

[Taken from the Handbook on RRs, 1993]

DP&AR O.M. No. 36013/4/82-Estt. (SCT) dated 29-8-1984.

Subject :—Providing *Saving Clause* in the recruitment rules—Recommendation No. 73 of the 26th Report of the Commissioner for SC/ST.

The undersigned is directed to state that the Commissioner for SC/ST has made the following recommendation in his 26th Report pertaining to the year 1978-79 :

*Recommendation No. 73*

“Recently there have been cases in some High Courts whereby provision of reservation made in posts filled by promotion through executive instruction without making relevant amendments in the statutory Recruitment Rules was struck down. It is observed that the High Courts have not contested the validity of reservation as such but have struck down the orders issued by the Comptroller and Auditor General of India on the technical grounds that these are not supported by amendment of the relevant rules issued under the authority of the President of India. It is, therefore, imperative that the ‘Saving Clause’ providing for reservation and other relaxations etc. is introduced in all the Recruitment Rules in order to avoid any embarrassment that may be caused later for want of such a provision in the statutory rules. Actually such adverse judgements could have been avoided if only the Comptroller and Auditor General had complied with Government instructions introducing a saving clause in the recruitment rules, so far as the reservation in services was concerned”.

2. In this connection, attention is drawn to the Department of Personnel and A.R.O.M. No. 8/12/71-Estt (SCT) dated 21-9-71 where Ministries/Departments were requested to incorporate the ‘Saving Clause’ in the recruitment rules prescribed for various posts. Obviously, this instruction was not presumably followed in all cases, giving rise to the suggestion of the Commissioner for SC/ST to request the Ministries and Departments to invariably include the Saving Clause in their recruitment rules. It is again reiterated that if in any case such have not been taken, it may be immediately done, so that the Government do not face embarrassment in any Court of Law.

Ministry of Finance etc. are requested to bring the contents of the O.M. to the notice of their appointing authorities.