

INTRODUCTORY

Definition of SC & ST

Article 341 and 342 of the Constitution of India define as to who would be Scheduled Castes and Scheduled Tribes with respect to any State* or Union Territory. The relevant Constitutional articles are quoted below :—

“341. (1) The President may with respect to any State or Union Territory and where it is a State after consultation with the Governor thereof, by public notification specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purposes of this Constitution be deemed to be Scheduled Castes in relation to that State or Union Territory as the case may be”.

“341. (2) Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any caste, race or tribe or part of or group within any caste, race or tribe, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification”.

“342. (1) The President may with respect to any State or Union Territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the tribes or tribal communities or parts of or groups within tribes or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union Territory, as the case may be”.

*The inter-state area restrictions have been imposed so that the people belonging to the specific community residing in a specific area, which has been assessed to qualify for the Scheduled Castes or Scheduled Tribes status, only benefit from the facilities provided for them. Since the people belonging to the same caste but living in different States/Union Territories may not necessarily suffer from the same disabilities, it is possible that two persons belonging to the same caste but residing in different States/ U.Ts may not both be treated to belong to SC/ST or vice versa. Thus the residence of a particular person in a particular locality assumes a special significance. This residence has not to be understood in the literal or ordinary sense of the word. On the other hand it connotes the permanent residence of a person on the date of the notification of the Presidential Order scheduling his caste/tribe in relation to that locality.

“342. (2) Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification”.

In the Constitution (Scheduled Castes) Order, 1950 (as amended from time to time) it has been mentioned that no person professing a religion different from Hindu or Sikh religion can be deemed to be a member of Scheduled Castes. There is, however, no religious bar for being treated as Scheduled Tribe. Reservation, at present, is provided on the basis of caste and tribe only.

Constitutional safeguards

2.1 The main objective for providing reservations for SC & ST in civil posts and services of the Government is not just to give jobs to some persons belonging to these communities and thereby increase their representation in the services, (though that constituted an important, immediate aim) but to uplift these people socially and educationally and make some place for them in the society. This was the more important objective of reservations which included reservation in legislatures also. With the same end in view, the Constitution envisaged in the Directive Principles of State Policy and elsewhere economic and educational development of the weaker sections, particularly the SC and ST.

Reservations in Services/posts

3.1 The relevant Articles of the Constitution which govern the entire reservation set up are the following :

Article 16(4)

“Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the state”.

Article 46

“The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation”.

Article 335

“The claims of the member of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State”

3.2 Against this constitutional background the Central Government has provided for reservation only for members of the Scheduled Castes/Scheduled Tribes. Article 16(4) of the Constitution permits reservation in favour of backward classes of citizens and does not mention anything about Scheduled Castes and Scheduled Tribes specifically. The matter of reservation of Scheduled Castes/Scheduled Tribes to which there is a reference in Article 335 has to be considered with reference to Article 16(4) which should be read with Articles 16(1) and 16(2). Article 16(2) prohibits discrimination against any citizen in respect of any employment or office under the State on grounds only of religion, race, caste, sex, descent place of birth, residence or any of them. Article 16 is placed under the heading of ‘Right to Equality’ of which Article 14 is the general Article which covers the concepts of ‘equality before the law’ and ‘equal protection of the laws’. The two phrases permit the State to classify persons for some legitimate purposes. While reasonable classification is permissible, such classification must be based upon some real and substantial distinction bearing a reasonable and just relation to the object sought to be attained and the classification cannot be made arbitrarily without any substantial basis. In this field Supreme Court judgement in the case of *Chiranjit Lal Vs. Union of India* (1950) SCR 869, is relevant. A portion of the judgement is quoted below :

“The Legislature undoubtedly has a wide field of choice in determining and classifying the subject of its laws, and if the law deals alike with all of a certain class, it is normally not obnoxious to the charge of denial of equal protection; but the classification should never be arbitrary. It must always rest upon some real and substantial distinction bearing a reasonable and just relation to the things in respect of which the classification is made; and classification made without any substantial basis should be regarded as invalid.”

Such reasonable classification has been upheld by Supreme Court in many cases. Thus, Article 14 prohibits ‘class legislation’ but not reasonable classification for the purposes of legislation. Thus, if the State takes care to reasonably classify persons and if it deals equally with all persons belonging to a ‘well-defined’ class, it is open to the charge of denial of equality before law or equal protection of law on the ground that the law does not apply to other persons.

3.3 It was contended before the Supreme Court as to whether SCs & STs can be classified as backward classes in order to entitle them to the benefits of reservation under Article 16(4), of the Constitution. The Supreme Court held that for the purposes of Article 16(4), SCs & STs form a class by themselves due to their social, educational and economic backwardness. Hence for the purpose of reservation classifying this group does not violate the tests of reasonable classification. Supreme Court said this in the case of *Triloki Nath Vs. State of Jammu & Kashmir* (1969) 1 SCR 103A 1960 SCI.

“Article 16 in the first instance by clause (2) prohibits discrimination on the ground, *inter alia*, of religion, race, caste, place of birth, residence and permits an exception to be made in the matter of reservation in favour of backward classes of citizens. The expression “backward class” is not used as synonymous with “backward caste” or “backward community”. The members of an entire caste or community may in the social, economic and educational scale of values at a given time be backward and many on that account be treated as a backward class, but that is not because they are members of a caste or community, but because they form a class. In its ordinary connotation the expression ‘class’ means a homogeneous section of the people grouped together because of certain likenesses or common traits, and who are identifiable by some common attributes such as status, rank, occupation, residence in a locality, race, religion and the like”.

4. Important aspects of the scheme of reservation for Scheduled Castes and Scheduled Tribes :—

4.1 On the attainment of Independence, instructions were issued on 21-9-47 providing for reservation of 12-1/2 per cent of vacancies for SCs in respect of recruitment made by open competition. In case of recruitment otherwise than by open competition this percentage was fixed at 16-2/3 per cent. After the Constitution was promulgated, MHA, in its Resolution of 13-9-50, provided 5 per cent reservation of STs apart from the percentage fixed for SCs already in force. The 1951 Census showed that the percentage of SCs in the total population was 15.05 per cent and that of ST 6.31 per cent. The percentages were not revised at the time as a comprehensive bill revising the lists of SCs and STs was under consideration. The other reason for not revising the percentage was that reservation had already been provided for SCs in posts filled otherwise than by open competition to the extent of 16.66 per cent and instructions had also been issued for following a regional and local percentage for Class III and Class IV posts attracting candidates from a locality or a region. The 1961 Census revealed that

the SC and ST population in proportion to the Indian population stood at 14.64 per cent and 6.80 per cent respectively. Accordingly, the percentage of reservation for SCs and STs was increased from 12-1/2 and 5 per cent to 15 per cent and 7-1/2 per cent respectively on 25-3-70. The 1971 Census did not warrant any such review. The actual impact of 1981 Census figures on all India percentages could not be known because the Census of 1981 could not be carried out in the State of Assam.

Reservation have been extended to other modes of promotion in stages. In 1957, reservations were provided for SC & ST in departmental competitive examinations. Reservations in promotion by selection in Group C and Group D were provided in 1963 and in the same year reservation in departmental competitive examination was limited to Class III and Class IV only. The position was slightly changed in 1968 when reservation in limited departmental examination to Class II, III and IV and promotion by selection to Class III and IV were subjected to a condition that element of direct recruitment should not exceed 50 per cent. Reservation in promotion by seniority subject to fitness came in 1972 subject to the condition that the element of direct recruitment does not exceed 50 per cent. In 1974, reservations in promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group A were introduced provided the element of direct recruitment does not exceed 50 per cent. The limitation of the direct recruitment not exceeding 50 per cent was raised to 66-2/3 per cent in 1976 and to 75% in 1989.

4.2 The rule regarding carry forward has also undergone change in these years. In 1952, the unfilled reserved vacancies for SC/ST were required to be carried forward to one subsequent recruitment year, two subsequent recruitment years in 1955 and from 1970 unfilled reserved vacancies for SC/ST are to be carried forward to 3 subsequent recruitment years except in promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group A where the principle of carry forward does not apply. Along with the principle of carry forward, the provision regarding exchange of vacancies between, SC and ST has also changed. The position in 1955 was that reserved vacancies between SC/ST were to be exchanged in the same year of recruitment. The position was rescinded in 1962 in pursuance of recommendations of Scheduled Areas and Scheduled Tribe Commission. From 1970 reserved vacancies can be exchanged between SC and ST in the third and final year of carry forward except in promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group A where such exchange is permitted in the same year of recruitment. The present percentages which have crystallized after the passage of nearly 3 decades is given below :—

Present percentage fixed	SC	ST
(i) Direct recruitment on an all India basis :		
(a) By open competition (i.e. through the UPSC or by means of open competitive test held by any other authority.)	15%	7½%
(b) Otherwise than at (a) above	16⅔%	7½%
(ii) Direct recruitment to Group C and Group D (Cl. III & IV) posts normally attracting candidates from a locality or a region.	In proportion to the population of SC & ST in the respective States/Territories	

	Present percentage fixed	SC	ST
(iii) Posts filled by promotion in grades or services in which the element of direct recruitment, if any, does not exceed 66⅔%			
(a) Through limited departmental competitive examination Group B, C & D (Cl. II III & IV)		15%	7½%
(b) By selection from Group B (Cl. II) to the lowest rung or category in Group A (Cl. I) and in Groups B, C&D (Cl. II, III and IV)		15%	7½%
(c) On the basis of seniority subject to fitness in Groups A, B, C and D (Cl. I, II, III and IV)		15%	7½%

5. Apart from providing reservation the Govt. have also given numerous concessions to SC/ST in direct recruitment as well as promotion and infrastructure has also been built up, which contains procedural safeguards and institutional safeguards. These have been described in brief in the following paragraphs :

I. Concessions to Scheduled Castes/Scheduled Tribes Applicants :

(1) **Age-relaxation :** The maximum age limit prescribed for direct recruitment to a service or post is increased by five years in the case of candidates belonging to Scheduled Castes and Scheduled Tribes

(2) **Fee Concession :** Scheduled Castes and Scheduled Tribes candidates are exempted from payment of fees prescribed for recruitment/selection.

II. Relaxation of Standards and other steps taken for Filling Reserved Vacancies :

(1) **Relaxation of standards of suitability :** Instructions have been issued that in the case of direct recruitment whether by examination or otherwise, if sufficient Scheduled Castes/Scheduled Tribes candidates are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to these communities may be selected to fill up the remaining vacancies reserved for them provided they are not found unfit for such post or posts.

(2) **Relaxation of 'experience' qualification in direct recruitment :** Instructions have been issued in O. M. dated the 5th September, 1975 the UPSC/competent authority could; at its discretion, relax the qualification regarding 'experience' in the case of Scheduled Castes/Scheduled Tribes candidates if at any stage of selection, the UPSC or the competent authority is of the opinion that sufficient number of Scheduled Castes/Scheduled Tribes candidates possessing the requisite experience are not likely to be available for appointment against the vacancies reserved for them.

(3) **Separate interview of Scheduled Castes/Scheduled Tribes candidates :** In direct recruitment through interview or through examination along with interview, candidates belonging to Scheduled Castes and Scheduled Tribes would be called for interview on a separate day or a separate sitting of the Selection Committee.

(4) **Further relaxation of standards in non-technical and quasi-technical Class III & IV posts :** Instructions have been issued on 24th September, 1968 that where requisite number of Scheduled Castes/Scheduled Tribes candidates fulfilling even the relaxed standards are not available to fill the vacancies reserved for them in non-technical and quasi-technical Class III & IV services/posts filled by direct recruitment otherwise than by written examination, the best among the available Scheduled Castes/Scheduled Tribes candidates who possess the

minimum educational qualifications prescribed for such a service/post would be selected to the extent of the vacancies reserved for such categories. In order to bring such candidates upto the minimum standard necessary for the maintenance of efficiency of administration, they would be given in-service training.

III. Scientific and technical posts required for research up to the lowest rung of Class I brought within the purview of reservation orders :

Prior to 1975, scientific and technical posts required for conducting research or for organising, guiding and directing research were exempted from the purview of orders relating to reservation for Scheduled Castes and Scheduled Tribes. In 1975 however, the above orders were modified and it was decided that the scheme of reservations for Scheduled Castes and Scheduled Tribes should also cover appointments made to scientific and technical posts upto and including the lowest grade of Class I in the respective services wherever they were exempt from the purview of the scheme of reservations. The amended orders were however not made applicable to Department of Space, Department of Electronics, and in regard to recruitment of trainees to the training school of the Department of Atomic Energy. In the case of these latter departments, the orders in force prior to 1975 continue to apply.

IV. Other Concessions in Posts filled by Promotion :

(1) **In promotion by selection to posts within Class I which carry an ultimate salary of Rs. 2000 P. M. or less (Rs. 5700 P. M. or less in the revised scale) :** The Scheduled Castes/Scheduled Tribes Officers who are senior enough in the zone of consideration so as to be within the number of vacancies for which the Select List is drawn, are to be included in the Select List provided they are not considered unfit for promotion.

(2) **Relaxation of standards in Departmental Examination :** Instructions have been issued on 23rd December, 1970 that in promotions made through departmental competitive examinations, the Scheduled Castes and Scheduled Tribes candidates who have not acquired the general qualifying standards in the examination could also be considered for promotion against the reserved vacancies provided they are not found unfit for such promotion. Similar relaxation has been provided for Scheduled Castes and Scheduled Tribes in departmental examinations prescribed for determining the suitability of candidates for confirmation and in departmental qualifying examinations for promotion.

Similar instructions have been issued for relaxing the qualifying standards in the case of Scheduled Castes/Scheduled Tribes candidates in departmental qualifying examination for promotion.

(3) **Age Relaxation in Promotion Posts :** The concession of relaxation of maximum age limit by 5 years in the case of Scheduled Castes/Scheduled Tribes candidates which was admissible in posts filled by direct recruitment has now been extended to posts filled by promotion. Orders have been issued on 8th December, 1971, that where an upper age limit not exceeding 50 years is prescribed for promotion to a service/post, it shall be relaxed by five years in favour Scheduled Castes and Scheduled Tribes except in posts which have arduous field duties or are meant for operational safety or are in para-military organisations.

(4) **Safeguard Against Supersession of Scheduled Castes and Scheduled Tribes in Promotion :** In order to safeguard against the officers belonging to the Scheduled Castes and Scheduled Tribes being rejected for promotions to reserved vacancies despite their eligibility and availability, instructions have been issued that their cases may be submitted or reported

to the Ministers/Deputy Ministers/Minister of States/Heads of Departments. Orders have now been issued that supersession of SC/ST employees even against unreserved vacancies should also be reported.

V. A. Procedural Safeguards :

(1) **Model rosters for reservation :** Model rosters of 40 points each have been prescribed for giving effect to the reservations in posts filled by direct recruitment on an all India basis. Roster of 100 points each have been prescribed for reservations in local or regional recruitment to Class III & IV posts. The appointing authorities have to treat vacancies as reserved or unreserved according to the roster.

(2) **Liaison Officers and Special Cells :** Officers of the rank of Deputy Secretary have been nominated by the Ministries and Departments to work as Liaison Officer who are in overall charge of the work relating to special representation in their respective Ministries and attached and subordinate offices and are responsible for ensuring that the instructions in this behalf are strictly complied with. It has also been made the special responsibility of Liaison Officers to conduct annual inspection of rosters maintained in the offices under his charge, and also to scrutinise the proposals for dereservation of reserved vacancies before they are sent to the Department of Personnel & Training. A note has to be recorded on every proposal for dereservation that it has been made with the full knowledge and concurrence of the Liaison Officers. The system of nominating Liaison Officers has also been extended to Heads of Departments under each Ministry/Department.

Ministry/Departments have also been asked in 1969 to set up a small Cell within the Ministry/Department under the direct control of Liaison Officer. The function of the Cell is mainly to assist the Liaison Officer to discharge his duties effectively.

(3) **Annual statements :** Annual statements showing particulars of recruitment made such as the number of vacancies filled and the number of Scheduled Castes and Scheduled Tribes recruited have been prescribed for submission by the appointing authorities to the administrative Ministries.

(4) **Dereservation :** in April, 1989, orders were issued banning dereservation in direct recruitment. Power of dereservations in promotion, however, have been delegated to individual Ministries/Departments subject to the following conditions :—

- (a) there is no eligible SC/ST candidates in the feeder cadre.
- (b) a copy each of the proposal is sent to the Commissioner for Scheduled Castes/Scheduled Tribes and Department of Personnel.
- (c) the proposal should be concurred in by the Liaison Officer of the Ministry.
- (d) dereservation should be accorded to at a level not lower than that of Joint Secretary to the Government of India.
- (e) in case of disagreement between Liaison Officer and appointing authority, advice of Department of Personnel should be sought for.

V. B. Institutional Safeguards :

(1) **Liaison Officers and Special Cells :** Officers of the rank of Deputy Secretary have been nominated by the Ministries and Departments to work as Liaison Officers who are in overall charge of the work relating to special representation in their respective Ministries and attached and subordinate offices and are responsible for ensuring that the instructions in this behalf are strictly complied with. It has also been made the special responsibility of Liaison

Officer to conduct annual inspection of rosters maintained in the Offices under his charge and also to scrutinise the proposals for dereservation of reserved vacancies before they are sent to the Department of Personnel and Training. A note has to be recorded on every proposal for dereservation that it has been made with the full knowledge and concurrence of the Liaison Officer. The system of nominating Liaison Officers has also been extended to Heads of Departments under each Ministry/Department.

(2) **National Commission for Scheduled Castes and Scheduled Tribes** : The Government of India have set up a Commission with wide ranging powers and functions in regard to matters pertaining to Scheduled Castes and Scheduled Tribes

(3) **Committee of Parliament on Welfare of Scheduled Castes/Scheduled Tribes** : Besides the above mentioned Government bodies, there is also a Committee of Parliament on the Welfare of Scheduled Castes/Scheduled Tribes. The Committee *inter-alia* examines the position regarding representation of Scheduled Castes/Scheduled Tribes in the services under the various Ministries and other Government organisations and makes suitable recommendations for bringing about improvement therein or removing bottlenecks detected by it during the course of a study.

The Recruitment process

It has been generally noticed that some of the appointing authorities do not follow the steps prescribed for making recruitment—either direct recruitment or promotion. The process of recruitment has been prescribed in Chapter 8 and 9 of this Brochure and Chapter 12 gives in detail the procedure to be followed in cases of promotion. The various relaxations and concessions have been given in Chapter 7.

Statement showing important developments of the scheme of reservation for Scheduled Castes/Scheduled Tribes

No.	Provision	Date of orders
PROMOTION		
1.	Reservation at the rate of 12½% and 5% for Scheduled Castes/Scheduled Tribes respectively in departmental competitive examination.	4-1-57
2.	Reservation in (a) promotion by selection in Class III and Class IV. (b) by department competitive examination in Class III and Class IV. where there was no direct recruitment whatever.	8-11-63
3.	Reservation in (a) promotion by limited departmental competitive exam. to Class II, III & IV where element of direct recruitment does not exceed 50% (b) Promotion by selected to Class III and IV. where the element of direct recruitment does not exceed 50%.	11-7-68
4.	Reservation in all group where promotion is on the basis of seniority subject to fitness provided the element of direct recruitment does not exceed 50%.	27-11-72
5.	Reservation in promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group A provided the element of direct recruitment does not exceed 50%.	20-7-74
6.	Reservation for SC/ST in posts filled by promotion—applicability to grades or services in which the element of direct recruitment does not exceed 66⅔% Increased from 50% to 66⅔%).	25-2-76

No.	Provision	Date of orders
<i>CARRY FORWARD</i>		
1.	Reservation in vacancies reserved for Scheduled Castes/Scheduled Tribes but filled by general candidates to be carried forward to one subsequent recruitment year.	28-1-52
2.	Reservation in vacancies reserved for Scheduled Castes/Scheduled Tribes but filled by general candidates to be carried forward to two subsequent recruitment years.	1-7-55
3.	Reservation in vacancies reserved for Scheduled Castes/Scheduled Tribes but filled by general candidates to be carried forward to three subsequent recruitment years.	25-3-70
<i>EXCHANGE OF VACANCIES BETWEEN SC AND ST</i>		
1.	Exchange of reserved vacancies between Scheduled Castes and Scheduled Tribes in the same year of recruitment.	7-5-55
2.	Provision of Exchange of vacancies between SC/ST in the same year of recruitment <i>rescinded</i> in pursuance of recommendation of Scheduled Areas and Tribes Commission.	24-9-62
3.	Vacancies can be exchanged between SC & ST in the <i>third</i> subsequent year of recruitment.	25-3-70
<i>PERCENTAGE</i>		
1.	Percentage of reservation Scheduled Castes and Scheduled Tribes fixed at 12½% and 5% respectively.	13-9-50
2.	Percentage of reservation Scheduled Castes and Scheduled Tribes increased from 12½% and 5% to 15% and 7½% respectively.	25-3-70
<i>RELAXED STANDARDS IN COMPETITIVE EXAMINATIONS</i>		
1.	In direct recruitment.	25-7-70
2.	In departmental Competitive examination for promotion.	23-12-70
3.	Qualifying examination for promotion on the basis of seniority subject to fitness where fitness is determined by examination.	21-7-77
4.	Qualifying examination in promotion by selection where merit is determined by examination.	19-4-79
<i>SINGLE VACANCY</i>		
1.	Single vacancy falling on a reserved point should be treated as unreserved and the reservation will be carried forward in accordance with the existing orders.	4-12-63 and 2-9-65
2.	Single vacancy in the initial recruitment year falling on a reserved point should be treated as unreserved and the reservation is to be carried forward to three subsequent recruitment years but if in the subsequent recruitment year also there is again a single vacancy, it should be reserved against the carry forward reservation. This will also apply to cases of promotion by selection from Group C to Group B, within Group B and from Group B to the lowest rung of Group A.	29-4-75