

No.36012/23/96-Estt.(Res)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(DEPARTMENT OF PERSONNEL & TRAINING)

North Block, New Delhi.
Dated the 22nd July, 1997

OFFICE MEMORANDUM

Subject: Reservation in promotion - Prescription of lower qualifying marks/lesser standard of evaluation.

1. O.M.No.8/12/69-
Estt.(SCT) dated
23.12.1970.
2. O.M.No.36021/10/
76-Estt.(SCT)
dated 21.1.1977.
3. Para 6.3.2 of
the DPC guide-
lines circulated
vide O.M. No.
22011/5/86-Estt.D
dated 10.4.1989

The undersigned is directed to say that in terms of instructions noted in the margin, certain relaxations/concessions in the matter of qualifying marks/standards of evaluation of performance are to be made in favour of candidates belonging to the Scheduled Castes and the Scheduled Tribes while considering them for promotion.

2. The validity of such lower qualifying marks/lesser standards of evaluation was called into question in Courts in the context of the judgement of the Supreme Court in the case of Indira Sawhney Vs. Union of India. The Supreme Court, in the case of S.Vinod Kumar Vs. Union of India [JT 1996 (8) S.C.543] has held that the provision for lower qualifying marks/lesser level of evaluation, in the matter of promotion, provided for candidates belonging to the Scheduled Castes and the Scheduled Tribes under Government's instructions, is not permissible under Article 16(4) in view of the command contained in Article 335 of the Constitution. The Court has further observed that even if it is assumed for the sake of argument that reservation is permitted by Article 16(4) in the matter of promotion, a provision for lower qualifying marks or lesser level of evaluation is not permissible in the matter of promotion, by virtue of Article 335. The Court also held that the protection for reservation in promotion for five years, given by the Supreme Court, vide para 829 of the judgement in Indira Sawhney's case, did not save the provisions for lower qualifying marks/lesser level of evaluation.

3. It has accordingly been decided to withdraw the instructions contained in this Department's O.M. No. 8/12/69-Estt.(SCT) dated 23/12/70 and O.M. No. 36021/10/76-Estt.(SCT) dated 21.1.1977, in so far as these provide for lower qualifying marks for Scheduled Castes/Scheduled Tribes candidates in departmental qualifying/competitive examinations for promotion. Similarly, the relevant portions of para 6.3.2 of the DPC guidelines circulated vide this

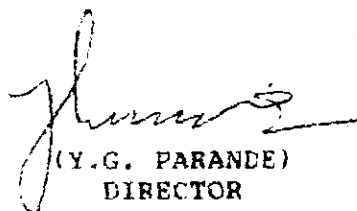
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Department's O.M. No. 22011/5/86-Estt.(D) dated 10.4.1989, to the extent that they provide for consideration of Scheduled Castes/Scheduled Tribes candidates without reference to merit and the prescribed "bench mark", are hereby rescinded.

4. It is clarified that the effect of these instructions is that henceforth there shall be no separate standards of evaluation for candidates of the Scheduled Castes/Scheduled Tribes for promotion, and assessment of all candidates for this purpose will be with reference to uniform standards. Any other instructions of the Government, which provide for lower qualifying marks/lesser standards of evaluation in matters of promotion for candidates belonging to the Scheduled Castes/Scheduled Tribes, may also be treated as having been modified to this extent.

5. These instructions take immediate effect.

6. All Ministries/Departments are also requested to bring these instructions to the notice of their Attached/Subordinate Offices and Autonomous Bodies/ Public Sector Undertakings under their control for compliance.


(Y.G. PARANDE)
DIRECTOR

To

1. All Ministries/Departments of the Government of India.
2. Union Public Service Commission, Dholpur House, New Delhi.
3. Staff Selection Commission, C.G.O. Complex, Lodi Road, New Delhi.
4. Department of Economic Affairs (Banking Division), New Delhi
5. Department of Economic Affairs (Insurance Division), New Delhi.
6. Department of Public Enterprises, New Delhi.
7. National Commission for SC & ST, Lok Nayak Bhavan, New Delhi.
8. National Commission for Backward Classes, Trikot-I, Bhikaji-cama-place, R.K. Puram, New Delhi.
9. Ministry of Welfare, Shastri Bhavan, New Delhi.