

F.No.27/26/2006-SRS
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training

3rd Floor, Lok Nayak Bhavan,
Khan Market, New Delhi
Dated: 12 August, 2010.

12 AUG 2010

To

The Chief Secretary,
Government of Uttar Pradesh,
Lucknow

The Chief Secretary,
Government of Uttarakhand
Dehradun

Sub:- Consideration of representations received from SC/ST personnel of PWD (Engineering Cadre) for allocation to Uttarakhand State.

Sir,

I am directed to refer to the subject cited above and to say that consequent upon receipt of several representations from SC/ST employees of PWD seeking allocation to the State where benefit of the reservation would be available to themselves and their families and directions of Hon'ble High Court of Uttarakhand, Nainital in WP No.99/2009 dated 26.03.2010, the matter of allocation of SC/ST employees was examined. Several references have also been received from the Scheduled Tribe Commission in this regard. Several Court Cases were also filed in the High Court of Uttarakhand. After thoroughly examining the issue and after consulting Reservation Division of DoPT, letter dt. 29.07.2008 was issued clarifying that all future allocation of these employees is to be made only to that State where their caste is listed in the schedule of the State or as per their option. On receipt of several representations from SC/ST employees that the benefit of reservation shall be admissible to them as well as their families if allocated to their domiciled states only, the matter was re-examined. The Constitution Bench of the Hon'ble Supreme Court in the case of Marri Chandra Shekhar Rao Vs. Dean, Seth G.S. Medical College and Ors. (1990) 3 SCC 130 which has been affirmed and followed in the case of Action Committee (supra) has held;

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"...the expression 'for the purposes of this Constitution' in Article 341 as well as in Article 342 do imply that the Scheduled Caste and the Scheduled Tribes so specified would be entitled to enjoy all the Constitutional rights that are enjoyable by all the citizens as such. Constitutional right, e.g., it has been argued that right to migration or right to move from one part to another is a right given to all – to Scheduled Caste or Tribes and to non-scheduled castes or tribes. But when a Scheduled Caste or Tribes



migrates, there is no inhibition in migrating but when he migrates, he does not and cannot carry any special rights or privilege attributed to him or granted to him in the original State specified for that State or area or part thereof. If that right is not given in the migrated State, it does not interfere with his constitutional right of equality or of migration or of carrying on his trade, business or profession. Neither Articles 14, 16, 19 or Article 21 is denuded by migrating but he must enjoy those rights in accordance with law if they are otherwise followed in the place where he migrates.....Treating the determination under Articles 341 and 342 of the Constitution to be valid for all over the country would be in negation to the very purpose and scheme and language of Article 341 read with Article 15 (4) of the Constitution.”

In view of the observations of the Hon'ble Supreme Court reproduced above consultations were held with the Department of Legal Affairs, Ministry of Law and based on their advice, an amendment dt. 24.06.2010 was issued to letter dt. 29.07.2008 specifying that as far as possible the allocation of SC/ST personnel would be made to the State of their domicile or on option basis.

2. The representations of 17 PWD engineers, as per list annexed, belonging to SC/ST category seeking allocation to Uttarakhand, were considered by the Committee headed by JS (AT &A), DoPT in the meeting held on 9-7-2010 in terms of letter dt. 29-7-2008 and its subsequent amendment dt. 24-6-2010. The Committee recommended for their allocation to Uttarakhand being domicile of that State and also because their castes/category are listed in the Schedule of the State.

3. Government of India has accepted the recommendations and accordingly, the allocation of the 17 personnel, as per list annexed, is revised to Uttarakhand. It is possible that the number of personnel now allocated exceed the posts allocated to Uttarakhand earmarked for these two categories. In such an event, excess personnel may be adjusted in future recruitments. The revision in allocation is subject to the final outcome of W.P. No. 142/2010 which is pending before the High Court of Uttarakhand, Nainital.

o/c

Yours faithfully,

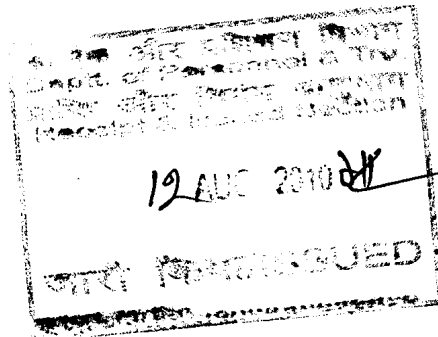


(K.P.K Nambissan)

Deputy Secretary to the Govt. of India

Copy to:-

1. Shri R. M. Srivastava, Principal Secretary, Uttar Pradesh Reorganization Coordination Deptt., Secretariat, Vikash Bhavan, Lucknow.
2. Shri Subhash Kumar, Principal Secretary, Uttarakhand Reorganization Deptt., Secretariat, Dehradun.



List of personnel of ST category belonging to PWD Engineering cadre of erstwhile UP State finally allocated to Successor State of Uttarakhand .

Sl.No.	Name & Designation S/Shri	Caste belonging to	Domicile
1.	Rajendra Singh, Asstt. Engineer	Bhotia/ST	Chamoli
2.	Mukesh Singh Parmar, Asstt.Engineer	Bhotia /ST	Pithoragarh
3.	Anil Kumar Pangati, Asstt. Engineer	Bhotia /ST	Pithoragarh
4.	Jeevan Singh Hayanki, Asstt. Engineer	Bhotia /ST	Pithoragarh
5.	Mahipal Singh Rawath, Asstt. Engineer	Jansauri/ST	Dehradun
6.	Manohar Singh, Asstt. Engineer	Bhotia/ST	Pithoragarh
7.	Dhan Singh Kutiyal, Asstt. Engineer	Bhotia /ST	Pithoragarh
8.	Prahalad Singh Brijwal, Asstt. Engineer	Bhotia /ST	Chamoli
9.	Diwakaran Singh Hayanki, Asstt. Engineer	Bhotia/ST	Pithoragarh
10.	Harish Pangati, Asstt. Engineer	Bhotia /ST	Pithoragarh
11.	Ramesh Pal, Asstt. Engineer	Bhotia /ST	Chamoli
12.	Ranjeet Singh, Asstt. Engineer	Bhotia /ST	Pithoragarh
13.	Dalip Singh Nabiyal, Executive Engineer	Bhotia /ST	Pithoragarh
14.	Ramesh Chandra Pal, Asstt. Engineer	Bhotia /ST	Uttarakhand
15.	Sanjeev Kumar, Asstt. Engineer	Chamar /SC	Uttarakhand
16.	Om Prakash, Asstt. Engineer	Shilpkar/SC	Uttarakhand
17.	Girish Chandra Arya,Asstt. Engineer	Shilpkar/SC	Uttarakhand

