

Court Matter/Time Bound/Top Priority

No. 36012/72/2009-Estt. (Res.)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, dated the 4th June, 2010

DRAFT OFFICE MEMORANDUM

Subject: Allocation of Zones to Inspectors (Central Excise) - Implementation of the orders of the Central Administrative Tribunal in the matter of Shri Surender Singh v. UoI & Others {O.A. No. 3494/2009}.

The undersigned is directed to say that the Central Administrative Tribunal (CAT), New Delhi in its Order dated 03/12/2009 in O.A. No. 3494/2009 [Shri Surender Singh v. UoI & Others], inter alia, directed the Department of Personnel and Training to consider the representation of Shri Surender Singh dated 04/08/2009 and decide the same.

2. Shri Surender Singh, in his representation, has stated that he was recommended for appointment as Inspector (Central Excise) by the Staff Selection Commission (SSC) on the basis of results of Combined Graduate Level Examination, 2006. His rank in the merit list was SLD/0347. He had given preference for zones as Delhi, Lucknow, Jaipur, Chandigarh and Vadodara in that order. He was allocated to the Vadodara Zone, his last preference. The SC/ST/OBC candidates having ranks lower than him have been treated as own merit candidates, adjusted against unreserved vacancies and been allotted the zones of Delhi, Lucknow, Jaipur and Chandigarh discarding his claim. Thus, the SC/ST/OBC candidates having ranks lower than him and treated to have been selected on their own merit have been allotted zones of higher preference as compared to him though all such candidates were lower to him in merit. Shri Surender Singh has pleaded that the reserved category candidates shown as own merit candidates and included in the list as general category candidates are really not own merit candidates inasmuch as they could be allotted cadre/service/zone of

higher preference only after availing relaxation/concession. This, according to him, has resulted into discrimination against him.

3. The matter was taken up with the Department of Revenue. That Department vide their O.M. No. C-18013/01/2010-Ad.III B dated 08/01/2010 has made following comments:

“As per the result declared by Staff Selection Commission (SSC) for Combined Graduate Level (Main) Examination, 2006 (under Scheme -A), the OBC candidates qualified in general standard had been selected against general category vacancy and marked ‘*’ against their Roll Nos. Further, as per DOPT’s OM dated 9.10.2007 “a candidate belonging to a reserved category qualifying on general standards should not be placed at a disadvantageous position vis-a-vis a less meritorious candidate belonging to that category”. Accordingly we have made allocations of these OBC candidates qualified at general standards alongwith the other OBC category candidates. However, we have allocated these candidates against general vacancies to maintain the roster point in the concerned zones and because the reserved category candidates selected in general standard were adjusted/selected against general category vacancy by SSC while declaration of the result of Combined Graduate Level Examination, 2006. If we deny such allocation to the candidates qualified at general standards, then it will not be possible for this Department to allocate exact number of candidates in each category in each zone under CBEC.”

4. The Department of Revenue further stated that Shri Surender Singh has been comparing himself with the OBC candidates qualified by general standards and his request cannot be accepted in the light of guidelines issued by the Department of Personnel & Training.

5. This Department discussed the matter with the officers of the Department of Revenue and also got some information in writing from that Department. The information so elicited from the Department of Revenue reveals that:

- (i) Selection of the candidates for the post of Inspector (Central Excise) is made on the basis of a combined competitive examination conducted by the Staff Selection Commission.
- (ii) A common merit list of the selected candidates is prepared by the Staff Selection Commission and is sent to the Department of Revenue. The Commission, in the merit list, shows some of the SC/ST/OBC candidates as selected on their own merit and other SC/ST/OBC candidates as selected against reserved quota.

- (iii) Department of Revenue allots zones to the selected candidates on the basis of their merit and preference given by them.
- (iv) Each zone maintains the seniority list of Inspectors allotted to that zone. There is no common seniority list of the Inspectors working in different zones and thus there is no system of maintaining inter-se seniority of Inspectors in one zone vis-à-vis Inspectors in any other zone.
- (v) After allocation of the zone, the zone of an Inspector is not changed in normal course. If zone of a candidate is changed in any special case, his seniority is fixed in the new zone which has no relationship with the seniority of that candidate in his earlier zone.
- (vi) Promotion from the grade of Inspector to the next grade of Superintendent is made zone-wise. While making promotions in a zone, the Inspectors posted in other zones are not considered.
- (vii) An Inspector after promotion to the grade of Superintendent continues to remain in the same zone. Thus as a consequence of allotment of the zone at the level of Inspector, a candidate continues to remain in that zone as Inspector as well as Superintendent.
- (viii) Reservation Rosters for SCs/STs/OBCs are maintained zone-wise.

6. The Department of Revenue allots the zones to selected candidates on the merit-cum-preference basis. The Department calls for options/preferences from all the selected candidates and allots the zones to them strictly as per their merit and preference, subject to availability of vacancies in the relevant zone/category. Thus, a candidate with higher rank gets the zone of his higher preference.

7. As regards allotment of zone to the reserved category candidates, the Department of Revenue has made following observations:

"It is seen that in some cases, the number of SC/ST/OBC candidates is more than the number of vacancies in those categories. This is because some SC/ST/OBC candidates have been selected on 'own merit' against general vacancies. For such cases, the DOPT instructions are that 'the merit of a reserved category candidate cannot be allowed to work against him. A candidate belonging to a reserved category qualifying on general standards should not be placed at a disadvantageous position vis-à-vis a less meritorious candidate belonging to that category. It is also advised that while deciding the allotment of zone, a reserved category candidate qualifying on general standards should be treated as belonging to the concerned reserved category, if it is beneficial to him.'" These instructions have been strictly followed. Thus, wherever a reserved candidate in 'own merit' category appeared in the List, he has been allocated the cadre that reserved category candidate of that rank would have been allocated and since such 'own merit' candidate consumes a general category vacancy

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in the Roster, a general category vacancy has been allocated for this purpose."

8. The Department of Personnel & Training had received a reference from the Department of Revenue in the past seeking advice regarding allotment of zones to the SC/ST/OBC candidates selected on their own merit vis-à-vis the SC/ST/OBC candidates selected by reservation. The DOPT had then advised the Department of Revenue that the merit of a reserved category candidate could not be allowed to work against him and that a candidate belonging to a reserved category qualifying on general standards could not be placed in a disadvantageous position vis-à-vis a less meritorious candidate belonging to that category. It was stated in the advice that while deciding the allotment of zone, a reserved category candidate qualifying on general standards should be treated as belonging to the concerned reserved category, if it is beneficial to him. The Department of Revenue have informed that in order to implement the advice of this Department, wherever a reserved category candidate was selected on his own merit, he was allotted the zone which a reserved category candidate of that rank would have been allocated if he were not an own merit candidate. But such a candidate was adjusted against an unreserved vacancy in the roster.

9. It is evident from the facts given by Shri Surender Singh and the Department of Revenue that allocation of zone is very important in the career of Inspectors. Their promotion and other benefits depend on zone allotted to them. The consequences of allotment of zone to them are comparable to allocation of a service on the basis of a combined examination held for selection of candidates for different services. Since allocation of zone depends on merit and preferences given by the candidates, merit counts not at the time of selection of candidates by the Staff Selection Commission only but also at the time of allotment of zone. If any reserved category candidate is allotted a zone of higher preference which he would have not been allotted if he were not a reserved category candidate, he is given a preference/relaxation in the matter of allotment of zone. Keeping in view the consequences of allotment of zone, such a candidate cannot be treated as own merit candidate even if he has been shown as own merit candidate by the Commission. Since such a candidate is appointed in a particular zone by getting a relaxation, he should be adjusted against a reserved vacancy for that category.

10. The Department of Revenue has given the benefit of reservation to reserved category candidates in the matter of allotment of zones and at the same time adjusted them against unreserved vacancies. A candidate can be adjusted against an unreserved vacancy, if he does not get any preference or concession which is not available to unreserved category candidates. The system adopted by the Department of Revenue goes against this principle and has resulted into denial of the right to equality to the unreserved category candidates.

11. Keeping all aspects in view, it is suggested that after the selection process for the post is completed by the Staff Selection Commission, the Commission should arrange the candidates in the order of merit as disclosed by the aggregate marks finally awarded to each candidate. Thereafter, the Commission should prepare a list of candidates to be recommended against unreserved vacancies and separate lists of candidates to be recommended against vacancies reserved for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. The candidates belonging to the Scheduled Castes, Scheduled Tribes and the Other Backward Classes who have not availed themselves of any of the concessions or relaxation in the eligibility or the selection criteria, at any stage of the examination and who after taking into account the general qualifying standards are found fit for recommendation by the Commission should be included in the list of candidates to be recommended against unreserved vacancies. The number of candidates recommended by the Commission, in the first instance, should be equal to the total number of vacancies reduced by the number of candidates belonging to the Scheduled Castes, the Scheduled Tribes and Other Backward Classes included in the list of candidates to be recommended against unreserved vacancies. Allocation of zones to candidates recommended against unreserved vacancies may then be made by the Department of Revenue strictly by following the principle of merit-cum-preference. However, candidates belonging to the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes recommended against unreserved vacancies may be adjusted against reserved vacancies if by doing so, they get the zones of their higher preference. Thereafter, the candidates recommended against the vacancies reserved for the Scheduled Castes, Scheduled Tribes and Other Backward Classes may be allocated zones strictly by following the principle of merit-cum-preference.

12. After completion of the above exercise, it is possible that the number of candidates allocated against unreserved vacancies and reserved vacancies of each category may be less than the number of vacancies under these categories. The Government should inform the Commission the number of unreserved vacancies and reserved vacancies of each category which have thus remained unfilled and unallocated. Thereafter the Commission shall declare a consolidated reserve list of candidates which will include candidates from general and reserved categories ranking in order of merit below the last recommended candidate under each category. The number of candidates in general category included in this list will be equal to the number of reserved category candidates who were included in the first list as own merit candidates but adjusted against reserved vacancies at the time of allocation of zones. Amongst the reserved categories, the number of candidates from each of the Scheduled Caste, the Scheduled Tribe and the Other Backward Class categories in the reserve list will be equal to the respective number of reserved vacancies which have remained unfilled/ unallocated. The candidates recommended as above may be allocated by the Department of

Revenue to the zones by applying the principle of preference-cum-merit in each category against the vacancies which have remained unfilled/unallocated.

13. While the procedure as detailed in para 11 and 12 above may be adopted for future recruitments, it is noted that the Commission has already recommended the names of candidates on the basis of the Examination for the year 2006 as per existing practice. In this case, the recommended candidates may be allocated zones following the procedure of allocation of zones as suggested in para 11 above. In this process, some of the SC/ST/OBC candidates recommended by the Commission against unreserved vacancies would get adjusted against reserved vacancies and some unreserved vacancies would remain unallocated and equal number of SC, ST, OBC candidates would remain without allocation of zones. These SC/ST/OBC candidates who remain without allocation of zones in this exercise may be allotted the zones by applying the principle of merit-cum-preference against the vacancies which remain unallotted. There could be, therefore, over representation of SC/ST/OBC candidates in this selection year. This would be adjusted against the reserved vacancies of the respective categories, as the case may be, in subsequent selection year.

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8/6/2010 o/c

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06 JUN 2010
ISSUED
Director/Secy.