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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: 9th August, 2024.

+ W.P.(C) 3512/2022 & CM APPL. 10348/2022

INDIAN RALWAY FINANCE COPORATION LIMITED

.....Petitioner

Through: Mr. Pardeep Dahiya, Advocate

versus

NATIONAL COMMISSION FOR SCHEDULE TRIBES AND ANR.

.....Respondents

Through: Mr. Vikramjit Banerjee, ASG with
Mr. Abhishek Singh, Advocate for R-1.

Dr. K.B.S. Rajan, Senior Advocate
with Mr. Mahesh Kumar, Mrs.
Pushpa Rajan, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The Indian Railway Finance Corporation Limited¹, the Petitioner are aggrieved by the summons received from National Commission for Scheduled Tribes², Respondent No. 1 calling upon them to appear and give information investigating into a complaint pertaining to service condition of an employee of the Petitioner.

¹ "IRFC"

² "NCST"



Facts and Contentions

2. The Petitioner, is a public sector enterprise under the administrative control of the Ministry of Railways, Government of India. As a dedicated finance arm of Indian Railways, they are engaged for mobilising funds from domestic as well as overseas capital markets. Respondent No. 1 is the NCST, established under Article 338A of the Constitution of India, inserted by way of the 89th Amendment to the Constitution. The duties and functions of the NCST are delineated under the said Article.
3. Respondent No. 2, an individual from the Scheduled Tribes community, was appointed on 13th July 2017 as a Junior Assistant in the non-executive category of the Human Resources Department of the Petitioner, filling a vacancy specifically reserved for Scheduled Tribes candidates.
4. On 24th July, 2017, Respondent No. 2 submitted a representation to the Group General Manager of the Petitioner seeking permission to pursue further education — either in the form of a Master's Degree in Human Resource Management or an Executive MBA in HRM. The request was approved on 2nd August, 2017, in accordance with Employee Development & Welfare Scheme (IRFC) prevailing at that time, demonstrating the Petitioner's adherence to its policies concerning employee development and welfare.
5. Respondent No. 2 commenced his studies at Acharya Nagarjuna University, a decision communicated to the Petitioner through a letter dated 17th October 2017.
6. Pertinently, during this period, on 7th December 2017, the HR manual which governed the service conditions of the employees of the Petitioner



was updated. This revision was based on recommendations from the Management Development Institute.

7. Upon completing his studies in June 2019, Respondent No. 2 earned a Master's Degree in Human Resource Management (HRM) from Acharya Nagarjuna University. With his new qualification, he sought to advance his career with the Petitioner; on 24th December 2019, he submitted a formal request to the Additional General Manager of the Petitioner and sought an out-of-turn promotion to a suitable executive category position. The request, detailed in his letter, invoked the provisions of the previous HR manual, which were in effect at the time of his initial application for study leave, which he believed supported his case for advancement. The said letter reads as follows:



To
 Sh. A Samanting
 Additional General Manager (Frt)
 HR/Administration,
 IRFC, New Delhi.

Date: 24.12.2019

Sub: Promotion to appropriate Executive category

Rw: IRFC Office Order 12 of 2017 Dated: 02.06.2017

Sir,

In view of above subject & reference, I had taken permission to pursue 'Masters in Human Resource Management (MHRM)', as per extent rules provided in erstwhile IRFC HR manual. At the same time, competent authority (Managing Director/IRFC) has accorded approval and issued office order 12 of 2017 dated: 02.06.2017, in this regard.

Prior to IRFC, my educational qualification were 'BTech MBA' and was appointed to this post as Jr Assistant (HR/Admin) through Direct recruitment (written examination) in the year 2017. I was appointed against a Schedule Train (S.T.) category.

Recently, I had completed this Post Graduate course from 'Acharya Nagarjuna University' which is a state govt university (Andhra Pradesh) and hereby submit my 'Provisional Certificate dated 22.10.2019' to IRFC, for kind necessary action in this regard.

As of now, my educational qualification is BTech MBA MHRM and wish to avail promotion to appropriate Executive category at this moment. However, two Assistants in IRFC were promoted to Executive category, as per extent rules provided in IRFC manual (erstwhile). As per similar provisions, I had completed & satisfied the requisite rules of IRFC HR manual (erstwhile).

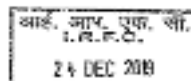
In view of above, it is requested that 'Promotion to appropriate Executive category' may be awarded in this regard.

Encl: As above

Thanking you

Yours faithfully

(Signature)
 (J. Rajkumar Naidu)
 Jr Assistant (HR/Admin)



8. Respondent No. 2 sent a follow-up letter on 6th January 2020, reiterating his request for elevation to an appropriate position within the 'executive category'.

9. After careful consideration, the Petitioner responded to his request on 3rd February 2020. In this communication, it was clarified that while the request for promotion was acknowledged, it was subject to the stipulations of Clause 3(ii) of Chapter 5: Promotion System for IRFC Employees, as outlined in the newly revised HR Manual. Specifically, under Chapter 14, Clause 2.1(iii), Respondent No. 2 was not entitled to an immediate promotion but could receive a cash award of Rs. 15,000/- and two



increments within his present grade, provided these increments did not exceed the maximum pay scale of his current grade. Excerpts from the current HR Manual are detailed below:

(a) Clause 3(ii) of Chapter 5 titled ‘Promotion System for IRFC Employees’:

“3. GROUPING AND EXPERIENCE FOR THE PURPOSE OF PROMOTION:

...

(ii) To encourage existing non-executives to take up courses as part of their self development, as also to provide for additional channels of promotion to those employees, who have qualified professional courses in their discipline during the course of their service in the corporation from recognised university/Institute through part time/regular course and are working in IRFC for minimum period of 4 (four) years in NE-5 and above would be considered for promotion to executive category subject to availability of vacancy.”

(b) Clause 14.2.1(iii) of Chapter 14 titled ‘IRFC’s Employee Development & Welfare Schemes’

“14.2.1. Incentives for Acquiring Additional Qualifications:

...

(iii) Incentives in the form of Cash awards and additional increments specified in the Table below will be sanctioned:

...

<i>Employee’s present Qualifications</i>	<i>Additional Qualifications to be rewarded</i>	<i>Details of Incentives</i>
...	...	...
<i>Graduate/Post Graduate/ Others</i>	<i>MBA from a recognised institute or university/ Cost Accountancy/ Company Secretary/ Chartered Financial Analyst/ Chartered Accountancy etc.</i>	<i>Cash Award of Rs. 150000 & Two increments in the existing Grade subject to pay not exceeding max of the Grade.</i>

Note: The additional qualifications listed above are only illustrative. Other qualifications may also be considered for the purpose of granting incentives under these Rules subject to approval of the Corporation. “



10. Dissatisfied with the response of the Petitioner, Respondent No. 2 escalated the matter by sending a representation on 8th February, 2020, to the Minister of State for Home Affairs. In this representation, he sought the Minister's intervention to facilitate the promotion as follows:

"Sub: DEPRIVED & DENIED PROMOTION to Appropriate Executive Category, as per my sanctioned office order.

Respected Sir,

I the undersign would like to bring to your kind attention that I have been deprived & denied promotion to appropriate Executive Category, as per my Sanctioned Office Order 12 of 2017 vide dated 02.08.2017. At present, I am working as Jr. Assistant (HR/Admin) in "INDIAN RAILWAY FINANCE CORPORATION LTD" which is a PSU under Ministry of Railways, located at Lodhi Road, New Delhi. Moreover, I belong to S.T. Candidate and native of Adilabad district, Telangana.

Hence, it is requested that favourable action may be taken in my case and also may be accorded Social Justice by availing promotion to appropriate executive category against sanctioned office order."

11. The afore-noted representation was escalated by the Minister of State for Home Affairs to the Ministry of Railways for consideration. Subsequent to this referral, the actions of Respondent No. 2 took a significant turn. On 18th February, 2020, he submitted a fresh representation to the same Minister, this time alleging violations of Scheduled Tribes constitutional safeguards and accusing the Petitioner of harassment. This second representation reiterated his grievances and sought redressal of the alleged injustices he faced. The text of this subsequent representation dated 18th February, 2020, is as follows:

"Sub: Discrimination & Harassment against Schedule Tribe Candidate.

Respected sir,



I the undersign as a citizen of India would like to bring to your kind attention that I am facing severe discrimination of Social Injustice in my office and hereby submit my below grievances for kind consideration and necessary action. More over I belong to a schedule tribe candidate and native of Telangana State. At present, I am working as Jr. Assistant (HR /admin) in Indian Railway Finance Corporation Limited, Lodi Road, New Delhi.

- 1. I have been denied my promotion as per existing office order which is issued to me. Similarly in past, two person were promoted to execute category as per same provision which are contained in my existing office order.*
- 2. Violation of statutory rules such as Recruitment rules, Duties etc.*
- 3. Violation of Schedule tribe (S.T.) Constitutional safeguards & rules.*
- 4. My Pay fixation is not done as per DPE Rules.*
- 5. My request letter pertaining to Leased Accommodation is ignored and no action is taken till this date.*
- 6. Harassment (mentally) & discrimination of rules shown towards me.*

In view of above, I am submitting my grievances to accord Social Justice empowerment & upliftment of Scheduled Tribe candidate.”

12. As can be seen from the above communication, Respondent No. 2 levelled allegations of violation of recruitment rules and constitutional safeguards against the Petitioner without substantiation. Nonetheless, the Petitioner submitted their response addressing the concerns raised in the said communication.

13. Concurrently extensive communications were exchanged between Petitioner and the Railway Board, Ministry of Railways wherein the Board sought detailed remarks regarding the issues raised by Respondent No. 2. In response the Petitioner categorically clarified that the recruitment rules and the guidelines do not support Respondent No. 2's request for out of turn promotion. Thereafter, the Petitioner continued to engage with the Railway



Board, who sought further clarification on the matter.

14. During this period, Sh. Soyam Bapu Rao, a Member of Parliament from the Lok Sabha, intervened in the matter, reflecting the concerns raised by Respondent No. 2. This prompted a series of correspondences between the Lok Sabha Secretariat, the Railway Board, and the Petitioner. In these communications, the Petitioner provided comprehensive responses to all inquiries, detailing their stance and the applicable guidelines.

15. Finally, on 5th August, 2021, the Petitioner *vide* office order bearing No. 13/2021 formally notified Respondent No. 2 that a cash award of Rs. 15000/- and two increments in the existing Grade had been sanctioned to him under the Employees Development & Welfare Scheme of the Petitioner.

16. However, the situation had taken a different turn on the basis of a communication dated 3rd August 2021, sent by Sh. Soyam Bapu Rao, Member of Parliament, Lok Sabha to NCST. Acting on this correspondence, NCST issued a notice to both the Chairman & CEO of the Railway Board and the Chairman-cum-Managing Director of the Petitioner alleging *“Harassment of ST Employee, namely, Shri J. Rajkumar Naik by the administration of Indian Railways Finance Corporation Limited”*.

17. Counsel for the Petitioner urges that on 3rd September, 2021, the Petitioner sent a response to the aforesaid notice to NCST. While this response is part of the record, the date of receipt is disputed by the parties. Nonetheless, the counter-affidavit of Respondent No. 2 confirms that NCST shared the Petitioner’s response with him, and he responded to the same in the form of a rejoinder through communication dated 5th October, 2021 sent to NCST. In this communication, Respondent No. 2 expressed dissatisfaction with the Petitioner’s handling of the matter.



18. Thereafter, Respondent No. 2's rejoinder was forwarded by NCST to the Petitioner, with a request to provide a comprehensive response to the issues raised by Respondent No. 2. The Petitioner contends the queries raised by Respondent No. 2 predominantly relate to his employment conditions, which, according to the Petitioner, do not fall within the adjudicative scope of NCST.

19. On 28th January, 2022, NCST directed the Chairman-cum-Managing Director of the Petitioner to appear in person to respond to the queries in relation to the service conditions of Respondent No. 2. Although the Petitioner's delegated officer, the Joint General Manager, attended the hearing with all pertinent documents, NCST deferred the proceedings, insisting on the personal appearance of the Chairman-cum-Managing Director. Thereafter on 22nd February, 2022 another impugned summon was issued by NCST requiring the Chairman-cum-Managing Director to appear before them in person. The Petitioner has questioned the jurisdiction of NCST to mandate such appearances specifically in matters relating to service conditions of an employee, asserting that such matters are outside their statutory purview.

20. At the bar, Mr. Dahiya, counsel for the Petitioner, recounted his visit to the office of NCST along with the Petitioner's officers. During this visit, they were informed that the presence of the Chairman-cum-Managing Director was required at the office of NCST, however, no specific reasons were provided for such insistence on his personal appearance.

21. In the above circumstances, the Petitioner seeks quashing of the impugned summons dated 28th January, 2022 and 22nd February, 2022, arguing that NCST is exceeding their constitutional mandate as prescribed



under Article 338A of the Constitutional of India by adjudicating a service dispute between the Petitioner and its employee. Further, it is urged that the impugned summons were not issued by way of a formal order since there is no such procedure prescribed in the Constitution.

22. *Per contra*, Mr. Vikramjit Banerjee, ASG representing NCST, strongly defends the impugned action and submits as follows:

22.1. NCST's involvement does not pertain to the private dispute between the Petitioner and Respondent No. 2 regarding his promotion but focuses on broader constitutional obligations.

22.2. NCST's actions are as per the mandate of Article 338A of the Constitution of India, which empower it to address any complaints related to the safeguarding of rights of Scheduled Tribes. This includes investigating systemic discrimination or rights deprivations faced by Scheduled Tribes, such as Respondent No. 2.

22.3. Under Article 338A (4) of the Constitution of India, NCST has notified its rules of procedure, Rule 10.8 of which reads as follows:

"10.8 Where the life, property, service/ employment, deprivation of rights or safeguards of the Scheduled Tribes and other related matters are under immediate threat and prompt attention of the Commission is required, the matter shall be taken cognizance by issue of email/fax to the concerned authority for making it known to them that the Commission is seized of the issue and that authority will be prohibited to take any action without taking prior approval from the Commission, till the completion of the enquiry/ investigation in the matter by the Commission. Urgent reply by email or fax shall be called from the concerned authority. In case no reply is received within three working days, the authority concerned may be required to appear before the Commission at a three days' notice for enquiry."

22.4. Thus, the impugned summons issued to the Chairman-cum-Managing Director of the Petitioner were issued under the aforementioned rule.

23. Counsel for Respondent No. 2 argues that the impugned action is fully



justified as his complaint alleges systematic discrimination within the Petitioner's organization, affecting candidates from the Scheduled Castes, Scheduled Tribes and OBCs categories, necessitating the intervention of NCST. In this regard, a two-fold submission is made. Firstly, it is highlighted that the Petitioner only has a limited staff strength of 40 employees and as such, there is a need to understand whether the constitutional mandate of adequate representation, i.e., - percentage of Scheduled Caste (15%)/ Scheduled Tribes (7.5%)/ Other Backward Classes (27%) at all levels (Group A/B/C/D), are being followed or not for which quantifiable data is needed. In this regard, reliance is placed on the judgment of the Supreme Court in *Jarnail Singh & Ors. v. Lachhmi Narain Gupta & Ors.*³. Secondly, in the limited staff of 40 employees, there have been multiple examples of harassment and discrimination complaints filed by Scheduled Caste and Other Backward Classes candidates, similar to that of Respondent No. 2, which are pending before the concerned National Commissions. These examples underline and highlight the systematic discrimination prevalent in the Petitioner organisation.

Analysis and Findings

24. The Article 338A of the Constitution of India reads as follows:

“338A. National Commission for Scheduled Tribes

- (1) There shall be a Commission for the Scheduled Tribes to be known as the National Commission for the Scheduled Tribes.*
- (2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.*
- (3) The Chairperson, Vice-Chairperson and other Members of the*

³ Civil Appeal No. 629 of 2022



- Commission shall be appointed by the President by warrant under his hand and seal.*
- (4) *The Commission shall have the power to regulate its own procedure.*
- (5) *It shall be the duty of the Commission—*
- (a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;*
 - (b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;*
 - (c) to participate and advise on the planning process of socioeconomic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;*
 - (d) to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;*
 - (e) to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes; and*
 - (f) to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.*
- (6) *The President shall cause all such reports to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any such recommendations.*
- (7) *Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.*
- (8) *The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:—*
- (a) summoning and enforcing the attendance of any person from any*



- part of India and examining him on oath;*
- (b) requiring the discovery and production of any document;*
- (c) receiving evidence on affidavits;*
- (d) requisitioning any public record or copy thereof from any court or office;*
- (e) issuing commissions for the examination of witnesses and documents;*
- (f) any other matter which the President may, by rule, determine.*
- (9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes."*

25. The aforementioned provision details the composition, duties, and powers of NCST. Their primary role as can be seen from the plain reading of the statute is to safeguard and promote the interests of Scheduled Tribes by ensuring implementation of various constitutional and statutory safeguards for the Scheduled Tribes. The duties assigned to NCST, as stipulated in Clause 5 of Article 338A, specifically pertains to investigating specific complaints related to the deprivation of constitutional and statutory rights for Scheduled Tribes. However, the powers of investigation and inquiry are restricted to those issues that directly impact the constitutional guarantees and statutory rights of Scheduled Tribes. Undoubtedly, the NCST is endowed with certain powers akin to those of a civil court, as enumerated in Article 338A (8), however, these powers are circumscribed to the context of their investigatory and inquiry functions concerning safeguards under the Constitution. The powers conferred on NCST do not extend to the adjudication of disputes arising out of employment or service conditions. The Constitution does not confer the status of a Tribunal or Court or a forum discharging the functions of a judicial character to the NCST. Therefore, they cannot adjudicate private disputes relating to employment conditions. The commission's investigatory functions are intended to facilitate its



advisory role to the President and Parliament concerning the protection and welfare of Scheduled Tribes.

26. This Court in *National Seed Corporation Limited vs. National Commission for SC & ST & Anr.*⁴, while examining the unamended Article 338 of the Constitution of India which earlier provided for one National Commission to preside over matters relating to both Scheduled Castes as well as Scheduled Tribes, observed that the power of the National Commission under Article 338 of the Constitution is to examine rights and safeguards provided and submit a report to the President with respect to effective implementation of such safeguards and other measures for the protection, welfare and socio-economic development of Scheduled Castes and Scheduled Tribes. It was categorically held that the power of enquiry and submission of report vested with the National Commission cannot be extended to adjudicate disputes between an individual and a corporation or a statutory authority. The powers conferred on such a National Commission do not contemplate that they can examine the matter like a civil court, adjudicate the disputes and pronounce a judgment either in the interim or for final relief. Thus, it was held that the National Commission under Article 338 of the Constitution is not a Tribunal or a quasi-judicial forum and as such, it does not have the power to take up the role of the Court or an adjudicatory Tribunal and determine rights, *inter se*, the parties.

27. This understanding is vital in contextualizing the duties and functions of the NCST, ensuring that it does not assume the role allocated to judicial bodies under the Indian legal system. This demarcation preserves the sanctity of the separation of powers doctrine fundamental to our legal



system. Specifically, the issue at hand, originating from a complaint by Respondent No. 2 regarding a demand of promotion, strays far from the constitutional mandate conferred upon the NCST. His complaint raised an issue that is clearly outside the purview of the NCST's constitutional mandate. Given the NCST's role and duties to monitor the broader safeguards for Scheduled Tribes, intervening in individual employment disputes, especially those not implicating direct violations of tribal rights but rather internal corporate promotions, stretches beyond the constitutional bounds of NCST. Such an extension not only blurs the lines of jurisdictional authority but also risks encroaching upon areas reserved for judicial scrutiny. Their involvement in what began as a straightforward request for promotional consideration, has now snowballed into an overreach, stepping into domains reserved for Courts.

28. In light of the above discussion, in the Court's opinion since the NCST is not a Court or a Tribunal and their orders are recommendatory in nature, Respondent No. 2 could not have approached the Commission for redressal of his grievance originating from the complaint dated 8th February, 2020, seeking intervention of the Ministry of Home Affairs for securing his promotion. Thus, NCST's involvement in the present matter concerning adjudication of employment dispute between Respondent No. 2 and the Petitioner is beyond its constitutional framework.

29. In their counter affidavit, NCST has asserted that the issuance of summons to the Petitioner was a direct response to a detailed complaint received by them on 3rd August, 2021 from Shri Soyam Bapu Rao, Member of Parliament, Lok Sabha. This compliant, sent on behalf of Respondent No.

⁴ 2013 SCC OnLine Del 2229



2, articulates concerns over alleged denials of constitutional safeguards, statutory rules and legitimate promotional rights of Respondent No. 2. In the said complaint, the Member of Parliament seeks intervention of NCST for examination of the Petitioner's records relating to reservation, rosters, seniority list, recruitment advertisement, sanctioned strength of each post and cadre, etc. The grievances of Respondent No. 2, so forwarded by the Member of Parliament in the complaint dated 3rd August, 2021, highlights the following aspects:

"As reported by applicant, the following grievance is forwarded for your kind intervention & request for thorough confidential enquiry in this regard.

- 1. Examination of IRFC Records/Document and their reply letters (to MOR, MoH, MP, etc.,) based on Govt orders such as Reservations, Rosters, Seniority lists, Recruitment Advertisements, Sanctioned strength of each post & cadre etc., from 1986 to 2021.*
- 2. Implementation of applicable Govt. Orders in IRFC and its status i.e., Constitutional safeguards, Statutory rules etc.,*
- 3. Principle of Natural Justice be accorded in this case and applicant grievances be heard during enquiry. Officers/ staff who have rendered their comments in file and handled this case, recusal of same employees is requested. to avoid conflict of interest. But their comments & perception can be seen through official documents & noting sheets.*
- 4. Recruitment rules of each post in IRFC from 1986 to 2021 alongwith Recruitment advertisements. Whether Recruitment rules are implemented per Govt guidelines or not. Examine educational qualification of all employees with Recruitment rules of each post.*
- 5. Representation of SC/ST/OBC at Group A/Group B/Group C/Group D from 1986 to 2021 and its status.*
- 6. Legitimate promotional right- Office Order 12 of 2017 dated 02.08.2017. Please examine malicious conspiracy and applicant is ready to prove his case, i.e., Harassment, legality & existence of Office Order 12 of 2017. Moreover, Harassment & Discrimination may be seen in other miscellaneous cases, as desired by applicant.*
- 7. Please examine "promotional/increments/Medical benefits/ other provisions etc." given to other employees in IRFC and its policies.*
- 8. IRFC Office Orders & its circulars till this date.*
- 9. As reported by applicant, legal opinion fees paid to IRFC hired Advocate. Whether due procedure & advocate fees payment made in accordance with Govt orders or not.*



10. *Please examine role of 'Consultant (HR) & Finance department staff' in Administration section and their participation in applicant grievance case.*
11. *Please examine allocation of duties and its implementation in IRFC i.e, Roles & Responsibilities of each employee given till this date.*
12. *Whether IRFC HR manual is in accordance with Govt guidelines or not. Discrimination of policies may please be examined between Executives & Non-Executives in Old & New HR manual*

In view of above, socio-economic justice be granted on all highlighted said points only after due perusal of 'IRFC/Documents' based on applicable Govt orders and accordingly, appropriate Orders from your Office, may pleased be issued to CMD/IRFC, for immediate implementation. Further, his legitimate promotion Office Order 12 of 2017 dated 02.08.2017 to be accorded & implemented in True spirit and promotion be granted at Executive Grade (E4) w.e.f 01.01.2020 (including arrears) in 'HR/Administration Cadre' i.e., protection of socio-economic interest of Tribal candidate."

30. The Member of Parliament has requested NCST's involvement to undertake a comprehensive review of the governance and administrative practices within the Petitioner's organization, citing concerns over alleged systemic discrimination against members of Scheduled Castes, Scheduled Tribes, and Other Backward Classes. While framed broadly, the crux of the complaint, primarily authored on behalf of Respondent No. 2, centres on alleged violations of constitutional safeguards, statutory rules, and the legitimate promotional rights specific to Respondent No. 2. This forms the basis for requesting an expansive audit of the Petitioner's adherence to government orders, spanning from 1986 to 2021. The allegations *prima facie* stemming from Respondent No. 2 thus lacks foundation, given that the underlying issue is an employment dispute involving individual grievances of Respondent No. 2 and nothing more.

31. This sequence of events illustrates that the NCST is blurring the lines between its investigative duties and assuming adjudicative functions. The



NCST has engaged with the contentions between the Petitioner and Respondent No. 2, treating the Petitioner's reply dated 3rd September 2021 as insufficient and considering a rejoinder filed by Respondent No. 2. These actions, particularly when viewed in light of the demands outlined in the complaint, suggest that the NCST has ventured into adjudication—an area beyond its constitutional remit as prescribed under Article 338A. This provision as analysed above does not empower the NCST to settle individual employment disputes or render judgments on personal promotion grievances within a public corporation. Thus, the assumption of such an adjudicative function by NCST is clearly an overreach of its prescribed powers and duties.

32. Regarding the submissions by Mr. Banerjee on the powers and duties of the NCST to investigate systematic discrimination against Scheduled Tribes, the importance of NCST's role as a constitutional body to enforce safeguards for Scheduled Tribes cannot be overstated. Within its constitutional remit, NCST is empowered to request information from the Petitioner concerning allegations made by Respondent No. 2, and it is evident that a detailed response was already submitted on 3rd September 2021. The Petitioner asserts that it has exhaustively addressed all allegations of discriminatory application of service rules and conditions raised by Respondent No. 2, leaving no further information to be submitted.

33. Considering that the response dated 3rd September 2021 comprehensively addresses the allegations of any systemic discrimination, this Court finds the continued insistence by the NCST for an in-person appearance of the Petitioner's Chairman-cum-Managing Director both redundant and unwarranted.



34. In light of the above, the present writ petition is allowed with the following directions and observations:

- (a) Respondent No. 1 - NCST lacks the jurisdiction to adjudicate individual employment disputes such as the denial of promotion claimed by Respondent No. 2 in the complaint dated 8th February, 2020. Consequently, no determination concerning this specific complaint shall be issued by NCST.
- (b) As regards the allegations of systemic discrimination of Scheduled Tribes highlighted in the complaint forwarded by Shri. Soyam Babu Rao dated 3rd August, 2021, the Petitioner has provided a comprehensive response to the same on 3rd September, 2021. NCST may review this response and make recommendations, if found necessary, strictly within the constitutional limits set by Article 338A.
- (c) The impugned summons dated 28th January, 2022 and 22nd January, 2022 which called for the personal appearance of the Petitioner's Chairman-cum-Managing Director, are quashed.

35. With the above directions, the present petition, along with pending application(s), is disposed of.

36. It is made clear that the Court has not deliberated upon Respondent No. 2's alleged entitlement to promotion. He shall be free to avail all other legal remedies, as are available under law to redress his grievances regarding the denial of promotion to him.

SANJEEV NARULA, J

AUGUST 9, 2024/ab