



भारतीय डाक विभाग/ DEPARTMENT OF POSTS
मुख्य पोस्टमास्टर जनरल का कार्यालय, पश्चिम बंगाल सर्किल
OFFICE OF THE CHIEF POSTMASTER GENERAL, WEST BENGAL CIRCLE
कोलकाता/KOLKATA-700012

U/E

MOST URGENT

सेवा में/ To,

All Heads of Units

in West Bengal Circle

संख्या/ No. : SFB/R-109/SC/ST/OBC/Ruling

dated at Kolkata-700 012, the 4 -11-2016

विषय/ Subject: Reservation in promotion- Treatment of SC/ST candidates promoted
on their own merits.

In connection with the above mentioned subject copy of Directorate letter no. 16-11/2016-SCT dated 21.10.2016 and enclosures is being sent through e-mail for information and taking necessary action accordingly. A copy of the same is also being uploaded on the website of West Bengal Circle under the heading OMs and Circulars.

(S K Bera)

Assistant Director of Postal Services (Staff., E & PN)
O/o the Chief Postmaster General
West Bengal Circle, Kolkata-700 012

Copy to:

1. The ADPS(TO), Circle Office, Kolkata-700012. Enclosed kindly find Dte letter no. 16-11/2016-SCT dated 21.10.2016 for placing the same in the Departmental website of West Bengal Circle under the heading **OMs and Circulars**. A copy of the same is also being mailed to Circle SDC (Software Development Cell) for placing the matter in the Departmental website of West Bengal circle at the earliest Enclo: As above.
2. The ADPS(Rectt.), Circle Office, Kolkata-12. A copy of Dte letter no. 16-11/2016-SCT dated 21.10.2016 may be found enclosed for information and taking necessary action. Enclo: As above.

(S K Bera)

Assistant Director of Postal Services (Staff.,E & PN)
O/o the Chief Postmaster General
West Bengal Circle, Kolkata-700 012

ADPs(S, RPN) / EAT.
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N/F Estt
For SFA
For SPN

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28/10/16

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No. 16-11/2016-SCT
Government of India
Ministry of Communications & IT
Department of Posts



Dak Bhawan, Sansad Marg,
New Delhi-110001,
Dated: 21st October, 2016

To

1. All Heads of the Circles,
2. Secretary (PSB)
3. DDG (Personnel),

Subject:- Reservation in promotion – Treatment of SC/ST candidates promoted on their own merit.

Sir,

I am directed to forward herewith a copy of Department of Personnel & Training's (DOP&T) OM No. 36012/11/2016-Estt.(Res.) dated 30-09-2016 (with enclosures) in connection with the above mentioned subject for information and compliance please.

Encl:- As above.

Yours faithfully,

(Tarun Mittal)
Assistant Director General (PE-I & SCT)

Copy to PPS to Member (P)

No.36012/11/2016-Estt.(Res.)
Government of India

Ministry of Personnel, Public Grievances and Pension
Department of Personnel and Training

North Block, New Delhi 110001

Dated the 30th September 2016

OFFICE MEMORANDUM

Member (P)
Dy. No. 1345-9
Date 13/10/16

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Secretary (Posts)
Dy. No. 0293
Date 13/10/16

Subject: Contempt Petition (C) No.314/2016 in SLP (C) No.4831/2012-Samta Andolan Samiti through its President vs. Sanjay Kothari & Ors.

- Reference: 1. SLP(C) No. 30621/2011
2. SLP(C) No. 31735/2011
3. SLP(C) No.35000/2011
4. SLP(C) No. 2839/2012
5. SLP(C) No.4831/2012
6. SLP (C) No.5859/2012
7. SLP(C) No. 5860/2012
8. SLP(C) No.30841/2012
9. SLP(C) No.6915/2014
10. SLP(C) No. 8327/2014
11. SLP(C) No. 16710-16711/2014
12. SLP (C) No. 23344/2014
13. SLP(C) No.23339-23340/2014
14. SLP(C) No. 21343/2015
15. SLP(C) No.33163/2014
16. Contempt Petition (C) No.314/2016 in SLP (C) No.4831/2012

DDG (Estt.)
Dy. No. 15534
Date 14/10/16

The undersigned is directed to invite attention to this Department's O.M. No. 36012/45/2005-Estt (Res) dated 10th August, 2010 (copy enclosed) on the subject reservation in promotion – treatment of SC/ST candidates promoted on their own merit.

2. The O.M No. 36012/45/2005-Estt(Res), dated 10.8.2010 was challenged in the High Court of Punjab & Haryana in CWP No. 13218/2009 [Shri Lachhmi Narain Gupta & Ors Vs Jarnail Singh & Ors]. The Hon'ble High Court Punjab & Haryana vide its judgment dated 15.7.2011 quashed the O.M dated 10.8.2010.

3. Against the Order of the Hon'ble Punjab and Haryana High Court dated 15.7.2011, an SLP was filed by Jarnail Singh & Ors. The Union of India through Department of Revenue also filed SLP No.6915/2014 in this case.

4. The Hon'ble Supreme Court vide order dated 03.02.2015 passed the following interim order In SLP No.30621/011- Jarnail Singh & Ors. Vs Lachmi Narain Gupta & Ors:-

"Let the matter be listed in the second week of March 2015 on a non-miscellaneous day. Status quo existing as on today in respect of the promotional matters that are covered by the impugned judgment shall be maintained till the next date of hearing."

3. Contempt Petitions were filed before the Hon'ble Supreme Court against Department of Personnel and Training and Railways alleging that 5 notifications issued by the DOPT and 5 Notifications issued by the Railways were contrary to the status quo order dated 03.02.2015 of the Hon'ble Supreme Court and therefore notice of contempt was issued. The matter came up for hearing on 29.9.2016 before the Apex Court.

4. In order to preclude any interim order in the contempt case, as desired by the Hon'ble Supreme Court, the Learned Solicitor General has undertaken that till such time the main matter along with the Contempt Petition is decided, no further promotions of reserved category persons to unreserved posts will be made based on the DOPT OM dated 10.8.2010 and Railway Board circular dated 14.9.2010,

5. In the light of the above, till such time that the SLP (s) are decided by the Hon'ble Supreme Court, while considering promotion, the DOPT OM dated 10.8.2010 and Railway Board circular dated 14.9.2010 are not to be relied upon. The main matter along with the contempt petition is likely to be taken up for hearing on 22.11.2016.

6. These instructions may be brought to the notice of all concerned for information and necessary action.


(G.Srinivasan)
Deputy Secretary

To

1. All Ministries/Departments of the Government of India
2. All Officers and Sections in the Department of Personnel, and all attached/subordinated offices of the Department
3. Ministry of Railways(Chairman, Railway Board), Rail Bhawan, New Delhi
4. Union Public Service Commission, Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/Central Information Commission/President Secretariat/Prime Minister's Office/Niti Aayog
5. Staff Selection Commission, CGO Complex, Lodi Road, New Delhi
6. National Commission for SCs, Lok Nayak Bhavan, New Delhi
7. National Commission for ST, Lok Nayak Bhavan, New Delhi

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8. National Commission for Backward Classes
9. Office of the Comptroller and Auditor General of India, 10, Bahadurshah Zafar Marg, New Delhi-110022
10. CBI, LBSNAA, ISTM, PESB,
11. Information and Facilitation Centre, DOPT, North Block, New Delhi

Director, NIC (Computer Cell), DOP&T with the request to upload on this Department's website on what's New

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No.36012/45/2005-Estt. (Res.)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block
New Delhi- 110001.

Dated the 10th August, 2010.

OFFICE MEMORANDUM

Subject: Reservation in promotion – Treatment of SC/ST candidates promoted on their own merit.

The undersigned is directed to refer to this Department's O.M.No.36028/17/2001-Estt. (Res.) dated 11th July, 2002 which clarified that SC/ ST candidates appointed by promotion on their own merit and not owing to reservation or relaxation of qualifications will be adjusted against un-reserved points of the reservation roster and not against reserved points. It was subsequently clarified by this Department's O.M. No.36028/17/2001-Estt. (Res.) dated 31.1.2005 that the above referred O.M. took effect from 11.7.2002 and that concept of own merit did not apply to the promotions made by non-selection method.

2. Central Administration Tribunal, Madras Bench in O.A. No.900/2005 [S. Kalugasalamoorthy v/s. Union of India & Others] has set aside the O.M. No.36028/17/2001-Estt. (Res.) dated 31.1.2005 and held that when a person is selected on the basis of his own seniority, the scope of considering and counting him against quota reserved for SCs does not arise. The High Court of Judicature at Madras in the matter of UOI v/s. S. Kalugasalamoorthy [WP No.15926/2007] has upheld the decision of the Central Administrative Tribunal.

3. The matter has been examined in the light of the above referred judgments and it has been decided to withdraw O.M. No. 36028/17/2001-Estt. (Res.) dated 31.1.2005 referred to above. It is clarified that SC/ST candidates appointed by promotion on their own merit and seniority and not owing to reservation or relaxation of qualifications will be adjusted against unreserved points of reservation roster, irrespective of the fact whether the promotion is made by selection method or non-selection method. These

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orders will take effect from 27.1997. the date on which post based reservation was introduced.

4. These instructions may be brought to the notice of all concerned.



(K.G. Verma)

Director

Tele: 23092158.

To

1. All Ministries/Departments of the Government of India.
2. All Officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate offices of this Ministry.
3. Department of Financial Services (Banking Division), New Delhi.
4. Department of Economic Affairs, North Block, New Delhi.
5. Department of Public Enterprises, New Delhi.
6. Ministry of Railways (Railway Board), Rail Bhawan, New Delhi.
7. Union Public Service Commission/Supreme Court of India/ Election Commission/ Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Prime Minister's Office/ Planning Commission.
8. Staff Selection Commission, CGO Complex. Lodi Road, New Delhi.
9. National Commission for SCs, Lok Nayak Bhavan, New Delhi.
10. National Commission for STs, Lok Nayak Bhavan, New Delhi.
12. National Commission for Backward Classes, Trikoot-1, Bhikaji Cama Place, R.K. Puram, New Delhi.
13. Office of the Comptroller and Auditor General of India, 10. Bahadurshah Zafar Marg, New Delhi - 110002.
14. CBI, LBSNAA, ISTM, PESB, Central Sectt. Library, MHA Library.
15. Information and Facilitation Centre, DOPT, North Block, New Delhi.
16. NIC (Computer Cell) - with the request to upload on this Department's website.

