ONGC Management gives different clarifications at different time. There is no consistency in their statements. In 2005, by ONGC letter dated 6.4.2005 and 17.8.2005 it was falsely replied by stating that he was not found suitable for promotion by the Competent Authority. Now they have come forward with a new plea of manufacturing of a **chit allegedly signed** by Dr. A.K Baliyan the then Director (HR) which was never approved by the CMD, ONGC. Further he has summarised his submission that:

- i. There is no provision to withheld or deny promotion to the employee on the basis of "Agreed List". Further despite keeping his name in "Agreed List" continuously for two years 2004 and 2005, nothing has been found against him.
- ii. The "**Alleged Chit**" cannot be viewed as approval of ONGC CMD as claimed by ONGC Management because it was not signed by ONGC CMD. Further why the "Agreed List" wherein his name figured was not brought before DPC wherein Dr. A.K Baliyan, Director (HR) was a DPC Member.
- iii. ONGC Management failed to comment on the misleading reply given to him vide ONGC letter dated 6.4.2005 and 17.8.2005 stating that he was not found suitable by the Competent Authority. Why this was not put up to the Director (HR)/CMD.
- iv. Provision of Regulation 7(7) of ONGC MRPR-80 cannot be relied upon in the given factual position as such CMD, ONGC had already approved the DPC recommendations on 16.8.2004 without recording any objection.
- v. It was also brought to the notice of Commission that as per ACRs/PARs for last 10 years under RTI Act, 2005 his integrity was never reported doubtful by his superiors.
- vi. The tool of "Agreed List" was misused against SC/ST Employees which is evident from the "Agreed List" submitted by ONGC management which indicates that more than 50% employees belonged to SC/ST.

At the end, Mr. J.N. Meena has reiterated his claim for retrospective promotion to the post of Chief Manager (F&A) w.e.f 01.01.2002 with consequential benefits at par with his juniors viz promotion, seniority and financial benefits. Though he was promoted to the post of Chief Manager (F&A) w.e.f.01.01.2006 and DGM (F&A) w.e.f 01.01.2012 which are to be predated in terms of the said DPC proceedings. He has been superannuated w.e.f.30.06.2016.

- i. That the then ONGC CMD late Mr. Subir Raha was very particular regarding integrity of the employees and thus the chit containing name of Mr.JN Meena in the "Agreed List" as signed by Dr.A.K Baliyan, the then Director (HR) which has been stated to be approved by the then CMD ONGC on the note sheet dated 17.8.2004 to release the names "**Subject to Vigilance Approved**".

- ii. That in terms of clause 7(7) of the ONGC MRPR-80, the Competent Authority is empowered to pass such orders as it thinks fit on the recommendations of DPC provided that where Appointing Authority does not accept recommendation of the Promotion Committee, **it shall record the reasons thereof in writing**. It has been further stated that the Competent Authority i.e CMD ONGC did not accept the recommendations of DPC in case of Mr. J.N. Meena because his name was included in the "**Agreed List**" for the year 2004 and 2005.
- iii Mr. D.D Mishra Director (HR) ONGC has submitted that in all from 2001 onwards 16 employees of ONGC were not promoted on the basis of "Agreed List" despite their selection by the DPC at the material time for the unreserved as well as reserved candidates. It was admitted by the Director(HR) that as per prevailing practice of ONGC as many as 16 employees (unreserved and reserved) have not been given promotion on the basis of "Agreed List" during the tenure of late Shri Subir Raha. Thus, Shri J.N. Meena was not discriminated while denying promotion to the post of Chief Manager (F&A) w.e.f 01.01.2002 despite his name was figuring in the approved select list of the candidates in the DPC proceedings held on 14.8.2004.

**Discussion:**

In terms of the DPC proceedings on record it is clear that Mr. J.N. Meena was considered and duly selected by the DPC as held on 14.8.2004.

When the above pointed question was asked by Honourble Member to the Director (HR) ONGC to give details of policy instructions of CVC/DoPT/ONGC providing to deny promotion to the employee whose name is figuring in the "Agreed List". In reply no such provisions on "Agreed List" was brought out by him to the notice of the Commission. He has further disclosed that there was prevailing practice during the tenure of late Shri. Subir Raha, the then ONGC CMD at the material time to deny promotion to the employees whose names included in the "Agreed List".

In this regard Commission observe that Mr. J.N. Meena was denied his promotion to the post of Chief Manager (F&A) w.e.f 01.01.2002 illegally and arbitrarily. It was further opined that the objective of "Agreed List" is only to keep secret watch on the employee. On the basis of "Agreed List" promotion cannot be denied to the employee. Thus, the arbitrary practice of ONGC cannot be upheld and sustained by the Commission.

On the basis of above discussions in the considered opinion of the Commission it is clear that:

- i. Shri. J.N. Meena has accrued his fundamental right for his promotion to the post of Chief Manager (F&A) w.e.f 01.01.2002 and entitled for all the consequential benefits at par with his juniors viz. promotions, seniority and financial benefits.
- ii. The "**Alleged Chit**" signed by Dr.A.K Baliyan the then Director (HR) should not be accepted as approval of CMD ONGC as claimed by ONGC Management. The "**Alleged Chit**" was not given under RTI Act 2005 in 2013 to Mr. Vidya Sagar, but subsequently when Mr. J.N Meena asked the same information (note sheet) was given with xerox of the "**Alleged Chit**". Moreover, it is evident from the same chit that it has not been signed by the then ONGC CMD late Shri Subir Raha. Thus, the view of ONGC Management cannot be sustained and upheld.

Conclusion:

Commission heard both the parties in detail. The Commission found that DPC had cleared his promotion but, he was not promoted in time for the reason that his name figured in the "Agreed List" of the vigilance. After going through the relevant papers, the Commission found that the sole purpose of maintaining "Agreed List" is to bring to the notice of the department concerned that such officers should not be posted to sensitive assignments. This list assist the department in paying special attention and closer supervisory scrutiny of the work assigned to them. It is noted that the an "Agreed List" is a sort of preventive measure. The Commission also noted that neither the CVC nor the ONGC have issued any instructions/circulars that those whose name figure in the "Agreed List" should not be promoted. ONGC also could not produce any rules/regulations to that extant. However, in view of "Agreed List" Shri Meena has been deprived of the right though he had a very good ACR and is fully entitled for promotion. Even if considering Rule 7(7), CMD must have given reasons in writing for not giving promotion which has not been done. Officials from ONGC informed that after the departure of then CMD, ONGC Shri Sudhir Raha, the practice of keeping in abeyance of the promotion of Officials whose name figured in the Agreed List was dispensed with as this practice is not supported with any such Rules/Laws.

The Commission also found that Shri Meena has not faced any inquiry, charge-sheet or any penalty on basis of the "Agreed List" so it amounts to understand that it was meant only for not giving promotion to Shri Meena. Any such list which do not have any panel implication should not continue as a practice to stop promotion which the Organisation has ultimately stopped as such.

Accordingly, the Commission is of the view that Mr. J.N. Meena is entitled for his promotion to the post of Chief Manager (F&A) w.e.f. 01.01.2002 with consequential benefits i.e. all subsequent promotions, seniority and financial benefits. Necessary action needs to be taken by ONGC accordingly. While considering his promotion, it should be ensured that his Juniors should not be drawing more pay and other benefits than him. The above exercise has to be completed within a period of one month.



हरषदभाई वसावा/Harshadbhai Vasava  
सदस्य/Member  
राष्ट्रीय अनुसूचित जनजाति आयोग  
National Commission for Scheduled Tribes  
भारत सरकार/Govt. of India  
नई दिल्ली/New Delhi

**List of Participants**

<b>Sr. No.</b>	<b>Name and Designation</b>
<b>I</b>	<b><u>National Commission for Scheduled Tribes</u></b>
1.	Shri H. C. Vasava, Hon'ble Member
2.	Shri P.T. Jameskutty, Deputy Secretary
3.	Shri Rajeshwar Kumar, Assistant Director
4.	Shri Manoj Mishra, P. S. to Hon'ble Member
5.	Shri H. R. Meena, Senior Investigator
<b>II</b>	<b><u>Oil and Natural Gas Corporation</u></b>
1.	Shri D. D. Misra, Director (HR)
2.	Shri V. V. Verma, GGM (HR)
3.	Shri K. Ambedkar, GM (HR), CLO for SC/ST
4.	Shri U. K. Pandey, DGM (HR), EA to Direct (HR), ONGC
5.	Shri N. C. Baliarsingh, CM (HR)
<b>III</b>	<b><u>Petitioner</u></b>
1.	Shri J. N. Meena