

RESERVATION
FOR
SCHEDED CASTES/SCHEDUED TRIBES
AND
OTHER BACKWARD CLASSES

On attainment of Independence, instructions were issued on 21.9.1947 providing for reservation for Scheduled Castes in direct recruitment. After promulgation of the Constitution, reservation for STs in direct recruitment was provided vide MHA resolution dated 13.9.1950. Reservation in case of promotion for SCs/STs was introduced in 1957. Reservation for OBCs was started in direct recruitment with effect from 8.9.1993. Persons belonging to creamy layer of OBCs, however, are excluded from the purview of reservation.

RESERVATION IN DIRECT RECRUITMENT

2. Reservation for SCs, STs and OBCs in case of direct recruitment on all India basis by open competition is 15%, 7.5% and 27% respectively. In case of direct recruitment on all India basis otherwise than by open competition reservation for SCs, STs and OBCs is respectively 16.66%, 7.5% and 25.84%. In case of direct recruitment to Group C and D posts normally attracting candidates from a locality or a region, percentage of reservation for SCs/STs is generally fixed in proportion to the population of SCs and STs in the respective States/UTs. In such cases reservation for OBCs is fixed keeping in view the proportion of their population in the concerned State/UT and the fact

that total reservation for SCs/STs/OBCs remains within the limit of 50% and reservation for OBCs remains within the limit of 27%.

RESERVATION IN PROMOTION

3. Reservation in promotion by non-selection method is available to SCs and the STs in all groups of posts at the rate of 15% and 7.5% respectively. In case of promotion by selection, SCs and STs get reservation upto the lowest rung of Group 'A' at the same rates. There is no reservation when promotions by selection are made from a Group 'A' post to another Group 'A' post. However, when promotions by selection are made from a Group 'A' posts to another Group 'A' post carrying an ultimate salary of Rs. 18,300/- or less, the Scheduled Caste/Scheduled Tribe officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list is to be drawn up, are included in that list provided they are not considered unfit for promotion.

4. There is no reservation for OBC in the matter of promotion.

REPRESENTATION OF SCs / STs / OBCs IN SERVICES

5. Representation of SCs/STs in services has increased substantially during last five decades. At the dawn of independence representation of SCs/STs in services was very little. As per available information, representation of SCs in Groups A, B, C and D as on 1.1.1965 was 1.64%, 2.82%, 8.88% and 17.75% respectively which has increased to 11.9%, 13.7%, 16.4% and 18.3%

respectively as on 1.1.2005. Likewise representation of STs as on 1.1.1965 in Group A, B, C and D was 0.27%, 0.34%, 1.14% & 3.39% respectively, which has increased to 4.3%, 4.5%, 6.5% and 6.9% respectively as on 1.1.2005. Total representation of SCs and STs as on 1.1.1965 was 13.17% and 2.25% respectively, which as on 1.1.2005 is about 16.63% and 6.43% respectively.

Group-wise representation of SCs/STs (in percentage) in different years is given

below:

As on 1 st of January	Group A		Group B		Group C		Group D		Total	
	SCs	STs	SCs	STs	SCs	STs	SCs	STs	SCs	STs
1965	1.64	0.27	2.82	0.34	8.88	1.14	17.75	3.39	13.17	2.25
1970	2.36	0.4	3.84	0.37	9.27	1.47	18.09	3.59	13.09	2.4
1975	3.43	0.62	4.98	0.59	10.71	2.27	18.64	3.99	13.84	2.94
1980	4.95	1.06	8.54	1.29	13.44	3.16	19.46	5.38	15.67	3.99
1985	7.3	1.73	10.03	1.57	14.87	4.2	20.8	5.70	16.83	4.66
1990	8.64	2.58	11.29	2.39	15.19	4.83	21.48	6.73	16.97	5.33
1995	10.15	2.89	12.67	2.68	16.15	5.69	21.26	6.48	17.43	5.78
2001	11.42	3.58	12.82	3.7	16.25	6.46	17.89	6.81	16.41	6.36
2002	11.09	3.97	14.08	4.18	16.12	5.93	20.07	7.13	16.98	6.11
2003	11.93	4.18	14.32	4.32	16.29	6.54	17.98	6.96	16.52	6.46
*2004	12.2	4.1	14.5	4.6	16.9	6.7	18.4	6.7	17.05	6.54
**2005	11.9	4.3	13.7	4.5	16.4	6.5	18.3	6.3	16.63	6.43

* It does not include information in respect of one Ministry.

** It does not include information in respect of two Ministries.

*** Information given above is after excluding the safaikaramcharis.

6. Details of information about representation of SCs, STs and OBCs as on 1-1-2005 are given in **Annexure-I**.

RESERVATION IN PROMOTION VIS-A-VIS 77TH AMENDMENT

7. The Supreme Court in Indra Sawhney's case had declared reservation in promotion ultra vires but had permitted to continue it for 5 years from the date of the judgement i.e. upto 15.11.1997. In order to continue reservation in promotion beyond 15.11.1997, the 77th Amendment was made to incorporate clause (4A) in Article 16 of the Constitution. Statement of Objects and Reasons of the Constitution (Eighty-Sixth Amendment) Bill which became the Constitution (77th Amendment) Act, stated that the object was to continue the then existing dispensation. Reservation was not available in case of promotions by selection within Group 'A' posts before the 77th Amendment to the Constitution. The same position continues after the amendment.

STEPS TAKEN TO COMPLETE RESERVATION QUOTA OF SCs/STs/OBCs

8. In order to ensure that posts reserved for SCs/STs/OBCs are filled by SC/ST/OBC candidates only, various relaxations are given to candidates belonging to these categories. For example relaxation of 5 years in upper age

limit, exemption from payment of examination/application fees, relaxation in qualification of experience at the discretion of the UPSC/competent authority, relaxations in standard of suitability etc. are given to SC/ST candidates in case of direct recruitment. OBCs get a relaxation of three years in the upper age limit etc. There is a ban on dereservation of reserved vacancies in case of direct recruitment. In case of promotion, zone of consideration is extended upto five times the number of vacancies in case suitable candidates are not available within the normal zone of consideration for filling up reserved vacancies, minimum qualifying marks/standards of evaluations are relaxable, upper age limit is relaxable by 5 years where upper age limit for promotion is prescribed not more than 50 years. Ceiling of 50% on filling up of reserved vacancies does not apply to the backlog reserved vacancies of earlier years which are treated as a separate and distinct group and are not subject to any ceiling.

SPECIAL RECRUITMENT DRIVES FOR SCs, STs and OBCs:

9. In order to fill up the backlog vacancies reserved for SCs/STs, Special Recruitment Drives were conducted in 1989, 1990, 1991, 1993, 1995 and 1996. Such Drives could not be continued in view of the Supreme Court judgement in Indra Sawhney's case according to which number of vacancies filled by reservation in a year, including backlog reserved vacancies could not exceed 50% of the total vacancies. However, the 81st Amendment to the Constitution

made in the year 2000 has enabled the Government to launch Special Recruitment Drives.

A fresh Special Recruitment Drive for SCs, STs and OBCs has been launched to fill up the backlog reserved vacancies of these categories.

SPECIAL RECRUITMENT DRIVE, 2004

10. A Special Recruitment Drive was launched in August 2004 for filling up the backlog reserved vacancies of SCs and STs in direct recruitment quota as well as promotion quota. During this Drive:

- (i) A total of 74008 backlog vacancies were identified. Of these, 26358 vacancies were in the direct recruitment quota and 47650 were in the promotion quota.
- (ii) Of the 26358 backlog vacancies in the direct recruitment quota, 20,705 were filled up. Thus success in direct recruitment quota was 78.5%. Rest of the vacancies could not be filled for reasons like non-availability of suitable candidates for the posts, etc.
- (iii) There were 11367 backlog vacancies in promotion quota for which eligible candidates were not available even in the extended zone of consideration. Therefore, it was not possible to fill up these vacancies. Out of the remaining 36284 vacancies, 35464 vacancies were filled up.
- (iv) There were a total of 62642 backlog vacancies (DR quota +promotion quota) which could be filled up, of which 56169 were filled up. Thus overall success of the Drive was 89.67% .

RESERVATION IN PUBLIC SECTOR UNDERTAKINGS ETC.

11. Instructions issued by Government of India about reservation are mutatis mutandis followed by the Public Sector Undertakings, Financial Institutions including the Public Sector Banks. The said instructions have also been extended to the autonomous bodies, statutory and semi-government bodies. Such voluntary agencies which receive grant of Rs. 2 lakh or above from the Consolidated Fund of India, employ more than 20 persons on a regular basis and at least 50% of its recurring expenditure is met from grants-in-aid from the Central Government are also required to implement reservation provisions.

RESERVATION AFTER DISINVESTMENT

12. With a view to protect the interest of the existing workers in cases of disinvestment involving transfer of management control, appropriate provisions are made in the share-purchase agreement and the shareholder agreement with the strategic partner. Typically, the agreement includes a recital stating that the strategic partner recognizes that the Government in relation to its employment policies follows certain principles for the benefit of the members of the Scheduled Castes, Scheduled Tribes and Other Backward Classes and the strategic partner shall use its best efforts to cause the Company to provide adequate job opportunities for such persons.

POST-BASED ROSTERS

13. Reservation in services was implemented by way of vacancy based rosters since the reservation was introduced. The vacancy based rosters were

replaced by the post based rosters vide an OM dated 2.7.1997 which was issued on the basis of Supreme Court judgement in the case of R.K. Sabharwal V/s State of Punjab. It has been argued by some quarters that the Supreme Court in the case of R.K. Sabharwal did not direct to scrap off the vacancy based rosters but it directed to continue vacancy based rosters till reservation quota was complete and to stop the operation of these rosters when representation of reserved category candidates reached the prescribed percentage. A question has time and again been raised why the Government destabilised the existing system and introduced post based rosters even in cases where representation of reserved category candidates has not reached the prescribed percentages. The Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes in its 16th Report (13th Lok Sabha) and the 5th Report (14th Lok Sabha) also raised similar questions.

14. The issue of continuation of vacancy based rosters was examined in consultation with the then Attorney General of India. The Attorney General advised that:

- As per the Supreme Court Judgement in the R.K. Sawarwal case, reservation has to be with reference to posts and not vacancies.
- A post based roster is a mechanism to ensure that the reserved categories get their due share of posts upto the prescribed percentages of reservation for the concerned categories in line with the principles enunciated in the aforesaid Supreme Court judgement.
- The post based rosters are consistent with the judgement of the

Supreme Court in the aforesaid case and the Government cannot continue the old vacancy based rosters.

RESERVATION NOT IN PROPORTION TO POPULATION

15. A Nine-Judge Constitution Bench judgement dated 16.11.1992 of the Supreme Court in the case of Indra Sawhney Vs. Union of India has observed that Clause (4) of Article 16 (which empowers the State to provide reservation for Scheduled Castes, Scheduled Tribes and OBCs) speaks of adequate representation and not proportionate representation. It is not possible to accept the theory of proportionate representation though the proportion of population of Backward Classes to the total population would certainly be relevant. The Apex Court has held that the power conferred by Clause (4) of Article 16 should be exercised in a fair manner and within reasonable limits so that reservation does not exceed 50%.

16. Presently, reservation for Scheduled Castes, Scheduled Tribes and the OBCs provided under Article 16(4) is already 49.5% and 50% in case of direct recruitment by open competition and direct recruitment otherwise than by open competition respectively. Under the circumstances revising the percentage of reservation for Scheduled Castes and Scheduled Tribes as per their population is not feasible as such a revision would result into exceeding of total reservation for SCs, STs and OBCs beyond 50%.

17. Incidentally, it may be mentioned that the proportion of Scheduled Castes and Scheduled Tribes in the population of the country as per 2001 census is 16.2% and 8.2% respectively.

RESERVATION IN PRIVATE SECTOR

18. The matter regarding reservation in private sector came up for examination before the DOPT in connection with a Private Member Bill. The Attorney General of India was consulted in the matter who opined that Article 16(4) of the Constitution enables the State to provide reservation of appointments or posts in favour of any backward class of citizens in the services under the State and that reservation in Private Sector will not be permissible under Article 16 (4) of the Constitution and will be violative of the equality provisions in the Constitution.

19. The Ministry of Social Justice & Empowerment is, however, exploring the possibilities of introducing reservation in private sector.

LEGISLATION ON RESERVATION

20. The National Common Minimum Programme provides that reservation for SCs and STs shall be codified. Accordingly, a Bill to enact a law on reservation for SCs, STs and OBCs in services was introduced in the Rajya Sabha on 22.12.2004 which was considered by the Department Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice and thereafter by a Group of Ministers headed by Shri Pranab Mukherjee, Minister for External Affairs. The Group of Ministers had four meetings. The Group in the meetings has recommended that there should be a

separate Bill for the Scheduled Castes and Scheduled Tribes which should not have provisions regarding reservation for the Other Backward Classes. It is, accordingly, proposed to withdraw the Bill introduced in the Rajya Sabha in 2004 and introduce an another Bill as per recommendation of the Group. A draft Bill, namely the Scheduled Castes and Scheduled Tribes (Reservation in Posts & Services) Bill, 2008 has already been prepared and is under examination. The Bill for reservation for the Other Backward Classes, namely, the Other Backward Classes (Reservation in Posts and Services) Bill, 2008 has also been drafted and forwarded to the Department of Legal Affairs for consideration and approval.

RESERVATION IN ARMED FORCES

21. There is no reservation for SCs/STs/OBCs in Military services. However, demand for the same has been raised from time to time. The Ministry of Defence was consulted in the matter who expressed the view that “Nation’s Armed Forces must be provided with the best available material from the youth of the country and any attempt to introduce reservations for any class or community cannot but impair the fighting efficiency of the Army. It is thus desirable that, as at present, recruitment to the Defence Services is kept open to all, on common standards irrespective of caste, creed, or religion.”

22. It may, however, not be out of place to state that certain regiments like Sikh Light Infantry and Mahars are raised exclusively from amongst the Scheduled Castes.

RESERVATION IN JUDICIARY

23. There has been a demand to introduce reservation in judiciary. Such a recommendations was also made by the National Convention of SC/ST M.Ps. The Department of Justice have been consulted who stated that as per Articles 233, 234 and 235 of the Constitution of India, the matters relating to appointment, promotion and posting of persons in District and Subordinate Judiciary are within the purview of the respective State Governments and High Courts. As regards higher judiciary they stated that there does not exist any provision in the Constitution of India for reservation in respect of any class or category of persons for appointment as Judges of High Courts and Supreme Court.

FIVE OFFICE MEMORANDA ISSUED IN 1997

24. The Supreme Court judgement in the case of Indra Sawhney and a few other judgements of the Apex Court warranted certain modifications in the reservation policy as existed prior to these judgements. In view of these judgements, this Department issued five Office Memoranda on 30.1.1997, 2.7.1997, 22.7.1997, 13.8.1997 and 29.8.1997 after consultation with the Ministry of Law and after the Cabinet had seen the proposals. Subsequently three amendments, namely the 81st, the 82nd and the 85th Amendments were made to the Constitution to remove the adverse effects of the OMs dated 29.8.1997, 22.7.1997 and 30.1.1997 respectively on the interests of SCs/STs.

Pursuant to the above amendments, O.Ms dated 20.07.2000, 03.10.2000 and 21.01.2002 were issued. A brief write up in respect of five O.Ms issued in 1997 is enclosed as **Annexure-II**.

REPRESENTATION OF SCs, STs AND OBCs IN THE CENTRAL GOVERNMENT SERVICES AS ON 1-1-2005

GROUP	TOTAL	SCs	%	STs	%	OBCs	%
A	80589	9551	11.9	3448	4.3	3791	4.7
B	139958	19194	13.7	6230	4.5	3252	2.3
C	2036103	333708	16.4	131678	6.5	119968	5.9
D (Excluding Sweepers)	767224	140469	18.3	53032	6.9	32973	4.3
Sweepers	81174	48067	59.2	4012	4.9	1834	2.3
Total (Excluding Sweepers)	3023874	502922	16.63	194388	6.43	159984	5.29
Total (Including Sweepers)	3105048	550989	17.74	198400	6.39	161818	5.21

NOTE: It does not include information in respect of two Ministries.

NOTE ON IMPORTANT OMs ON RESERVATION

Department of Personnel and Training issued five OMs during 1997 having important bearing on Reservation Policy of Government of India. Later on the DOPT issued three OMs - two in 2000 and one in 2002 to nullify the adverse effects of three of the OMs of 1997. The provisions and the present status in respect of each of the eight Office Memoranda referred to above is given below:-

- (1) **OFFICE MEMORANDUM DATED JANUARY 30, 1997**
REGARDING SENIORITY
- AND
- (2) **OFFICE MEMORANDUM DATED JANUARY 21, 2002**
REGARDING WITHDRAWAL OF OM DATED 30.1.1997

Office Memorandum dated 30.1.1997 provided that if an SC/ST candidate was promoted earlier, by virtue of rule of reservation roster, to his senior general candidate and the senior general candidate was promoted later on to the said higher grade, the general candidate regained his seniority over such earlier promoted SC/ST candidate. The OM was issued in view of the Supreme Court judgement in the case of Union of India Vs. Virpal Singh Chauhan. A five judge Constitution Bench of the Supreme Court in its judgement dated 16.9.1999 in the case of Ajit Singh-II reaffirmed the earlier judgement in the Virpal Singh Chauhan case. In order to erase the adverse effect of the aforesaid Supreme Court judgements on the interests of Scheduled Castes and Scheduled

Tribes, 85th Amendment has been made to the Constitution in pursuance of which the OM dated 30.1.1997 has been withdrawn vide DOPT OM No.20011/1/2001-Estt(D) dated 21.1.2002.

**(3) OFFICE MEMORANDUM DATED 2.7.1997 – REGARDING
POST BASED ROSTER**

This OM was issued in pursuance of the Supreme Court judgement in the case of R.K. Sabharwal Vs. State of Punjab delivered on 10.2.1995. As per this OM, reservation has to be related to posts and not to vacancies. Accordingly, vacancy based rosters were replaced by the post based rosters.

The Office Memorandum dated 2.7.1997 was examined in consultation with the Attorney General of India. The Attorney General advised that the Government could not have continued the vacancy-based rosters and had no option but to switch over to post based rosters. He also expressed the view that the decision of the Supreme Court could be nullified only by way of amendment to the Constitution itself, amending Article 16 and providing that the reservation shall be vacancy-based. However, he felt that such an amendment, if made, is likely to be challenged on the ground of violation of the basic structure of the Constitution.

(4) **OFFICE MEMORANDUM DATED 22.7.1997–REGARDING
WITHDRAWAL OF RELAXATIONS IN PROMOTION
AND**

(5) **OFFICE MEMORANDUM DATED 3.10.2000 – REGARDING
WITHDRAWAL OF EFFECT OF OM DATED 22.7.1997**

Orders granting relaxation in qualifying marks/ standard of evaluation to SCs/STs in matters of reservation in promotion were withdrawn by way of this Department's OM dated 22.7.1997. The OM was based on the judgement (dated 1.10.96) of the Supreme Court in the case of **S. Vinod Kumar Vs. Union of India** which had reiterated Nine-Judge Constitution Bench Judgement (dated 16.11.1992) of the Supreme Court in the case of **Indira Sawhney Vs. Union of India**. The OM dated 22.7.1997 provided that 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. However, all relaxations in direct recruitment continued.

The Government amended the Constitution by way of the 82nd Amendment to incorporate a proviso to Article 335 of the Constitution enabling the State to provide relaxation of qualifying marks and standards of evaluation in the matters of reservation in promotion for SCs/STs. Instructions have been issued on 3.10.2000 in terms of which relaxations in qualifying marks and standards of evaluation have been restored as existed prior to the issue of the O.M. dated 22.7.1997.

(6) OFFICE MEMORANDUM DATED 13.8.1997 – REGARDING CONTINUATION OF RESERVATION IN PROMOTION

This OM, issued in pursuance of Article 16(4A) of the Constitution, continues reservation in promotion for SC/ST employees beyond 15.11.1997. But for this memorandum, reservation in promotion would have ceased to exist after 15.11.1997 in terms of the Supreme Court judgement in Indra Sawhney case.

(7) OFFICE MEMORANDUM DATED 29.8.1997 – REGARDING 50% CEILING ON RESERVATION INCLUDING BACKLOG – SPECIAL RECRUITMENT DRIVES

AND

(8) OFFICE MEMORANDUM DATED 20.7.2000- REGARDING WITHDRAWAL OF EFFECT OF OM DATED 29.8.1997.

The OM dated 29.8.1997 was issued in view of the judgement [dated 16.11.1992] of the Supreme Court in the case of Indira Sawhney Vs. Union of India. The OM provided that not more than 50% vacancies, including the backlog vacancies, could be reserved in a year. Later, an amendment namely, the Constitution (Eighty-First Amendment) Act, 2000 was notified which incorporated Article 16(4B) in the Constitution. On the strength of article 16(4B), an Office Memorandum dated 20.7.2000 was issued according to which the backlog vacancies of SCs and STs were treated as a separate and distinct group. Subsequently, another OM dated 15.7.2008 has been issued which provides that ceiling of 50% on filling up of reserved vacancies would apply

only on the reserved vacancies which arise in the current year and the backlog reserved vacancies for SCs, STs and OBCs of earlier years would be treated as a separate and distinct group and would not be subject to any ceiling.