

ANNEXURE 18.1

Text of DPAR, O.M. No. 36011/5/75-Estt.(SCT), dt. 3.5.1975

Strict Observance of the orders regarding Reservations for Scheduled Castes and Scheduled Tribes
[Para 18.1]

In this Department's O. M. No. 27/2/71-Estt. (SCT), dated the 24th March, 1972, the Ministries/Departments were requested to impress upon the appointing authorities the need to observe the reservation and other relating to representation of Scheduled Castes and Scheduled Tribes in services strictly. It was also stated that cases of negligence or lapses in the matter of following the reservation and other orders relating to the Scheduled Castes and Scheduled Tribes coming to light through the inspections carried out by the Liaison Officers or otherwise, should be submitted to the Secretary/Additional Secretary to the Government in the respective Ministries/Departments and to the Head of the Department in respect of offices under a Head of Department and that necessary action should be taken as directed by the Secretary/Additional Secretary/Head of the Department on such reports to ensure strict compliance of the orders by the appointing authority concerned. A suggestion was made by the Commissioner for Scheduled Castes and Scheduled Tribes that in order to ensure proper implementation of reservation orders, suitable instructions should be issued to all concerned emphasising that disciplinary action would be taken against the erring officers. This matter was considered by the High Power Committee set up under the Chairmanship of the Prime Minister to review the representation of Scheduled Castes and Scheduled Tribes in the services, as its meeting held on the 9th April, 1974, when the Committee observed that while there was no need to issue further instructions in this regard, any glaring instances of discrimination or deliberate infraction of the orders relating to reservations and concessions in favour of Scheduled Castes and Scheduled Tribes employees in any office/establishment could be brought to the notice of the appropriate authorities for suitable action.

2. The observations of the High Power Committee indicated above are brought to the notice of the Ministries/Departments etc. with the request that it may be ensured that wherever cases of such nature are brought to the notice of the appropriate authorities, suitable action is taken on them promptly.

- 25 **Subject : Wilful and deliberate violation in the observance of Reservation Orders entails departmental action.**

G.I. Dept. of Per. & Trg. O.M. No. 41013/1/89-Est. (SCT) dtd. 6-7-1989.

The undersigned is directed to invite attention to Department of Personnel and A.R. O.M. No. 27-2/71-Est. (SCT) dated 24-3-1972 and No. 36011-7/80-Est. (SCT) dtd. 1-1-1980 which provide for departmental action to be taken against officials guilty of deliberate negligence and lapses in the observance of reservation orders.

2. It is reiterated that cases of wilful and deliberate violation of orders may immediately be brought to the notice of appropriate authorities and suitable departmental action initiated.

- 25.1 **Subject : Proper Implementation of orders regarding reservation and other concessions to SC and ST candidates.**

D.O.T. No. 15-9/89—Vig. III dtd. 29-3-89

It has been brought to notice that due to wrong interpretations, negligence etc. on the part of some officials, some times, the Government orders on reservation and other concessions to S/Cs and S/Ts do not get properly implemented and in order to ensure that this does not happen, provision for penal action against such persons should be made under the relevant Rules. etc.

As per the CCS(CCA) Rules 1965, a penalty may be imposed on a Government servant by a Competent Authority for good and sufficient reasons after following the prescribed procedure. As per rule 3 of the CCS (Conduct) Rules 1964 every Government servant is expected to maintain always absolute integrity and devotion to duty. He shall also not do anything unbecoming of a Government servant. Thus, any lapse in the matter of complying with the reservation orders etc. or carelessness in their compliance can be construed as acts of lack of devotion to duty and the Government servant can be proceeded against for penal action. In order to ensure that there is no laxity in the matter implementation of

reservation and other concessions for S/Cs and S/Ts it is suggested that wherever it is seen that there has been lapse or negligence on the part of any official in this regard, he may be proceeded against under the CCS (CCA) Rules, pointing out the specific acts of lapse/negligence committed by him in the matter of compliance with the orders for reservation and other concessions to SCs/STs in Government service.

G.I., Dept. of Per. & Trg., O.M. No. 36026/3/85-Estt. (SCT), dated 24-6-1985 and O.M. No. 36011/25/89-Estt. (SCT), dated 21-8-1989

Subject:—Harassment of and discrimination against Scheduled Castes and Scheduled Tribes employees.

Ministries / Departments are aware that the Government, as a part of the programme for the general welfare of the persons belonging to the SCs / STs have provided reservation in Central Government services accompanied by various other benefits, concessions and relaxations. The main objective for providing reservation for Scheduled Castes and Scheduled Tribes in appointment to 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 services but to uplift these people socially and merge them in the mainstream of the nation.

2. It has, however, been pointed out to this Department that the Scheduled Castes and Scheduled Tribes Officers, after appointment, are subjected to harassment and discrimination on grounds of their social origin. It has been pointed out that SC / ST Officers are sometimes transferred to far-off places and also placed at insignificant positions. It has also been stated that these officers are not accepted at their places of postings by the concerned superior officers in some cases.

It is reiterated that in the matter of postings / placements of officers / staff, no discrimination should be shown against those belonging to SC / ST. Complaints in this regard should be given due consideration and should be brought to the notice of the Head of the Department for corrective action, wherever necessary.

3. In this connection, it is emphasized that Government servants should desist from any act of discrimination against members of SC / ST communities on grounds of their social origin. It is also requested that senior officers, including the Liaison Officers of the Ministry/Department, should keep a close watch to ensure that such incidents do not occur at all. However, if any such incident comes to the notice of the authorities, action should be taken against the erring officials promptly.

Effective steps towards strict compliance of orders.— In its recent communication, the National Commission for SC and ST New Delhi, has emphasized the need to activate the function of the grievances redressal machinery, review it periodically and take special measures to instil confidence amongst SC / ST employees through greater interaction between employees and authorities. The Statutory Commission has also intended to take special care in the matter of writing of CRs, postings/transfers and to ensure that there are no mental reservations about SC / ST employees among the authorities.

It is therefore, requested that all Heads of Department and Liaison Officers in the IA & AD should take effective steps towards strict compliance of Government's orders and instructions issued from time to time relating to reservation policy to minimize the feeling of insecurity among SC / ST employees. They should also ensure effective grievance redressal arrangements through greater interaction with employees.

[C. & A.G. of India, Cir. No. 35/NGE/96 (No. 1440-NGE (App.)4-96, dated 18-10-1996.]

Reservation and Other Concessions for SC, ST, OBC, etc.

ANNEXURE 18.4

*Text of DOPT, O.M. No. 41016/4/93-Estt. (SCT), dated 15.3.1993***Orders on Reservation for SC and ST to be Observed Strictly**
[Para 18.1]

The undersigned is directed to say that complaints are received regarding non-observance of the instructions regarding reservation for Scheduled Castes and Scheduled Tribes in services. Instructions have already been issued that Ministries/Departments should impress upon the appointing authorities the need to observe the reservation and other orders relating to representation of Scheduled Castes/Scheduled Tribes in services strictly. **Glaring instances of discrimination or deliberate infraction of orders relating to reservations and concessions in favour of SC/ST in any office or establishment should immediately be brought to the notice of the appropriate authorities for suitable action.** In para 4 of the Department of Personnel and Administrative Reforms, O.M. No. 36011/7/80-Estt. (SCT), dated 1.11.1980, it was stated that Ministries/Departments should ensure that whenever cases of such nature are brought to the notice of appropriate authorities, suitable action is also taken promptly.

2. The above said instructions are again brought to the notice of all the Ministries/Departments for suitable action.

ANNEXURE 18.5

*Text of DOPT, O.M. No. 36012/37/93-Estt. (Res.) dated 27.7.1995***Instructions on Reservation for SCs/STs issued from time to time should be implemented**
[Para 18.5]

Attention of all Ministries/Departments is invited to this Department's O.M. No. 36012/37/93-Estt. (SCT), dated the 19th August, 1993, regarding reservation for Scheduled Castes/Scheduled Tribes in promotions. It was brought to notice of all Ministries/Departments that the existing provisions of reservation in matter of promotion are to be continued.

2. However, it has come on record in a Lok Sabha Debate that some Ministries/Departments are not implementing the orders issued by this Department. All Ministries and Departments should ensure **that the Reservation Policy of the Government as spelt out in the instructions issued by the Government from time to time should be faithfully implemented.**

**DOPT OM NO. 36012/23/96-Estt (Res), dated 22 July, 1997,
regarding prescription of lower qualifying marks/lesser standards of evaluation
against reservation in promotion**

Subj: Reservation In Promotion - Prescription Of Lower Qualifying Marks/Lesser
Standard of Evaluation

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|----|---|------------|
| 1. | O.M. No.8/12/69-Estt. (SCT) dt. 23.12.1970 | Annexure A |
| 2. | O.M. No. 36021/10/76 - Estt. (SCT) dt. 21.1.1977 | Annexure B |
| 3. | para 6.3.2 of the DPC guidelines circulated vide O. M. No.22011/5/86-Estt. (D)
dt. 10.04.1989. | Annexure C |

1. The undersigned is directed to say that in terms of instructions noted in the margin, certain relaxations/concessions in the matter of qualifying marks/standards of evaluation of performance are to be made in favour of candidates belonging to the Scheduled Castes and the Scheduled Tribes while considering them for promotion.
2. The validity of such lower qualifying marks/lesser standards of evaluation was called into question in courts in the context of the judgement of the Supreme Court in the case of Indira Sawhney Vs. Union of India. The Supreme Court, in the case of S. Vinod Kumar Vs; Union of India 1996 (8) S.C.6431 has held that the provision for lower qualifying marks/lesser level of evaluation, in the matter of promotion, provides for candidates belonging to the Scheduled Castes and the Scheduled Tribes under Government's Instructions, is not permissible under Article 16(4) in view of the command contained in Article 335 of the Constitution. The Court has further observed that even if it is assumed for the sake of argument that reservation is permitted by Article 16(4) in the matter of promotion, a provision for lower qualifying marks or lesser level of evaluation is not permissible in the matter of promotion, by virtue of Article 335. The Court also held that the protection for reservation for five years, given by the Supreme Court, vide para 829 of the judgement in Indira Sawhney's case, did not save the provision for lower qualifying marks/lesser level of evaluation.
3. It has accordingly been decided to withdraw the instructions contained in this Department's O.M.No.8/12/69-Estt (SCT) dated 23/12/70 and O.M.No.36021/10/76-Estt (SCT) dated 21/1/1977, in so far as these provide for lower qualifying marks for Scheduled Castes/Scheduled Tribes candidates in departmental qualifying/competitive examinations for promotion. Similarly, the relevant portions of para 6.3.2 of the DPC guidelines circulated vide this Department's O.M.No.22011/5/86-Estt.(D) dated 10-04-1989, to the extent that they provide for consideration of Scheduled Castes/Scheduled Tribes candidates without reference to merit and the prescribed "bench mark", are hereby rescinded.
4. It is clarified that the effect of these instructions is that henceforth there shall be no separate standards of evaluation for candidates of the Scheduled Castes/Scheduled Tribes for promotion, and assessment of all candidates for this purpose will be with reference to uniform standards. Any other instructions of the Government, which provide for lower qualifying marks/lesser standards of evaluation in matters of promotion for candidates belonging to the Scheduled Castes/Scheduled Tribes, may also be treated as having been modified to this extent.
5. These instructions take immediate effect.

S/d
(Y. C. Parande)
Director

ANNEXURE - A

Department of Personnel O. M. No.8/12/69-Estt. (SCT)
dated 23rd December, 1970 to all Ministries etc.

OFFICE MEMORANDUM

Sub: Relaxation of standards in favour of Scheduled Castes/Scheduled Tribes candidates in departmental competitive examinations for promotion and in departmental confirmation examinations

Attention of the Ministry of Finance etc. is invited to Ministry of Home Affairs O. M. No. 1/1/70-Estt.(SCT) dated the 25th July, 1970, in which it has been provided that in the case of direct recruitment, whether by examination or otherwise, if sufficient number of 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 appointment to such post or posts. A question has been raised whether relaxation in the qualifying standards could be granted to Scheduled Castes/Scheduled Tribes candidates on the same basis on promotions made through departmental competitive examinations and in departmental confirmation examinations where such examinations are prescribed to determine the suitability of candidates for confirmation. The matter has been carefully considered and it has been decided that in promotions/confirmations made through such examinations, Scheduled Castes/Scheduled Tribes candidates who have not acquired the general qualifying standards in such examinations could also be considered for promotions/confirmations provided they are not found unfit for such promotions/confirmations. In other words, the qualifying standards in these examinations could be relaxed in favour of Scheduled Castes/Scheduled Tribes candidates in keeping with the above criterion.

ANNEXURE - B

Department of Personnel & Admin. Reforms O.M.No.8/12/69-Estt.(SCT)
Dated 21st January, 1977 to all Ministries etc.

Sub : Relaxation of standards in the case of Scheduled Caste/Tribe candidates in qualifying examination for promotion to the higher grade on the basis of seniority subject to fitness.

The undersigned is directed to refer to this Department's Office Memorandum No. 8/12/69-Estt. (SCT) dated the 23rd December, 1970 in which it has been provided that in promotions made through departmental competitive examinations and in departmental confirmation examinations, if sufficient number of Scheduled Caste/Scheduled Tribe candidates are not available on the basis of the general standard to fill the vacancies reserved for them, candidates belonging to these communities who have not acquired the general qualifying standard should also be considered for promotion/confirmation provided they are not found unfit for such promotion/confirmation. A question has been raised whether relaxation in qualifying standards should be granted to Scheduled Caste and Scheduled Tribe candidates, on the same basis, in promotions on the basis of seniority subject to fitness, where fitness is decided on the basis of qualifying examination. The matter has been carefully considered and it has now been decided that in promotions made on the basis of seniority subject to fitness in which there is reservation for Scheduled Castes and Scheduled Tribes in accordance with the Department's Office Memorandum No. 27/2/71-Estt. (SCT), dated the 27th November, 1972, and where a qualifying examination is held to determine the fitness of candidates for such promotion, suitable relaxation in qualifying standard in such examinations should be made in the case of Scheduled Caste/Scheduled Tribe candidates. The extent of relaxation should however, be decided on each occasion whenever such an examination is held taking into account all relevant factors including (i) the number of vacancies reserved, (ii) the performance of Scheduled Caste/Scheduled Tribe candidates as well as general candidates in that examinations (iii) minimum standard of fitness for appointment to the post, and also (iv) the overall strength of the cadre and of the Scheduled Castes and Scheduled Tribes in that cadre.

The Ministry of Finance etc. are requested to bring the above decision to the notice of all authorities concerned.

ANNEXURE - C

Extracts from DOPT's O.M. No.22011/5/86-Estt.(SCT)
Dated 10th April, 1989

Para-6.3.2

- (i) In promotions by selection to posts/services within group 'A' which carry an ultimate salary of Rs. 5,700/- p.m. in the revised scale, the SCs/STs 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 has to be drawn up, would notwithstanding the prescription of 'bench mark' be included in that list provided they are not considered unfit for promotion.
- (ii) In promotion by selection to posts/services in Group 'B' within Group 'B' and from Group 'B' to the lowest rung in Group 'A' selection against vacancies reserved for SCs and STs will be made only from those SCs/STs officers, who are within normal zone of consideration prescribed vide the Department of Personnel and A. R. O. M. No. 22011/3/76-Estt. (D) dated 24th December, 1980. Where adequate number of SCs/STs candidates are not available within the normal field of choice, it may be extended to five times the number of vacancies and the SCs/STs candidates coming within the vacancies reserved for them. If candidates from SCs/STs obtain on the basis of merit with due regard to seniority, on the same basis as others, lesser number of vacancies than the number reserved for them, the difference should be made up by selecting candidates of these communities, who are in the zone of consideration, irrespective of merit and 'bench mark' but who are considered fit for promotion.
- (iii) As regards promotions made by selection in Group 'C' and Group 'D' posts/services, Select Lists of SCs/STs officers should be drawn up separately in addition to the general select list, to fill up the reserved vacancies. SCs/STs officers who are within the normal zone of consideration, should be considered for promotion alongwith others and adjudged on the same basis as others and those SCs and STs amongst them, who are selected on that basis may be included in the general select list in addition to them being considered for inclusion in the separate select lists for SCs and STs respectively. In the separate select lists drawn up for (i) SCs and (ii) STs, officers belonging to the SCs and STs as the case may be will be adjudged separately amongst themselves and not alongwith others and, if selected, they should be included in the concerned separate list, irrespective of their merit as compared to other officers and the 'bench mark' determined by the cadre authorities. If candidates from SCs/STs obtain on the basis of their position in the aforesaid general list, lesser number of vacancies than are reserved for them, the difference should be made up by selected candidates of these communities in the separate Select Lists for SCs and STs respectively.

No.20011/1796-Estt.(D)
 Government of India
 Ministry of Personnel, Public Grievances & Pensions
 Department of Personnel & Training

.....
 New Delhi, dated the 30th January, 1997

OFFICE MEMORANDUM

Subject:- Seniority of SC/ST officers promoted earlier
 vis-a-vis general candidate promoted later.

According to the general principle 5(i) contained in MHA OM No.9/11/55-RPS dated 22.12.1959 and para 2.2 in DOPT OM No.22011/7/86-Estt.(D) dated 3.7.1986 read with DOPT OM No.20011/5/90-Estt.(D) dated 4.11.1992, (copy enclosed) seniority of a person regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and seniority of persons promoted to various grades shall be determined in the order of selection for such promotion. Thus, persons appointed through an earlier selection will enbloc be senior to those promoted through subsequent selection.

2. The Supreme Court has in its judgement dated 10.10.1995 in the case of Union of India Vs. Virpal Singh Chauhan -etc. (JT 1995(7) SC.231) held as follows:-

"Even if a Scheduled Caste/Scheduled Tribe candidate is promoted earlier by virtue of rule of reservation/roster than his senior general candidate and the senior general candidate is promoted later to the said higher grade, the general candidate regains his seniority over such earlier promoted Scheduled Caste/Scheduled Tribe candidate. The earlier promotion of the Scheduled Caste/Scheduled Tribe candidate in such a situation does not confer upon him seniority over the general candidate even though the general candidate is promoted later to that category."

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3. Having regard to the above judgement of the Supreme Court, it has been decided to modify the existing policy of fixing seniority on promotion on the lines mentioned in para 2 above. Accordingly, it has been decided to add the following proviso to general principle 5(i) contained in MHA (now DOPT) OM No.9/11/55-RPS dated 22.12.59 and para 2.2 of this Department OM No.22011/7/86-Estt.(D) dated 3.7.1986:-

"Provided that if a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC candidate who is promoted later to the said immediate higher post/grade, the general/OBC candidate will regain his seniority over such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/grade."

4. These orders shall take effect from the date of issue of this Office Memorandum.


(K.K. Jha)
Director(E)

To

All Ministries/Departments etc. of the Govt. of India.

Copy to:

1. Comptroller and Auditor General of India.
2. Secretary, Union Public Service Commission.
3. Rajya Sabha Sectt./Lok Sabha Sectt.
4. All State/Union Territory Governments/Administrations
5. All attached/subordinate offices under the DOPT/MHA.
6. National Commission for SC/ST, New Delhi.
7. National Commission for OBC, New Delhi.
8. Secretary, Staff Side, National Council (JCM), 9, Ashoka Road, New Delhi.
9. Registrar General, Supreme Court, New Delhi.
10. All Officers/Sections
11. 500 spare copies for Estt.(D).

No. 20011/2/97-Estt(D)
 Government of India
 Ministry of Personnel, P.G. and Pensions
 (Department of Personnel and Training)

New Delhi, March 21, 1997


OFFICE MEMORANDUM

Subject:-Seniority of SC/ST officers promoted earlier vis-a-vis general/OBC officers promoted later - clarification regarding Office Memorandum dated 30.1.1997.

The undersigned is directed to refer to the Department of Personnel and Training's Office Memorandum No.20011/1/96-Estt(D) dated January 30, 1997 on the above subject and to say that according to para 4 therein the decision contained in the said Office Memorandum is effective from the date of its issue, i.e. January 30, 1997. In this context, it is clarified that the said Office Memorandum does not contemplate revision of any seniority lists prevailing on January 30, 1997, nor does it prohibit promotion of officers (including SC/ST officers) on the basis of the seniority list prevailing on January 30, 1997. If on the basis of the seniority list prevailing on January 30, 1997 a junior SC/ST officer is promoted to a higher post/grade because of the rule of reservation and his senior general/OBC officer is promoted subsequently to that higher post/grade, the said senior general/OBC officer will regain his original seniority over his earlier promoted SC/ST officer in the immediate higher post/grade by virtue of this Department's aforesaid Office Memorandum of January 30, 1997.

2. It is also clarified that as at present seniority list prevailing on the crucial date for determining eligibility for promotion (i.e. 1st July if ACRs are written calendar yearwise or 1st October if ACRs written financial yearwise, as the case may be) shall be the basis for further promotion.

3. Hindi version will follow.


 (K.K. JHA)
 DIRECTOR(E)

To

All Ministries/Departments etc of the Government of India

Copy to:-

1. Comptroller and Auditor General of India.
2. Secretary, Union Public Service Commission.
3. Rajya Sabha Sectt./Lok Sabha Sectt.
4. All State/UT Govts./Admns.
5. All attached/subordinate offices under the DOPT/MHA.
6. National Commission for SC/ST, New Delhi.
7. National Commission for OBC, New Delhi.
8. Secretary, Staff Side, National Council(JCM)
9. Registrar General, Supreme Court of India.
10. All officers/Sections.
11. 500 spare copies for Estt(D).

No. 20011/5/90-Estt(D)
 Government of India
 Ministry of Personnel, P.G. & Pensions
 (Department of Personnel & Training)

.....

New Delhi, the 4 November, 1992.

OFFICE MEMORANDUM

Subject:- Delinking seniority from confirmation.

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The seniority of Government servants is determined in accordance with the general principles of seniority contained in MHA OM No. 9/11/55-RPS dated 22.12.59 (copy enclosed). One of the basic principles enunciated in the said OM is that seniority follows confirmation and consequently permanent officers in each grade shall rank senior to those who are officiating in that grade.

2. This principle has been coming under judicial scrutiny in a number of cases in the past, the last important judgement being the one delivered by the Supreme Court on 2.5.90 (JT-1990(2) SC-264) in the case of Class II Direct Recruits Engineering Officers Association vs. State of Maharashtra. In para 47(A) of the said judgement the Supreme Court has held that once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.

3. The general principle of seniority mentioned above has been examined in the light of the judicial pronouncement referred to above and it has been decided that seniority may be delinked from confirmation as per the directive of the Supreme Court in para 47(A) of its judgement dated 2.5.90. Accordingly in modification of the general principle 3, proviso to general principle 4 and proviso to general principle 5(i) contained in MHA (now DOP) O.M.No.9/11/55-RPS dated 22.12.59 and para 2.3. of this Department O.M. dt.3.7.86 (copy enclosed) it has been decided that seniority of a person regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and not according to the date of his confirmation.

4. These orders shall take effect from the date of issue of this Office Memorandum. Seniority already determined according to the existing principles on the date of issue of these orders will not be reopened even if in some cases seniority has already been challenged or is in dispute and it will continue to be determined on the basis of the principles already existing prior to the date of issue of these orders.

5. All Ministries/ Departments etc. are requested to bring these instructions to the notice of all concerned for guidance and compliance.

[Signature]
 (Y. G. PARANDE)
 DIRECTOR

To

All Ministries/ Departments etc.

Copy to:-

1. Controller and Auditor General of India.
2. Rajya Sabha Sectt./Lok Sabha Sectt.
3. UPSC (with 10 spare copies),
4. All Union Territory Administrations.
5. All attached/subordinate offices under the D.C.E.T.
6. Commissioner for SC/ST, New Delhi.
7. Secretary, Staff Side, National Council (JCM),
9 Ashoka Road, New Delhi.
8. All Sections.
9. 200 spare copies for Estt.(D).

No. 9/11/55-RPS
 Government of India
 Ministry of Home Affairs

New Delhi, the 22nd December, 1959.
 1st Pusa. 1981

OFFICE MEMORANDUM

Subject: GENERAL PRINCIPLES FOR DETERMINING SENIORITY OF VARIOUS CATEGORIES OF PERSONS EMPLOYED IN CENTRAL SERVICES.

III

As the Ministries of the Government are aware, instructions have been issued from time to time regarding the principles to be observed in and the method of determining seniority vide Office Memoranda cited below-

- (i) Office Memorandum No. 30/44/48-Appts., dated the 22nd June, 1949
- (ii) Office Memorandum No. 55/28/49-DGS (Appts.) dated the 3rd February, 1950 and other subsequent Office Memoranda regarding fixation of seniority of ex-employees of the Government of Burma.
- (iii) Office Memorandum No. 31/223/50-DGS, dated the 27th April, 1951 and other subsequent Office Memoranda regarding fixation of seniority of displaced Government Servants.
- (iv) Office Memorandum No. 9/59/56-RPS dated 4th August, 1956

The instructions contained in this Ministry's Office Memorandum No. 30/44/48-Appts., dated the 22nd June, 1949, were issued in order to safeguard the interests of displaced Government servants appointed to the Central Services after partition. As it was not possible to regulate the seniority of only displaced Government servants by giving them credit for previous service, the instructions were made applicable to all categories of persons appointed to Central Services. The principles contained in the 22nd June, 1949 orders were extended to.

- (I) ex-Government servants of Burma appointed to Central Services and
- (II) the employees of former Part 'B' States taken over to the Centre as a result of Federal Financial Integration.

The instructions contained in this Ministry's Office Memorandum No. 32/10/49-CS, dated the 31st March, 1950 and No. 32/49/CS(C) dated the 20th September 1952 similarly regulate Central Service.

2. The question has been raised whether it is necessary to continue to apply the instructions contained in the Office Memoranda cited above. Displaced Government servants have by and large been absorbed in the various Central Services and their seniority has been fixed with reference to the previous service rendered by them. Similarly, the seniority of ex-employees of the Government of Burma and Part 'B' States as well as of candidates with war service has already been determined in accordance with the instructions cited above. As the specific objects underlying the instructions cited above have been achieved, there is no longer any reason to apply these instructions in preference to the normal principles for determination of seniority. It has, therefore, been decided in consultation with the UPSC. that hereafter the seniority of all persons appointed to the various Central Services after the date of these instructions should be determined in accordance with the General Principles annexed hereto.

3. The instructions contained in the various Office Memoranda cited in para 1 above are hereby cancelled, except in regard to determination of seniority of persons appointed to the various Central Services prior to the date of this Office Memorandum. The revised General Principles embodied in the Annexure will not apply with retrospective effect, but will come into force with effect from the date of issue of these orders; unless a different date in respect of any particular service/grade from which these revised principles are to be adopted for purposes of determining seniority has already been or is hereafter agreed to by this Ministry.

Sd/-

(V. VISWANATHAN)

Special Secretary to the Government of India

To

All Ministries of the Government of India etc. etc.

GENERAL PRINCIPLES FOR DETERMINATION OF SENIORITY IN THE CENTRAL SERVICES

- (1) These principles shall apply to the determination of seniority in Central Civil Services and Civil posts except such services and posts for which separate principles have already been issued or may be issued hereafter by Government.

Ministries or Departments which have made separate rules or issued instructions on the basis of instructions contained in the Ministry of Home Affairs, O.M.No.30/44/48-App'tts. dated the 22nd June, 1949, are requested to consider modification of those rules or instructions on the basis of those general principles. However, whenever, it is considered necessary to follow principles different from those laid down in this Memorandum, a specific reference should be made to the Ministry of Home Affairs will consult the UPSC. As regards individual cases, the Ministry of Home Affairs.

Will decide the cases on which the advice of the Commission should be obtained.

- (ii) Notwithstanding anything contained in these General Principles, the seniority of persons belonging to the following categories will, on their appointment to a Central Civil Service, or a Civil posts, continue to be determined by the instructions noted against each such category:-

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|---|--|
| (a) Ex-Government servants penalised for their patriotic activities | M.H.A.O.M.No. 6/4/52-S2NG dated 29.5.57. |
| (b) Central Government employees discharged on account of affliction with T.B., Pleurisy or Leprosy. | OM No.37/1/52-DGS, dated 10.7.54 (subsequently extended to ex-Pleurisy/Leprosy patients vide OM.No. 13/4/56-EPS dated 29.9.56 and 13.4.57-RPS dt. 14.7.58. |
| (c) Permanent displaced Government servants nominated by the Transfer Bureau to purely temporary Organisations, who consequent on their retrenchment, were absorbed in other offices. | OM.No.30/44/48-App'tts. dated 22.6.49. |

2. Subject to the provision of para 3 below, persons appointed in a substantive or officiating capacity to a grade prior to the issue of these general principles shall retain the relative seniority already assigned to them or such seniority as may hereafter be assigned to them under the existing orders applicable to their cases and shall en-bloc be senior to all others in that grade.

Explanation:-For the purpose of these principles (a) persons who are confirmed retrospectively with effect from a date earlier than the issue of these general principles; substantively vacant in a grade prior to the issue of these general principles, shall be considered to be permanent officers of the grade.

3. Subject to the provisions of para 4 below, permanent officers of each grade shall be ranked senior to persons who are of officiating in that grade.

4. Direct Recruits

Notwithstanding the provisions of para 3 above, the relative seniority of all direct recruits shall be determined by the order of merit in which they are selected for such appointment on the recommendations of the U.B.S.C. or other selecting authority, persons appointed as a result of subsequent selection;

5. Provided that where persons recruited initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their appointment, seniority shall follow the order of confirmation and not the original order of merit.

5. Promotions

(1) The relative seniority of persons promoted to the various grades shall be determined in the order of their selection for such promotion;

Provide that where persons promoted initially on a temporary basis are confirmed subsequently in an order different from the order of merit indicated at the time of their promotion, seniority shall follow the order of confirmation and not the original order of merit.

(ii) Where promotions to a grade are made from more than one grade, the eligible persons shall be arranged in separate lists in the order of their relative seniority in their respective grades. hereafter, the Departmental Promotion Committee shall select persons for promotion from each list upto the prescribed quota and arrange all the candidates selected from different lists in a consolidated order of merit which will determine the seniority of the persons on promotion to the higher grade.

NOTES:- Separate quotas for promotion have not already been prescribed in the relevant recruitment rules, the Ministries/Departments may do so now, in consultation with the Commission wherever necessary.

6. Relative seniority of Direct Recruits and Promotees.

The relative seniority of direct recruits and of promotees shall be determined according to the rotation of vacancies between direct recruits and promotees which shall be based on the quotas of vacancies reserved for direct recruitment and promotion respectively in the Recruitment Rules.

7. Transferees:-

(i) The relative seniority of persons appointed by transfer to a Central Service from the Subordinate Offices of the Central Government or other Departments of the Central or State Governments shall be determined in accordance with the order of their selection for such transfer.

(ii) Where such transfers are effected against specific quotas prescribed in the recruitment rules therefore, the relative seniority of such transferees vis-a-vis direct recruits and promotees shall be determined according to the rotation of vacancies which shall be based on the quotas reserved for transfer, direct recruitment and promotion respectively in the recruitment rules.

(iii) Where a person is appointed by transfer in accordance with a provision in the recruitment rules providing for such transfer in the event of non-availability of a suitable candidate by direct recruitment or promotees, as the case may be, for the purpose of para 6 above. He shall be ranked below all direct recruits or promotees, as the case may be, selected on the same occasion.

8. Persons appointed on adhoc basis to a grade without consultation with the UPSC under Regulation 4 of the U.P.S.C. (Exemption from Consultation) Regulations, 1958, are to be replaced by persons approved for regular appointment by direct recruitment, promotion or transfer, as the case may be. Until they are replaced, such persons will be shown in the order of their adhoc appointments and below all persons regularly appointed to the grade.

EXPLANATORY MEMORANDUM

General Principle 4 : The Union Public Service Commission invariably indicates the order of preference at the time of selection and it will not, therefore, be difficult to determine the relative seniority of persons recruited through the Commission. In order to obviate difficulties in determining the relative seniority of direct recruits recruited otherwise than through the U.P.S.C., the selecting authority should indicate the order of merit at the time of selection.

General Principle 5(i) : Where promotions are made on the basis of selection by a D.P.C., the seniority of such promotees shall be in the order in which they are recommended for such promotion by the Committee. Where promotions are made on the basis of seniority subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted. Where, however, a person is considered as unfit for promotion and is superseded by a junior, such persons shall not if he is subsequently found suitable and promoted, take seniority in the higher grade over the junior persons who had superseded him.

General Principle 5(ii) : Illustration: Where 75% of the vacancies in the grade of Head Clerk are reserved for promotion from the grade of Upper Division Clerk and 25% from the grade of Store-keeper, the eligible Upper Division Clerks and Store-keepers shall be arranged in separate lists with reference to their relative seniority in those grades. The D.P.C. will make selection of three candidates from the list of U.D.C. and 1 from the list of Store-keepers. Thereafter the selected persons from each list shall be arranged in a single list in a consolidated order of merit assessed by the D.P.C. which will determine the seniority of the persons on promotion to the higher grade.

General Principle 6 : A roster should be maintained based on the reservation for direct recruitment and promotion in the Recruitment Rules. Where the reservation for each method is 50% the roster will run as follows:-

(1) Promotion, (2) Direct recruitment, (3) Promotion, (4) Direct Recruitment and so on. Appointment should be made in accordance with this roster and seniority determined accordingly.

Illustration : Where 75% of the vacancies are reserved for promotion and 25% for direct recruitment, each direct recruit shall be ranked in seniority below 3 promotees. Where the quotas are 50% each, every direct recruit shall be ranked below a promotee. If for any reason, a direct recruit or a promotee ceases to hold the appointment in the grade, the seniority list shall not be re-arranged merely for the purpose of ensuring the promotion referred to above.

General Principle 7 (i): The principle laid down in para 7(i) will not present any difficulty where recruitment by transfer is made singly and at intervals but it will be from different sources on the same occasion and the selection is spread over a number of days. It will, therefore, be necessary for the authorities responsible for approving appointments by transfer to indicate the inter se order of merit of the selected persons in such cases.

General Principle 8: While the seniority of persons appointed on an ad-hoc basis will be determined as indicated in para 8 of the Annexure, the seniority list should clearly show that such persons are not eligible for promotion or confirmation.

found wanting in cases where two or more persons are selected