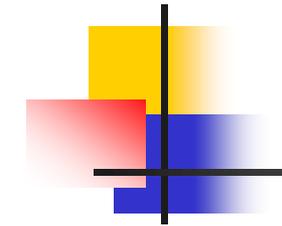


CONSTITUTIONAL PROVISIONS

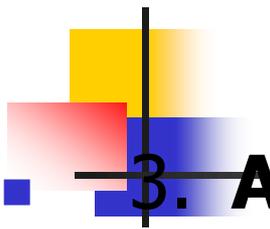


1. **Article 16 (4)** - "Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the State"



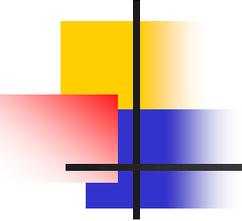
2. Article 16 (4A) - "Nothing in this article shall prevent the State from making any provisions for reservation in the matter of promotion to any class or classes of posts in the services under the State in favour of SCs and STs which in the opinion of the State are not adequately represented under the State"

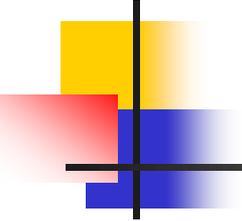
- (Constitutional 77th Amendment,- Act, 1995)



3. Article 16 (4B) - "Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year"

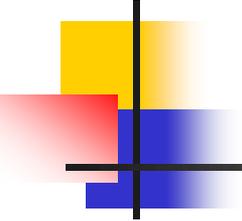
(Constitutional 81st Amendment,- Act, 2000)

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- 4. **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 SC and ST, and shall protect them from social injustice and all forms of exploitation.”

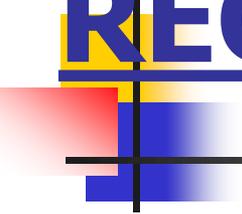


5. Article 335 – “The claims of the members of Scheduled Castes and Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration in making appointments to services and posts in connection with the affairs of the Union or of the State.”

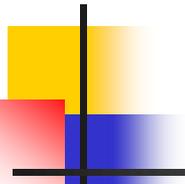
- **Proviso to Article 335 has been added**
- **(Constitutional 82nd Amendment,- Act, 2000)**

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- “ Provided that nothing in this Article shall prevent in making of any provision in favour of Member of SCs & STs for relaxation in qualifying marks in any examination or lowering the standards of evolution, for reservation in matters of promotion to any class or classes of services or posts in connection with affairs of Union or of a State”.

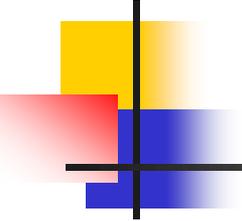
RESERVATION IN DIRECT RECRUITMENT

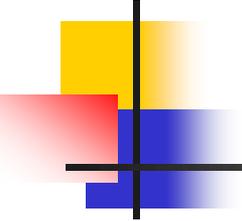


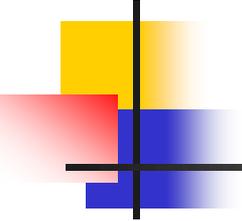
- 1. The percentage of reservation in direct recruitment on all India basis by open competition for SCs and STs is 15% and 7.5% respectively. Before 25.3.1970 the percentage was 12.1/2 and 5 respectively.
- 2. Direct recruitment on all India basis otherwise than by open competition reservation for SCs and STs is 16.66% and 7.5% respectively.

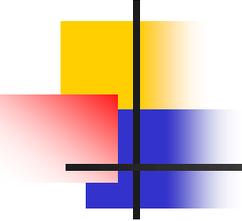


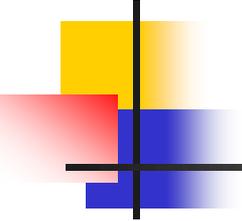
- Some essential steps are to be taken for filling reserved vacancies in Group 'C' and 'D' posts.
- 1. All vacancies should be notified to the local or the regional employment exchange.
- 2. A notice of atleast 15 days should be given to the employment exchanges for sponsoring candidates.
- 3. The number of vacancies reserved for SCs and STs out of the total vacancies notified should be clearly indicated in the requisition to the employment exchange.

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- 4. When a local employment exchange is unable to nominate any suitable candidate, it will refer the vacancies to the Central Employment Exchange and circulate to all Employment Exchanges.
 - 5. If sufficient number of SC/ST candidates are not available through the Employment Exchange, the vacancies in Group 'C' and 'D' posts recruitment to which normally attract candidates from a locality or region should be advertised in the local news papers.

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- 6. Simultaneously with the advertisement the vacancies should be brought to the notice of the SC/ST organizations who will advise these candidates about the recruitment proposed and the candidates should apply to the appointing authority either direct or through the employment exchanges as the case may be .

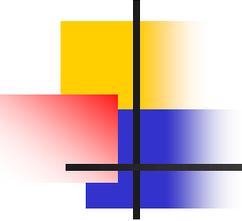
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- 7. The reserved vacancies should also be notified by the concerned appointing authority to the stations of All India Radio/Doordarshan to advise the prospective candidates to get their names registered with the employment exchange of the area and to approach the exchange for further assistance.

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- whereby a proviso to Article 335 of the Constitution has been incorporated to provide for relaxation in qualifying marks and standards of evaluation in matters of reservation in promotion for SCs/STs. Instructions have been issued through OM No36012/28/96-Estt.(Res.Vol-II) dated 3rd October, 2000 restoring the relaxations and concessions in the matter of promotion to the SCs and STs.

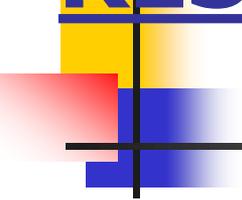
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- 8. The appointing authority should also intimate the reserved vacancies to the Director of Scheduled Castes/Scheduled Tribes Welfare or Director of Social Welfare in the State/Union Territory concerned.

Relaxations available for SCs/STs in direct recruitment.

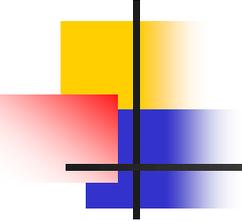
- The Relaxations that are available for the SCs/STs in direct recruitment are as follows:-
 - a) Relaxation in the upper age limit by five years;
 - b) Exemption from payment of examination/application fees;
 - c) Where interview is a part of the recruitment process, SC/ST candidates should be interviewed separately;

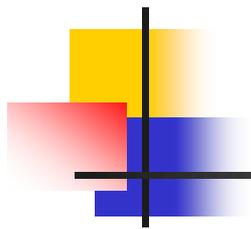
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- d) Qualification regarding experience can be relaxed in respect of SC/ST candidates at the discretion of UPSC/Competent Authority;
 - e) Standards of suitability can be relaxed.

RESERVATION IN PROMOTION



- 1. Reservation was extended to different modes of promotion in stages. In the year 1957, reservation was provided for SC and ST in departmental competitive examinations.
- 2. Reservation in promotion by selection in Group C and Group D was provided in 1963 and in the same year reservation in departmental competitive examination was limited to Class III and Class IV only.

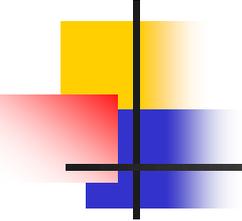
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- 3. The position changed in the year 1968 when reservation in limited departmental examination to Class II, III, and IV and promotion by selection to Class III and Class IV were subjected to a condition that element of direct recruitment should not exceed 50 percent.
 - 4. The percentage of reservation for SCs and STs was increased from 12^{1/2}% to 15% and 5% to 7.^{1/2} % respectively from 25-3-1970.

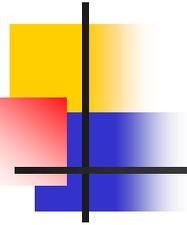


■ **1. Reservation in promotion by seniority subject to fitness was introduced in 1972**

subject to the condition that the element of direct recruitment does not exceed 50 percent. In 1974, reservations in promotion by selection from C to B within B and from B to the lowest rung of Group A were introduced provided the element of direct recruitment does not exceed 50%.

■ 2. The limitation of the direct recruitment not exceeding 50 percent was raised to 66.2/3 percent in 1976 and 75% in the year 1989.

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- **Reservation in promotion by non-selection method is available** to SCs and the STs in all groups of services viz. A,B,C, and D at the rate of 15 % and 7.5% respectively. In Promotion by selection method reservation is available upto lowest rung of Group A at similar percentage.



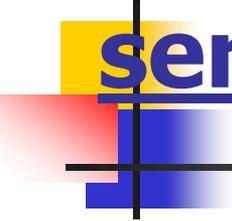
2. In promotion by selection to posts within Group A which carry an ultimate salary of Rs. 5700 (pre revised) or less there is no reservation, but the Scheduled Caste/Scheduled Tribe officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list is to be drawn up, would be included in that list provided they are not considered unfit for promotion.

(Scale may be read Rs.18,300/- or less) DOP&T
O.M.No.36028/21/2003-Estt(Res) dated 29.1.2004

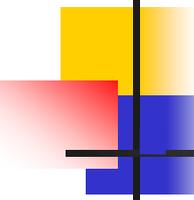
The relaxations that are available for the SCs/STs in promotions

- a) The zone of consideration is extended to five times the number of vacancies in case suitable SC/ST candidates are not available within the normal zone of consideration;
- b) Minimum qualifying marks/standards of evaluation are relax able;
- c) Upper age limit relaxable by five years where upper age limit for promotion is prescribed not exceeding fifty years, etc..

Representation of SCs & STs in services.



- 1. In 1947 the representation of SCs and STs in services was very small. After introduction of reservation, representation of SCs/STs started increasing.
- 2. In 1965 representation of SCs and STs was 13.17% and 2.25% respectively.
- 3. In 1975 representation of SCs and STs became 13.84% and 2.94% respectively.
- 4. In 1985 representation of SCs and STs was 16.83% and 4.66% respectively.

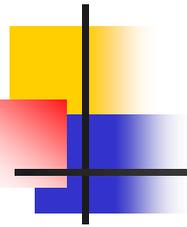
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- 5. In 1995 representation of SCs and STs became 17.43% and 5.78% respectively.
 - 6. As on 1.1.2000 representation of SCs and STs was 17.73% and 6.17% respectively.
 - 7. As on 1.1.2001 representation of SCs and STs was 16.30% and 6.36% respectively.
 - 8. As on 1.1.2002 representation of SCs and STs was 18.61% and 6.12% respectively.
 - 9. It is noted that as on 1.1.2002 in group C and D the Representation of SC is at achieving hand. But the representation in Group A&B for SC is 11.09 and 14.8% And his STs in Group A,B,C&D 3.97, 4.18, 5.93 & 7.13% respectively. The Govt. has to take action to being the % to the required level.

Reservation and Carry-forward of a single vacancy arising in a year.

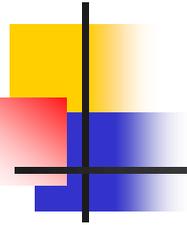
- In case where only one vacancy (other than a backlog vacancy) occurs in the initial recruitment year and the corresponding roster point happens to be for Scheduled Caste or a Scheduled Tribe, it should be treated as unreserved and filled accordingly and the reservation carried forward to subsequent recruitment year, but in the subsequent recruitment years(s), even if there is only one vacancy, it should be treated as 'Reserved' against the carried forward reservation from the initial recruitment year, and a Scheduled Caste/Scheduled Tribe candidates, if available, should be appointed in that vacancy, although it may happen to be the only vacancy in that recruitment years(s).

Ban on De-reservation in Direct Recruitment

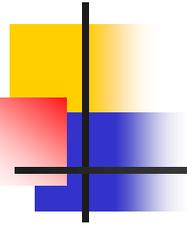
- Where sufficient number of candidates belonging to SC/St are not available to fill up the vacancies reserved for them in direct recruitment, the vacancies shall not be filled by candidates not belonging to these communities. In other words, there will be a ban on de-reservation in direct recruitment. (DOPT O.M. No.36012/6/88Estt(SCT) 25.4.1989.



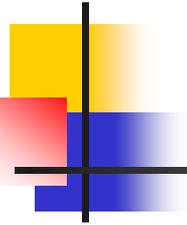
- ● In all cases of direct recruitment to fill up vacancies in posts/services in Group A, B, C and D, if sufficient number of suitable SC/St candidates are not available to fill up vacancies reserved for them in the first attempt of recruitment, then a second attempt shall be made for recruiting suitable candidates belonging to the concerned category in the same recruitment year or as early as possible before the next recruitment to fill up these vacancies. If the required number of SC/ST candidates are not available even then, the vacancies which could not be filled up shall remain unfilled until the next recruitment year. These vacancies will be treated as “ Backlog” vacancies.



- ● In the subsequent year when recruitment is made for the vacancies of the year (called the current vacancies), the “backlog” vacancies will also be announced for recruitment, keeping the vacancies of particular recruitment year i.e. the current vacancies and the ‘backlog’ vacancies as two distinct groups. While in respect of vacancies for the year of recruitment, the normal instructions relating to calculation of vacancies reserved for SC/St as well as the instructions that not more than 50% of the vacancies in a cadre could be reserved for SC/ST/OBC will apply, the backlog vacancies will not be subject to 50% criteria.

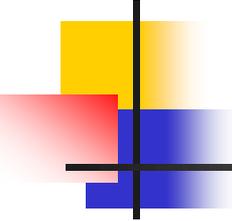


- ● If vacancies reserved for SC/ST can not be filled up and are carried as 'backlog' vacancies and remain unfilled for three successive recruitment years, the vacancy earmarked for SC could be filled by ST candidates or vice versa in all subsequent attempts, if suitable candidate belonging to the category for which the vacancy is reserved is not available.



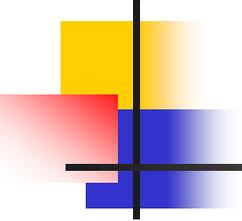
- ● Not with standing the aforesaid, in rare and exceptional cases of direct recruitment to Group "A' posts where th4e vacancy cannot be allowed to remain unfilled in public interest, de-reservation of such reserved vacancies may be permitted with the approval of the Cabinet Minister in charge of the administrative Ministry, on the recommendation of the Board of Directors.

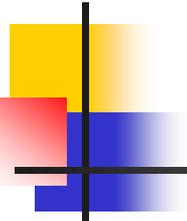
Dereservation in Promotion



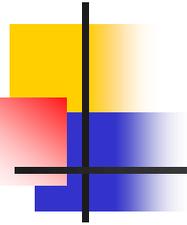
- (i) When SC and ST candidates are not available or eligible for promotion in the feeder cadre(s).

- (ii) The proposal for dereservation, in the appropriate prescribed proforma, is sent for information immediately to (i) the National Commission for SCs and STs and (ii) to the Department of Personnel and Training.

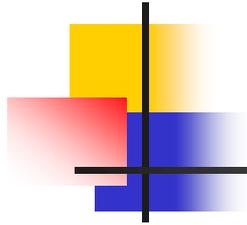
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- (i) The proposal for dereservation should have concurrence of the Liaison Officers of the Ministry / Department.



- (i) The delegated powers of dereservation, a copy of the proposal in the prescribed proforma should be sent to the Department of Personnel & Training and the Commissioner for SCs and STs (Presently the National Commission for Scheduled Castes & Scheduled Tribes) by the administrative Ministry / Department concerned and not by any attached and sub-ordinate officers.



- (i) The Ministry / Department concerned should wait for a period of at least 2 weeks for comments of the Department of Personnel & Training as well as the National Commission for SCs and STs, if any, before the reserved vacancies are dereserved by them, in relation to the above provisions, who have been issued (vide D.O.P & A.R. O.M. No. 36011/25/79-Estt.(SCT) dated 16.11.79 and No. 36011/5/81-Estt.(SCT)).



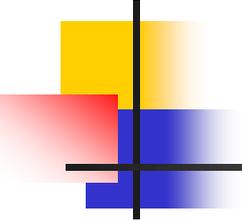
- The Government have carried forward, with renewed enthusiasm, the policy as laid down from time to time in regard to reservation in services and posts under the Central Government. The above-mentioned developments constitute significant steps towards amelioration of the hardships that had been caused to the members of the weaker classes by issuance of the Office Memoranda in 1997.

Post Based Rosters

■ **DoPT O.M. No.36012/2/96-Estt.(Res) dated 2.7.1997**

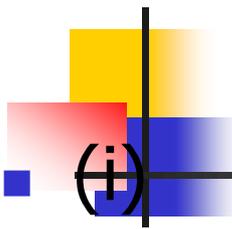
■ (i) To give proper effect to the percentages of reservation prescribed by the Govt. of India for SCs, STs and OBCs every appointing authority shall treat the vacancies as reserved or unreserved according to the respective reservation rosters.

■ (ii) Initially the vacancy-based rosters were prescribed in order to implement the Govt. Policy on reservation of jobs for the SCs, STs and the OBCs. Each vacancy was treated as reserved or unreserved as per the roster point on which it fell.

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- (i) The application of the percentages of reservation through the vacancy-based roster was called into question before courts. The Constitution Bench of the Supreme Court in the case of R.K. Sabharwal Vs.State of Pubjab as well as J.C. Malik vs. Ministry of Railways held in 1995 that the reservation of jobs for the backward classes i.e. SC, ST and OBC should apply to posts and not to vacancies.

The vacancy-based rosters were replaced by the Govt. of India by post-based rosters with effect from **02.7.1997:**

- (i) Recruitment made on all India basis by open/written competitive examination in the 200-point roster (refer DOPT Order No.36012/2/96-Estt (Res), dated 2nd July, 1997).
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- (ii) Recruitment made on all India basis otherwise than by open/written competitive examination in the 120 point roster (refer DoPT Order No.36012/2/96-Estt (Res), dated 2nd July, 1997).

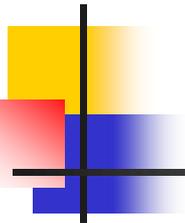


- (i) Recruitment to Group 'C' and 'D' posts attracting candidates from a locality or region through Employment Exchange according to 100 point roster (refer DoPT Order No. 36012/2/96-Estt (Res), dated 2nd July, 1997).

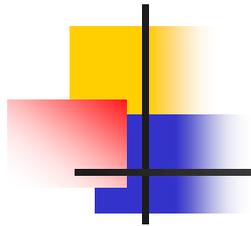
- (ii) Posts filled by promotion to which reservation orders apply, in the 200-point roster (refer DoPT Order No. 36012/2/96 (Res), dated 2nd July, 1997).

The post-based rosters would be prepared on the following principles:

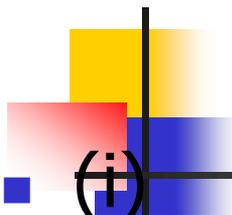
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- (i) Since reservation for OBCs does not apply to promotions, there shall be separate rosters for direct recruitment and for promotions.
- (ii) The number of posts in the roster shall be equal to the number of posts in the cadre. In case there is any increase or decrease in the cadre strength in future; the rosters shall be expanded/contracted correspondingly.



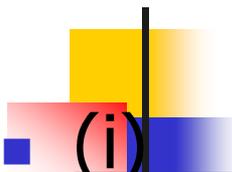
- (i) Cadre for the purpose of a roster shall mean a particular grade and shall comprise the number of posts to be filled by a particular mode of recruitment in terms of the applicable recruitment rules. Thus in a cadre of say 200 points, where the recruitment rules prescribed a ratio of 50-50 for direct recruitment and promotion, two rosters one for direct recruitment and one for promotion (when reservation in promotion applies) each comprising 100 points shall be drawn up on the lines of the respective model rosters.



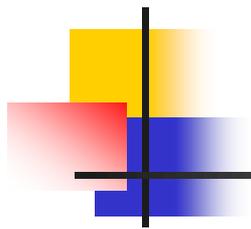
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- Since reservation does not apply to transfer on deputation/transfer, where the recruitment rules prescribe a percentage of posts to be filled by these methods, such posts shall be excluded while preparing the roster.



(i) In small cadres of up to 13 posts, the method prescribed for preparation of rosters does not permit reservation to be made for all the three categories. In such cases, the administrative Ministries/Department may consider grouping of posts in different cadres as prescribed in MHA OM No. 4221/49-NGS dated 28.1.1952 and subsequent orders reproduced at pages 70 to 74 of the Brochure on Reservation for Scheduled Castes and Scheduled Tribes (8th Edition) and prepare common rosters for such groups. In the event it is not possible to resort to such grouping the rotational rosters for cadre strength up to 13 posts may be followed.



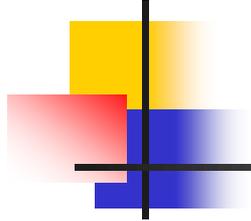
(i) At the stage of initial operation of roster with effect from 2.7.1997, it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses/shortages, if any, in respective categories in the cadre. This may be done starting from the earliest appointment and making an appropriate remark utilized by SC/ST/OBC/GEN, as the case may be against each point in the rosters as explained in the explanatory notes reproduced below. In making these adjustments, appointments of candidates belonging to SC/ST/OBCs which were made on merit (and not due to reservation) are not be counted towards reservation. In other words, they are to be treated as general category appointments SC/ST candidates appointment on their own merit (by Direct Recruitment or Promotion) and adjusted against unreserved points will retain their status of SC/ST/OBC and will be eligible to get unreserved benefit of reservation in future or further promotions, if any 50% limit who are appointed/promoted on their own merit without violating any relaxation/concession or against unreserved points/vacancies.



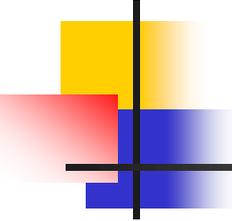
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- (i) Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

Action taken by the Government in recent past.

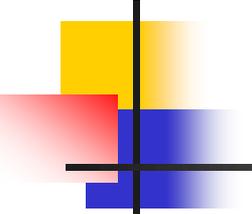
- The Government has been fully alive to the need to protect the interests of the depressed classes, and to further the agenda of social change through positive discrimination. The Hon'ble Prime Minister, in this statement in the Lok Sabha on 18th March 1999 had assured the House of Government's resolve to review the five Office Memoranda, issued by the Department of Personnel and Training between January and August 1997.

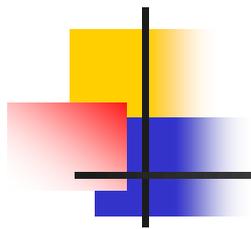


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- In order to fulfil the promise of the Hon'ble Prime Minister, the Constitution has been amended thrice, incorporating Article 16 (4B), incorporating a proviso to Article 335 and amending Article 16 (4A) through the Constitution (81st Amendment) Act, 2000 respectively.

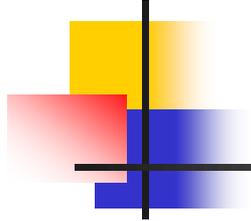
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- ● As a follow-up to the afore-mentioned constitution amendments, the adverse effects of the Office Memoranda dated 29th August 1997, Office Memorandum dated 22nd July 1997 and Office Memorandum dated 30th January, 1997 have been removed through issue of Office Memoranda dated 20th July 2000, 3rd October 2000 and 21st January, 2002.

PRESENT STATUS OF FIVE OMs

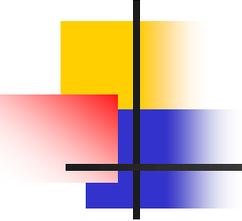
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- **The Office Memorandum No. 20011/1//96-Estt (D) dated January 30th, 1997** stipulated that if an SC/ST candidate is promoted earlier by virtue of rule of reservation roster than his senior general/OBC candidate, and the senior general OBC candidate is promoted later to the said higher grade, the latter regains his seniority over such earlier promoted SC/ST candidate. By the catch up principle with a junior SC/ST employee in the immediate higher grade, the former regains his original seniority over the latter.

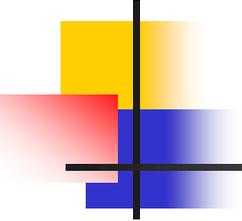


- The OM has been issued in view of the Supreme Court Judgement in Virpal Singh Chauhan and Ajit Singh-Ist that acolasted promotion acknowledge consequential seniority. A five judge Constitution Bench of the Supreme Court, in its judgement dated 16/9/1999 , in the case of Ajit Singh-II has since re-affirmed the earlier judgment. To erase the adverse effects of the OM dated 30-1-1997 on the interests of the Scheduled Castes and the Scheduled Tribes, the 85th Amendment has been made to the Constitution and orders removing the adverse effects of the OM on SCs/STs have been issued vide OM dated 21-1-2002.

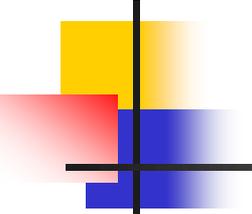


- **The Office Memorandum No.36012/2/96-Estt(Res) dated 2nd July, 1997** stipulated , that, reservation has to be related to posts and not to vacancies. Accordingly , instructions have been issued to replace vacancy-based rosters by post-based rosters.

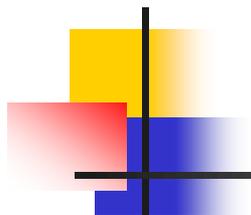
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- The OM has been issued in view of the Supreme Court Judgment in R.K. Sabharwal's case, that was delivered on 10-2-1995. Judgement of the Supreme Court, dated 16-9-1999, in the case of Ajit Singh-II, also has a bearing on the Sabharwal Judgement. As per this decision, the Judgement in the Sabharwal case has to be implemented with effect from 10-2-1995, i.e. the date of the Sabharwal Judgement, and not from 2-7-1997, i.e. the date of the O.M.



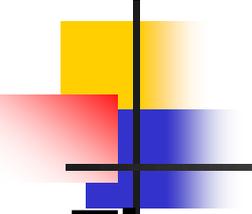
The Ajit Singh-II judgment, therefore, has warranted further review of the OM dated 2nd July, 1997.



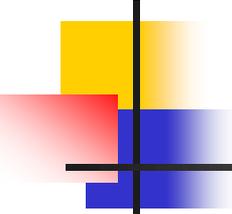
The OM No.36012/18/95-Estt.(Reservation) dated 22nd July, 1997 withdrew the relaxation in qualifying marks/ standards of evaluation which were available to SCs/STs in matters of promotion. This OM was based on the Supreme Court Judgement dated 1-10-1996 in the case of S. Vinod Kumar versus Union of India, which had reiterated the 9 Judge Constitution Bench Judgement dated 16-11-1992 of the Supreme Court in the case of Indira Sawhney versus Union of India. To enable the State to restore the previous position, 82nd Amendment to the Constitution has been made



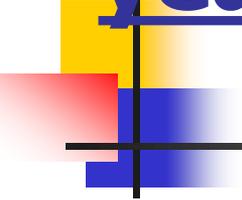
- whereby a proviso to Article 335 of the Constitution has been incorporated to provide for relaxation in qualifying marks and standards of evaluation in matters of reservation in promotion for SCs/STs. Instructions have been issued through OM No36012/28/96-Estt.(Res.Vol-II) dated 3rd October, 2000 restoring the relaxations and concessions in the matter of promotion to the SCs and STs.



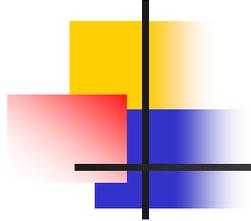
The OM No.-26012/5/97-Estt.(Res.) dated 29th August 1997 stipulated that not more than 50% vacancies, including the backlog vacancies, could be reserved in a year. The backlog vacancies were not to be treated as a separate distinct group. This OM was based on the judgement dated 16-11-1992 of the Supreme Court in the case of Indira Sawhney versus Union of India. To remove adverse effects of OM dated 29-8-1997 81st Amendment was made to the Constitution which incorporated Article 16 (4B) in the Constitution according to which the ceiling of 50% for filling up of reserved

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- **The OM No.36012/18/95-Estt.(Res.)Part.II.dated 13th August, 1997** was issued in pursuance of **Article 16 (4A)** of the Constitution which stipulates continuance of reservation in promotion for SC/ST employees beyond 15-11-1997. Without this OM reservation in promotion would have ceased to exist after 15-11-97 in terms of the Supreme Court Judgment in Indira Sawhney's case. However, matter about challenging validity of **Article 16 (4A)** and another praying for reservation within Group A Posts are presently pending before the Constitution Bench of Supreme Court in respect of SCs/STs both by way of direct recruitment and promotion.

Indicators of Progress during the years in services.



- 1. In 1947 the representation of SCs and STs in services was low. After introduction of reservation, representation of SCs/STs started increasing.
- 2. In 1965 representation of SCs and STs was 13.17 % and 2.25% respectively.
- 3. In 1975 representation of SCs and STs increased by 13.84 % and 2.94 % respectively.



- 4. In 1985 representation of SCs and STs was 16.83 and 4.66% respectively.
- 5. In 1995 representation of SCs and STs became 17.43 % and 5.78% respectively.
- 6. As on 1-1-2000 representation of SCs and STs was 17.73% and 6.17 % respectively and in the year 2001 the representation of SCs and STs came to 17.87% and 6.31% respectively.

- These instructions as and when amended will be incorporated at the relevant spaces/portions of this websites.