

Agenda Note for Agenda Item No. (ii)
for the meeting of the Commission to be held on... 30.1.2009... 11.30 hrs.

NATIONAL COMMISSION FOR SCHEDULED TRIBES

Subject: Filling up of the joint cadre posts.

Issue: Constitution of separate cadre of NCST for the posts of Sr. Investigator and Investigator.

Background:

The erstwhile NCSCST was bifurcated into two separate Commissions, viz., National Commission for Scheduled Castes and National Commission for Scheduled Tribes under the Constitution (89th Amendment) Act, 2003 which came into effect from 19-02-2004. The posts of Director, Deputy Director, Assistant Director, Research Officer, Sr. Investigator and Investigator under the Ministry of Social Justice and Empowerment and the erstwhile NCSCST were part of a Joint Cadre of the Ministry of Social Justice and Empowerment and erstwhile NCSCST. Prior to the bifurcation of NCSCST, the Ministry of Social Justice and Empowerment was the cadre controlling authority for Group 'A' posts of Director, Deputy Director and Assistant Director whereas NCSCST was managing the cadre upto Research Officer level i.e. for the posts of Research Officer, Sr. Investigator and Investigator. After the bifurcation of the erstwhile NCSCST, a total number of 35 posts belonging to the joint cadre were allotted to NCST. A statement showing the number of posts in each grade of joint cadre under the NCST and the incumbency position is enclosed as Annex.-I.

The issue of filling up of the joint cadre posts and other posts under the Commission was discussed in the Commission's meeting held on 07-11-2008 in the context of the discussion on the Report of Study on the performance of NCST by Centre for Policy Research entrusted by Department of AR & PG. It was, inter-alia, observed by the Commission that NCST should function as cadre controlling authority for various posts under its control after additional posts as per requirement of the Commission were sanctioned by the Government. The matter again came up for discussion in the Commission's meeting held on 22-01-2009 during the course of discussion on the Thirty-third Report (14th Lok Sabha) of the Committee on the Welfare of SCs & STs. The Commission desired that immediate action for framing the new recruitment rules for the posts of Sr. Investigator and Investigator should be taken so that NCST should have its own cadre for these posts. It was further desired that the posts of Research Officer may continue in the joint cadre so as to provide for adequate promotion avenues for Senior Investigators and to provide for more

opportunities to the officers of this grade to seek posting at the stations of their choice.

Action Taken:

In compliance of the decision taken by the Commission, new recruitment rules for the posts of Sr. Investigator and Investigator under the Commission were framed and sent to MTA on 26-02-2009 for further necessary action for notifying the same. MTA returned the file stating that 'NOC' from NCSC and Ministry of Social Justice and Empowerment should be obtained before new RRs for the above posts under the Commission are processed further. The matter was examined and it was found that 'NOC' from NCSC and the Ministry of Social Justice and Empowerment was not necessary as Clause (4) of the Constitution (89th Amendment) Act, 2003 lays down that the Commission shall have the power to regulate its own procedure. However, copies of the draft RRs for the posts of Sr. Investigator and Investigator were sent to NCSC on 09-04-2009 for their comments, if any. The Ministry of Social Justice and Empowerment was also informed about the proposals of the Commission of having its own cadre for the posts of Sr. Investigator and Investigator and continuing the post of Research Officer in the joint cadre. In response, NCSC has informed that it does not agree to the bifurcation of the joint cadre at the level of Sr. Investigator and Investigator as it would create problems of cadre management and that the cadre controlling authority should be centralised only. A copy of NCSC's ID Note, dated 16-04-2009 is enclosed as **Annex.II**.

Examination:

Notwithstanding the fact that NCSC has not agreed to the proposal of this Commission for constituting a separate cadre for the posts of Sr. Investigator and Investigator, NCST can have its own cadre for these posts but NCST would have to include the posts of Research Officer also in this cadre. This would further result in taking out the Group 'A' posts of Assistant Director, Deputy Director and Director also out of the Joint Cadre as the post of Research Officer in the Joint Cadre is promotion post for the post of Sr. Investigator and is the feeder post for the grade of Assistant Director in the joint cadre. It would be pertinent to mention in this context that other Commissions like NHRC, National Commission for Minorities, National Commission for Women, National Commission for Backward Classes have full control over the non-Ministerial posts like Research Officer, Research Investigator, Research Assistant, etc. and have the independence of filling up of these posts on their own. Most of the aforesaid posts in the above Commissions are filled up on deputation basis as the number of these posts is small and the same are not part of an organised cadre. The posts of Investigator to Director under NCST are however part of an organised cadre having provisions of direct requirement, promotion and deputation in the Recruitment Rules of these posts. The constitution of a separate cadre for these posts under NCST will ensure timely filling up of the posts once the cadre becomes functional after notification of the new RRs for the above posts. The following points will however have to be kept in view while deciding the issue:-

- i) The posts of Investigator, Sr. Investigator and Research Officer are Group 'B' posts and NCSC is the cadre controlling authority for these posts. The Ministry of Social Justice and Empowerment is the cadre controlling authority in respect of the posts of Asstt. Director, Deputy

78

Director and Director which are Group 'A' posts. The Commission may adopt the same pattern and may function as cadre controlling authority for Group 'B' posts i.e. upto the level of Research Officer. The Ministry of Tribal Affairs may function as cadre controlling authority for Group 'A' posts.

- (i) The constitution of a separate cadre of NCST may adversely affect the promotional avenues of the officers of the new cadre and the chances of their posting at the stations of their choice may also get reduced. On this count, some of the Joint Cadre officers working in NCST may express unwillingness for absorption in the new cadre.
- (ii) The NCSC and Ministry of Social Justice and Empowerment may not allow all the Joint Cadre officers/ staff presently working in NCST to get absorbed in the new cadre of NCST. Also, some of the officers/staff of Joint Cadre working under NCST may not be willing to get absorbed in the new cadre of NCST. In that event, the Commission would have to take up the matter with NCSC and Ministry of Social Justice and Empowerment to allow such officers of the Joint Cadre (who are not permitted or who are not willing to get absorbed in the new cadre) to continue with the NCST (on deputation) till NCST selects their substitutes. As the finalisation and notification of new RRS and the filling up of the posts under new RRs will take a considerable time, the NCST would have to approach DoPT and UPSC through the Ministry of Tribal Affairs for special one time dispensation to fill up the posts of the new cadre on deputation basis till the same are filled up as per the new RRs.
- (v) At present the entire establishment and general administration work is being handled by one Section Officer, two Assistants and one UDC only. The strengthening of the Admn. Section at the Hqrs. of the Commission will also therefore be necessary for processing the work relating to constitution and control of the new cadre in an effective manner.

Proposed Suggestion

Keeping in view the larger interest of timely filling up of the posts of Investigator to Director under the Commission and with a view to having effective administrative control, the Commission may decide to have a separate cadre of these posts.

Sanctioned strength and the incumbency position of the joint cadre posts under National Commission for Scheduled Tribes.

S. No.	Designation	Sanctioned Posts	Post filled	Posts Vacant	Remarks
1.	Director	4	3	1	M/SJE is the cadre authority
2.	Dy. Director	2	1	1	-do-
3.	Assistant Director	5	5	-	-do-
4.	Research Officer	6	6	-	NCSC is managing the cadre
5.	Sr. Investigator	8	2	6	-do-
6.	Investigator	10	1	9	-do-
Total		35	18	17	

Government of India
National Commission for Scheduled Castes

Subject: Bifurcation of Joint Cadre at the level of Investigator and Senior Investigator and management of Cadre by NCST.

p. 9/m — National Commission for Scheduled Tribes are requested to their U.O Note 20/1/NCST/2009-Admn. dated 4.3.09 on Bifurcation of Joint Cadre at the level of Investigator and Senior Investigator and management of Cadre by NCST sent for the comments of NCSC

2. The proposal has been examined by National Commission for Scheduled Castes. As the bifurcation of Joint cadre at the level of Senior Investigators and Investigator would create problem of Cadre Management, Cadre Controlling should, therefore, be centralized only. NCSC does not agree to the bifurcation of Joint Cadre in respect of Group B. non-Gazetted

3. This issues with the approval of Hon.ble Chairman, National Commission for Scheduled Castes.

Encl: File No. 20/1/NCST/09-Admn+

L. Marandi
(Lokhan Marandi)
Under Secretary (Admn.)

The Secretary (Shri T. S. Negi, US), NCST, Lok Nayak Bhawan, N. Delhi
I.D. Note No. 20/1/NCST/Admn. dt. 16.4.2009

Dw
17/4/09