

CHAPTER 3

EXEMPTIONS AND EXCLUSIONS

3.1 Reservations for Scheduled Castes and Scheduled Tribes should invariably be made in all posts filled by direct recruitment and in posts filled by promotion to the extent indicated in para 2.1 (iii) unless any posts are exempted by special or general instructions issued by the Department of Personnel and Administrative Reforms.

3.2 Reservations do not apply to :—

- (i) vacancies filled by transfer or deputation;
- (ii) vacancies filled by promotion in posts other than those covered by para 2.1 (iii);
- (iii) temporary appointments of less than 45 days duration;
- (iv) those work-charged posts which are required for emergencies like flood relief work, accident restoration and relief etc.

Deptt. of Personnel & A.R.-O.M.
No. 9/2/73-Est.
(SCT) dated. 23-6-1975.

3.3 *Scientific and technical posts required for research etc.,*

The reservations for Scheduled Castes and Scheduled Tribes apply also to appointments made to "scientific and technical" posts upto and including the lowest grade of Group A (Class I) in the respective services and such posts are not exempt from the purview of the reservation orders.

Only such 'scientific and technical' posts as satisfy all the following conditions can be exempted from the purview of the reservation orders by the Ministries/Departments :—

- (i) The posts should be in grades above the lowest grade in Group A (Class I) of the service concerned.
- (ii) They should be classified as 'scientific or technical' in terms of Cabinet Secretariat (Department of Cabinet Affairs) O. M. 85/11/CF-61(1) dated 28-12-1961; and
- (iii) They should be posts 'for conducting research' or 'for organising, guiding and directing research.'

Orders of the Minister concerned should be obtained before exempting any posts satisfying the above conditions from the purview of the scheme of reservations.

3.4 In the case of scientific and technical posts required for research upto and inclusive of lowest grade of Group A (Class I) of a service which are *not* exempt from the purview of reservation orders., reservations should be provided for Scheduled Castes and Scheduled Tribes as per the scheme of reservations, except that :—

- (i) reserved vacancies in such posts need be advertised only once and not twice as provided in para 9.1.
- (ii) in the event of non-availability of candidates belonging to Scheduled Castes and Scheduled Tribes, vacancies in such posts may be treated as dereserved by the administrative Ministry/Department concerned and prior approval of the Department of Personnel and Administrative Reforms will not be necessary for such dereservation. However, the Commissioner for Scheduled Castes and Scheduled

Tribes and the Department of Personnel and Administrative Reforms should be kept informed about the dereservation together with the details and reasons necessitating the dereservation.

MHA OM No. 16/
2/67 Est (C) dated
27-9-67 and Deptt.
of Personnel &
A.R.O.M. No.
36021/6/75 Est.
(SCT) dated 9-10-
1975.

3.5 Deputation

Reservations do not apply to posts filled by deputation, but whenever a Ministry/Department etc. propose to depute in the public interest officers serving in or under them to a post in or under another Ministry/Department etc. the Scheduled Caste/Scheduled Tribes employees serving in or under the Ministry/Department concerned, who are eligible to be sent on deputation should also be considered along with other eligible employees for such deputation.

Deptt. of Person-
nel & A.R. O.M.
No. 36012/7/77
Est. (SCT) dated
21-1-1978.

3.6 The Ministries/Departments under whose control the posts to be filled by deputation or transfer arise should also, in turn while selecting persons for such posts(s) to be filled by deputation or transfer, duly consider the cases of eligible Scheduled Caste and Scheduled Tribe employees whose names have been forwarded by other Ministries/Departments along with the other eligible employees, for appointment on deputation or transfer to those posts. Where the number of posts to be filled on deputation by any employing Ministry or Office is fairly substantial the employing Ministries/Heads of Offices concerned should endeavour to see that a fair proportion of such posts are filled by employees belonging to Scheduled Castes/Scheduled Tribes, subject of course, to availability from the feeder categories of qualified persons belonging to these communities.

3.7 Ministries/Departments should also furnish to the Department of Personnel & Administrative Reforms by 30th April every year an annual statement in the proforma in Appendix 18 showing the number of Scheduled Castes/Scheduled Tribes appointed in posts filled by deputation in pursuance of the above instructions. Ministries/Departments are further requested to send only one consolidated statement in respect of the Ministry/Department including all its attached and subordinate etc. offices.

COPIES OF OFFICE MEMORANDA ETC. ON CHAPTER 3

O.M. No. 16/1(3)/65-Estt. (C)	20-9-65
O.M. No. 16/2/67-Estt. (C)	27-9-67
O.M. No. 27/4/67 (II). Estt. (SCT)	24-9-68
Cabinet Sectt. (Deptt. of Cabinet Affairs)	
O.M. No. 85/11/CF-61(1)	28-12-61
O.M. No. 9/2/73-Estt. (SCT)	23-6-75
O.M. No. 36021/6/75-Estt. (SCT)	9-10-75
O.M. No. 36012/7/77-Estt. (SCT)	21-1-78

Ministry of Home Affairs O.M. No. 16/1(3)/65-Estt. (C)
dated 20th September, 1965 to all Ministries etc.

Subject :—Reservation for Scheduled Castes and Scheduled Tribes in services—Appointments to ex-cadre posts—Recommendations of the Commissioner for Scheduled Castes and Scheduled Tribes regarding—

According to para 6(i) of the Brochure issued with this Ministry's Office Memorandum No. 1/2/61-SCT(I) dated 27th April, 1962, orders regarding reservations for Scheduled Castes and Scheduled Tribes do not apply to vacancies filled by transfer except to the extent provided in para 3 and the notes thereunder. In view of this, the reservation orders do not apply to ex-cadre posts which are filled by transfer for specified periods. In his Report for the years 1962-63, the Commissioner for Scheduled Castes and Scheduled Tribes has made the following recommendation in this regard :—

Recommendation No. 217

“Since ex-cadre posts are filled by appointment of persons from other cadres, it follows that these appointments must be treated as direct recruitment, and made in accordance with the provisions of the reservation orders. To do otherwise, would be to circumvent the reservation orders, thus depriving the Scheduled Castes and Scheduled Tribes of their legitimate chances of appointment to these posts, the number of which is very large and which also carry higher status and emoluments. Immediate action should be taken by the Ministry of Home Affairs to review these appointments and ensure an adequate representation of the Scheduled Castes and the Scheduled Tribes to these posts”.

2. This Ministry has carefully considered the above recommendation made by the Commissioner for Scheduled Castes and Scheduled Tribes. Ex-cadre posts which are to be manned by officers from other cadres for specified periods cannot be treated as posts filled by direct recruitment and therefore the reservation orders do not apply to such posts. In view of this and also taking into account the provisions in the Brochure referred to in para 1 above, it has been decided that the orders regarding reservation for Scheduled Castes and Scheduled Tribes cannot be applied to these ex-cadre posts. It is, however, felt that in case of ex-cadre posts, which remain in existence for a long period, the question of adding them to the cadre should be considered on the merits of each case. When such posts are encadred in a particular service or cadre, the element of reservation for Scheduled Castes and Scheduled Tribes will be available in posts filled by direct recruitment as provided in orders issued by this Ministry from time to time and also in appointments filled by promotion to the extent indicated in this Ministry's Office Memorandum No. 1/10/61-Estt.(D) dated 8th November, 1963.

3. Ministries etc. may kindly take note of the recommendation of the Commissioner for Scheduled Castes and Scheduled Tribes as extracted in para 1 above and the views of this Ministry on that recommendation as set out in para 2 above, for appropriate action.

**Ministry of Home Affairs O.M. No. 16/2/67-Estt. (C)
dated 27th September, 1967 to all Ministries etc.**

Subject :—Reservation for Scheduled Castes and Scheduled Tribes in Services—Appointments to posts filled by deputation—Recommendation of the Commissioner for Scheduled Castes and Scheduled Tribes regarding—

As Ministry of Finance etc. are aware, there is reservation for Scheduled Castes and Scheduled Tribes in vacancies in posts filled by direct recruitment and vacancies in posts filled by promotion to the extent prescribed in this Ministry's Office Memorandum No. 1/10/61-Estt.(D) dated 8-11-1963. There is, however, no reservation for members of these communities in vacancies in posts filled by deputation or transfer method.

2. In recommendation No. 160 in his report for the year 1964-65, the Commissioner for Scheduled Castes and Scheduled Tribes has observed that reservations for Scheduled Castes and Scheduled Tribes be made also in posts filled on deputation basis. While no reservations are made in such deputations, it is suggested that whenever a Ministry/Department etc. proposes to depute in the public interest an Officer serving in or under them to a post in or under another Ministry/Department etc., the Scheduled Castes/Scheduled Tribes employees serving in or under the Ministry/Department concerned, who are eligible to be sent on deputation are also considered along with other eligible employees, for such deputation.

**Ministry of Home Affairs O.M. 27/4/67(II)-Estt.(SCT)
dated 24th September, 1968 to all Ministries etc.**

Subject :—Recommendation No. 18 of the Working Group to study the progress of measures for land allotment to Scheduled Castes and their representation in services—Reservation in temporary appointments.

The Working Group under the Chairmanship of Shri M. R. Yardi, Additional Secretary, Ministry of Home Affairs to study the progress of measures for land allotment to Scheduled Castes and their representation in services has *inter-alia* made the following recommendation :—

Recommendation No. 18

“Rules of reservations should also be extended to purely temporary posts. This would give an opportunity to Scheduled Castes applicants appointed against short term vacancies to gain experience which will facilitate their absorption later in regular vacancies.”

2. According to the existing orders, reservations are made for Scheduled Castes and Scheduled Tribes in all temporary appointments except those which are to last for less than 3 months. The recommendation of the Working Group has been considered and it has been decided that the aforesaid reservation orders should in future apply to all temporary appointments which are to last for 45 days or more. Accordingly, with effect from the date of issue of this O.M., reservation for Scheduled Castes and Scheduled Tribes should be made in all temporary appointments except appointments which are to last for less than 45 days.

3. Ministry of Finance etc. are requested to bring these instructions to the notice of all authorities under them.

4. This issues with the concurrence of the Comptroller and Auditor General of India in so far as persons serving under him are concerned.

Office Memorandum No. 85/11/CF-61(1), dated the 28th December, 1961, from Government of India, Cabinet Secretariat (Department of Cabinet Affairs), addressed to Secretaries to the Ministries of W.H. and S/I and P. Deptt. of Mines and Fuel/I. and B./Commerce and Industry/Health/SR and CA/Department of CC., and A, Deptt. of Agriculture/Education/SR/Labour and Employment/Deptt. of Food and Deptt. of Economic Affairs etc.

Subject :—Classification of posts as 'scientific or technical' for the purposes of granting extensions of service beyond the prescribed age of retirement.

The undersigned is directed to invite a reference to the Joint Secretary to the Cabinet letter No. 164/CP/59, 60, dated December 29, 1960 on above subject. It was stated in that letter that at the meeting of the Committee of Secretaries held on December 20, 1960, it has been decided that for the purposes of granting extensions of service beyond the prescribed age of retirement, the posts which should be classified as 'scientific or technical' should be those, the incumbents of which have to use a knowledge of the exact/natural sciences or of technology, in the discharge of their duties and are engaged in or in charge of research, development, designing, construction, production, inspection, survey, testing or teaching. The Ministries/Departments were requested to prepare or revise the already prepared lists of posts and services under their administrative control in the light of the above decision and to forward them to this Secretariat for examination by the Committee of Secretaries.

2. On receipt of the revised lists from some of the Ministries/Departments, the matter was re-examined by the Committee of Secretaries. Having regard to the present overall shortage of scientific and technical personnel of all descriptions in the country, it was decided that the definition of 'scientific or technical' posts evolved by the Committee at its meeting held on December 20, 1960, should be liberalised so as to include all posts for which qualifications in the natural/exact sciences, or applied sciences or in technology are prescribed and the incumbents of which have to use that knowledge in the discharge of their duties. The lists of posts received from the Ministries/Departments, so far, have been examined by the Committee in the light of the revised definition and the decision taken has been notified to the concerned Ministries/Departments, with copies to the Ministries of Home Affairs and Finance.

3. If the Ministries/Departments have any further posts and services under their administrative control which they wish to recommend for being classified as 'scientific or technical' in the light of the revised definition, it is suggested that supplementary lists of those posts may be prepared in the attached proforma, and 10 copies of the list forwarded to this Secretariat for examination by the Committee of Secretaries.

The lists of posts which may be ready by now on the basis of the previous definition need not be held over pending re-examination. It is requested that those lists may be sent to this secretariat for examination by the Committee of Secretaries.

**Department of Personnel and A.R. O.M. No. 9/2/73-Estt.(SCT)
dated the 23rd June, 1975 to all Ministries etc.**

Subject :—Reservation in services for Scheduled Castes and Scheduled Tribes—Exemption of scientific and technical posts.

According to the Ministry of Home Affairs O.M. No. 9/2/63-SCT(I), dated 2nd November, 1963 and No. 9/2/63-SCT(I), dated 17th July, 1964 read with O.M. No. 9/4/69-Estt.(SCT), dated 6th October, 1969, 'scientific and technical' posts required for conducting research or for organising, guiding and directing research which satisfy the conditions laid down therein, can be exempted from the purview of the orders relating to reservations for Scheduled Castes and Scheduled Tribes. Under the above orders, exemption in respect of gazetted posts which fulfil conditions laid down in the O.M. referred to above, can be given by the Ministries/Departments themselves after obtaining the orders of the Minister concerned whereas in respect of non-gazetted posts of similar nature, the Department of Personnel & Administrative Reforms is to be consulted before exemption is granted. The question whether reservations should be introduced in respect of the scientific and technical posts which are so exempt from the purview of the reservations for Scheduled Castes and Scheduled Tribes under the existing orders has been under examination in this Department. In partial modification of the instructions referred to above, it has now been decided that the same scheme of reservations for Scheduled Castes and Scheduled Tribes should cover appointments made to scientific and technical posts up to and including the lowest grade of Class I in the respective services wherever they have been hitherto exempt from the purview of the scheme of reservations so far on the ground that the posts were intended for conducting/directing, guiding research work. It has also been decided that the reserved vacancies in scientific and technical posts which would thus be brought within the purview of the scheme of reservations for candidates from Scheduled Castes and Scheduled Tribes need be advertised only once, instead of twice, as prescribed in Ministry of Home Affairs O.M. No. 1/1/70-Estt.(SCT), dated 31-7-70. In the event of non-availability of candidates belonging to the reserved communities, the reserved vacancies may be treated as dereserved by the administrative Ministry/Department concerned without obtaining the approval of the Department of Personnel & Administrative Reforms.

2. To give effect to the decisions mentioned in para 1 above, Ministries/Departments are requested to review the lists of scientific and technical posts under their control which are at present exempt from the purview of the orders relating to reservations for Scheduled Castes and Scheduled Tribes. Only such of the scientific and technical posts as satisfy all the following conditions should hereafter be exempted from the purview of the reservation orders :—

- (i) The posts should be in grades above the lowest grade in Class I of the Service concerned;
- (ii) They should be classified as 'scientific or technical' in terms of Cabinet Secretariat (Department of Cabinet Affairs) O.M. No. 85/11/CF-61(1), dated 28-12-1961; and
- (iii) There should be posts for conducting research or for organising, guiding and directing research.

Orders of the Minister concerned should be obtained before exempting any post satisfying the above conditions from the purview of the scheme of reservations.

3. Exemption, if any, in operation at present, from the purview of the reservation orders in respect of the scientific and technical posts up to and inclusive of the lowest grade of Class I of a service should be treated as cancelled with immediate effect and reservations should be provided for Scheduled Castes and Scheduled Tribes candidates in such posts also with immediate effect. Reserved vacancies in such posts need be advertised only once and not twice as provided in this Department's O.M. No. 1/1/70-Estt.(SCT), dated 31-7-70. In the event of non-availability of candidates belonging to reserved communities, vacancies in such posts may be treated as dereserved by the administrative Ministry/Department concerned and prior approval of this Department will not be necessary for such dereservation. However, the Commissioner for Scheduled Castes and Scheduled Tribes

and this Department should be informed about the dereservation made together with details and reasons necessitating the dereservation.

4. The decisions mentioned in para 1-3 above will not however apply to posts in the Department of Space and in the Department of Electronics and in regard to the recruitment of trainees to the training school under the Department of Atomic Energy. In these Departments, scientific and technical posts for research will continue to be exempt from the purview of the orders regarding reservations for Scheduled Castes and Scheduled Tribes under the orders in MHA OM, dated 2-11-1963, 17-7-1964 and 6-10-1959.

5. Ministry of Finance etc. are requested to bring the above decision to the notice of all authorities under them for appropriate action.

Department of Personnel & A.R. O.M. No. 36021/6/75-Estt.(SCT)
dated the 9th October, 1975

Subject :—Reservation for Scheduled Castes and Scheduled Tribes in posts filled by deputation/
transfer.

The undersigned is directed to invite attention of the Ministry of Finance etc. to the instructions contained in the Ministry of Home Affairs Office Memorandum No. 16/2/67-Estt.(C), dated the 27th September, 1967 (copy enclosed) which provides that whenever a Ministry/Department etc. proposes to depute in the public interest an officer serving in or under them to a post in or under another Ministry/Department etc., the Scheduled Castes/Scheduled Tribes employees serving in or under the Ministry/Department concerned, who are eligible to be sent on deputations should also be considered, along with other eligible employees, for such deputation. This matter came up for discussion before the High Power Committee set up under the Chairmanship of the Prime Minister, to review the performance in the matter of recruitment of Scheduled Castes and Scheduled Tribes in the services, at its meeting held on 17th September, 1975 when the Committee observed that the above instructions should again be brought to the notice of the Ministries/Departments etc. Accordingly, the instructions contained in the aforesaid Office Memorandum of 27th September, 1967, are once again brought to the notice of the Ministries/Departments etc., with the request that it may be ensured that the cases of Scheduled Castes and Scheduled Tribes officers eligible for deputation, are duly considered.

**Department of Personnel & A.R. O.M. No. 36012/7/77-Estt.(SCT)
dated 21-1-78 to all Ministries/Departments etc.**

Subject :—Representation of Scheduled Castes and Scheduled Tribes in service—Appointments to posts filled by deputation or transfer.

The undersigned is directed to invite attention of the Ministry of Finance etc., to the instructions contained in the Ministry of Home Affairs O.M. No. 16/2/67-Estt.(C), dated the 27th September, 1967 according to which while no reservations are made for Scheduled Castes and Scheduled Tribes in posts filled by deputation or transfer, whenever a Ministry/Department etc. proposes to depute in the public interests, an officer serving in or under them to a post in or under another Ministry/Department etc., the Scheduled Castes/Scheduled Tribes employees serving in or under the former Ministry/Department who are eligible to be sent on deputation should also be duly considered along with other eligible employees for such deputation. These instructions were again brought to the notice of the Ministries/Departments etc., vide this Department's O.M. No. 36021/6/75-Estt.(SCT), dated 9-10-1975.

In continuation of these instructions, the Ministries/Departments under whose control the posts to be filled by deputation or transfer arise, are advised that they should also, in turn, while selecting persons for such post(s) to be filled by deputation or transfer, duly consider the cases of eligible Scheduled Castes and Scheduled Tribes employees whose names have been forwarded by other Ministries/Departments along with the other eligible employees, for appointment on deputation or transfer to those posts. Where the number of posts to be filled on deputation by any employing Ministry or Office is fairly substantial, the employing Ministries/Heads of Offices concerned should endeavour to see that a fair proportion of such posts are filled by employees belonging to Scheduled Castes/Scheduled Tribes, subject of course, to availability from the feeder categories of qualified persons belonging to these communities.

2. Ministries/Departments are also requested to furnish to this Department an annual statement (for each calendar year) in the attached proforma showing the number of Scheduled Castes/Scheduled Tribes appointed in posts filled by deputation in pursuance of the instructions. Ministries/Departments are further requested to send only one consolidated statement in respect of the Ministry/Department and all its attached and subordinate etc. offices. These statements may be made available to this Department by 30th April of each year in respect of the preceding calendar year.

Statement showing number of posts filled by deputation and the number of Scheduled Castes and Scheduled Tribes candidates—appointed against such posts (for the period 1st January.....to 31st December.....)

Ministry/Department.....(including all the Attached/Subordinate etc. offices).

Group/Class of service	Total number of posts filled by deputation	Number of eligible persons belonging to SC/ST if any whose names were forwarded along with others for such deputation	Number of persons in posts		Remarks
			Sch. Castes	Sch Tribes	
1	2	3	4	5	6
I					
II					
III					
IV					