

No.AB.14017/2/1997-Estt.(RR)/Pt.
Government of India
Ministry of Personnel, Public Grievances & Pensions
(DEPARTMENT OF PERSONNEL & TRAINING)

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New Delhi, dated the 19th January, 2007

OFFICE MEMORANDUM

Subject: Fifth Central Pay Commission's recommendations – Revision of Pay Scales – amendment of Service Rules / Recruitment Rules.

The undersigned is directed to refer to this Department's OM No. AB – 14017/2/97-Estt.(RR) dated the 25th May, 1998 on the subject noted above and to say that paragraph 2 of the said OM provided as follows:-

“The Supreme Court in its judgement in R.K. Sabharwal's case has ruled in favour of a change-over from the existing “vacancy” based reservation roster to “post” based roster. Under the existing policy the determination of different quotas for recruitment is vacancy-based. In order to comply with the aforesaid Supreme Court judgement, which has been implemented vide the DOPT OM No. 36012/2/96-Estt.(Res.) dated the 2nd July, 1997, it will be necessary to amend the existing Service Rules / Recruitment Rules under column 11 of Annexure-1 in the DOP&T guidelines dated the 18th March, 1988 to replace the words “percentage of the ‘vacancies’ to be filled by various methods” by “percentage of the ‘posts’ to be filled by various methods”.

2. The Supreme Court in its Judgement in CWP No. 5893 of 1997 decided on 18.12.1998 – State of Punjab & Others vs. Dr. R.N. Bhatnagar & another held as follows:-

“The quota of percentage of departmental promotees and direct recruits has to be worked out on the basis of the roster points taking into consideration vacancies that fall due at a given point of time. there is no question of filling up the vacancy created by the retirement of a direct recruit by a direct recruit or the vacancy created by a promotee by a promotee.”

3. The Court also held that the decision rendered by the Constitution Bench in R.K. Sabharwal's case vs. State of Punjab & others [(1995(1) SLR 791(SC)] in connection with Article 16 (4) and the operation of

roster for achieving the reservation of posts for Scheduled Castes, Scheduled Tribes & Backward Classes as per the scheme of reservation, cannot be pressed in service for the scheme of method of appointment.

4. The Supreme Court referred the above-mentioned case in its judgement dated 22.2.1999 in All India Federation of Central Excise vs. The Union of India & others [IA Nos. 4, 6-8 in Writ Petition (C) No. 306 of 1988 with Writ Petition (C) No. 651 of 1997], and reiterated the above-mentioned decision.

5. It has, therefore, been decided to rescind the instructions contained in Para 2 of this Department's OM dated 25.5.98, reproduced in paragraph 1 of this OM. The column 11 of the Annexure 1, appended to this Department's OM No. AB-14017/12/87-Estt.(RR) dated 18.3.1988 would continue in its form that existed before the issuance of OM dated 25.5.1998. For the sake of clarity, the column 11 of Annexure 1 would be as follows:-

Method of recruitment;

Whether by direct recruitment or by promotion or by deputation / absorption & percentage of the **vacancies** to be filled by various methods.

6. In case column 11 of the Annexure 1 in regard to Recruitment Rules for posts has been amended by the ministries / departments in accordance with the instructions contained in the OM of 25.5.1998, the same may be amended / notified again, as indicated in paragraph No. 5, in consultation with the Legislative Department. This may be done without making reference to the Department of Personnel & Training / Union Public Service Commission.

7. The attached Annexure illustrates how the post-based roster for reservation and vacancy-based roster for appointment under various methods are to be operated.

8. The reservation position for SCs/STs/OBCs would continue to be governed by the DOPT OM No. 36012/2/96-Estt.(Res.) dated 2nd July 1997.

9. This would take effect from the date of issue and the past cases would not be reopened.

10. Hindi version will follow.


(Smita Kumar)
Director

To

All Ministries / Departments of the Government of India.

Copy to:

- (i) The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, New Delhi – 110 011 with reference to their communication No...
- (ii) The Comptroller & Auditor General of India, 10- Bahadur Shah Zafar Marg, New Delhi-110 002

Annexure to DOPT O.M. No. AB-14017/18/2000-Estt (RR)
dated 12.1.2007

The term 'cadre strength' referred to in this Department's O.M. No. 36012/2/96-Estt (Res) dated 2.7.1997 in relation to calculation of reservation/maintenance of reservation registers/rosters means the number of posts required to be filled by a particular mode of recruitment in terms of the applicable Recruitment Rules. In a grade comprising 200 posts, where the Recruitment Rules prescribe a ratio of 40:40:20 for direct recruitment, promotion and deputation respectively, the cadre strength for direct recruitment and promotion shall be 80 each. Since there is no reservation for posts to be filled by deputation, 40 posts will not be subject to reservation. The O.M. of 2.7.97 also provides that if there is any increase or decrease in the cadre strength, size of the reservation roster will change and the number of reserved posts will also increase or decrease accordingly.

When recruitment is made vacancy-based, it is possible that at any given point of time, the share of direct recruitment may increase and the share of promotion may correspondingly decrease, or vice versa. In such cases, cadre strength for direct recruitment and cadre strength for promotion would change from year to year. Consequently, the number of reserved posts in direct recruitment quota and promotion quota will also change from year to year.

The following illustration clarifies the position:

Illustration

Suppose sanctioned strength of a grade is 1000 and the Recruitment Rules for the grade provide that 50% of the vacancies shall be filled by direct recruitment on an All India basis by open competition and 50% by promotion. Reservation for SCs, STs and OBCs in direct recruitment in this case will be 15%, 7.5% and 27% respectively and in promotion reservation will be 15% for SC and 7.5% for ST.

Suppose all the 1000 posts were filled in the year 2000 of which 500 i.e. 50% of the posts were filled by direct recruitment and 500 i.e. 50% of the posts were filled by promotion. The number of reserved posts in direct recruitment quota and promotion quota in that grade in the year 2000 would will be as given below:

Direct Recruitment:	SCs-75,	STs-37,	OBCs-135
Promotion	SCs-75,	STs-37	

Suppose in the year 2001, a total of 200 vacancies arose in the grade, of which 50 posts were vacated by candidates from the direct recruitment quota and 150 by candidates from the promotion quota. As a result of this, the number of incumbents in the direct recruitment quota became 450 and in the promotion quota 350. Since Recruitment Rules provide for filling of 50% of the vacancies by direct recruitment and 50 % promotion, 100 vacancies in the year 2001 will be filled by direct recruitment and 100 by promotion. Thus in that year, the cadre strength for direct recruitment quota would become 550 and for promotion quota it would become 450. The number of reserved posts in the direct recruitment quota and promotion quota in that year will be as follows:

Direct Recruitment:	SCs-82,	STs-41,	OBCs-148
Promotion	SCs-67,	STs-33	