



BHARAT SANCHAR NIGAM LIMITED
(A GOVERNMENT OF INDIA ENTERPRISE)
SR Cell, Corporate Office, 8th Floor,
Bharat Sanchar Bhawan,
Janpath, New Delhi-1

MINUTES of the MEETING OF DIRECTOR HR with AIGETOA, SNEA and SEWA
on 12.05.2022

SR cell called a meeting of recognised association, support association and SEWA to discuss Reservation in promotions. A list of participants is at Annexure 1.

Worthy Director HR welcomed all participants to the meeting and stated that pursuant to the judgement dated 28.01.2022 of the Hon'ble Supreme Court of India in the case of *Jarnail Singh and Ors. V. Lachhmi Narain Gupta and Ors.* (Civil Appeal No. 629 of 2022 arising out of SLP (C) No. 30621 of 2011) and DoP&T OM dated other connected matters and DOPT OM No. 36012/16/2019-Estt(Pers) dated 12.04.2022 regarding procedure to be followed prior to effecting reservations in the matter of promotions by all departments of the Central Government, management and associations of BSNL had to come together to chart the way forward. This, to comply to the extant orders and to avoid litigation.

GS AIGETOA submitted that the office bearers of AIGETOA, SNEA and SEWA had prior discussions on the matter and there was no dispute between them that BSNL had to follow extant DoP&T orders on the matter and promotions in all cadres could be carried out following the DoP&T guidelines strictly. He also requested that additional posts may be created to cover all eligible executives.

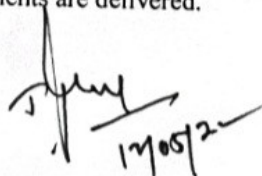
GS SNEA supported the same view and requested that promotions for all cadres should be carried out as per the DoP&T order dated 12.04.22. Ad hoc promotions may also be regularised. He also requested that only regular promotions and no ad hoc promotions should be issued. Vacancies should be filled by regular promotions and not by look after arrangements.

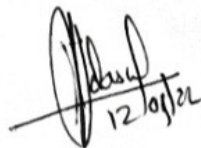
GS SEWA supported the same view and stated that DoP&T order dated 12.04.22 had clearly specified the procedure to be followed prior to effecting reservations in the matter of promotions and the same may be followed strictly to effect promotions in all cadres.

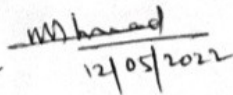
There was a discussion amongst all participants regarding the various clauses of DoP&T OM dated 12.04.22 and DoP&T OM No. 36012/2/96-Estt (Res) dated 2.7.1997 regarding post based implementation of reservation roster.

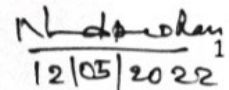
CLO BSNL clarified that rosters in BSNL were maintained as per DoP&T OM No. 36012/2/96-Estt (Res) dated 2.7.1997 (enclosed). Office bearers of AIGETOA, SNEA and SEWA stated that there was no dispute in their minds regarding the implementation of the above clauses and that the above clauses may be implemented in the truest spirit and without any deviation, to avoid litigation. If any excess people had been promoted in any category in the past and the matter was sub-judice, then the same may be revisited as and when the judgements are delivered.


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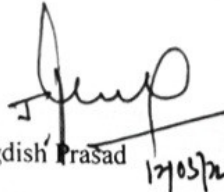
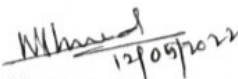
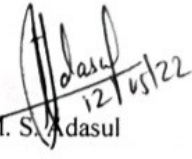
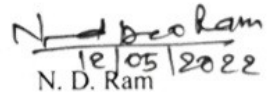

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Director HR stated that as stated in DoP&T OM dated 12.04.22, since the Jarnail Singh batch of cases was pending in the Supreme Court, any promotion order issued shall be subject to any further orders that may be passed by the Supreme Court in the said batch of cases. He directed CLO to ensure that all rosters are being maintained as per the guidelines and stated that the process of consultation with the associations would continue on the matter of promotions.

The meeting closed on a positive note.

 Anita Johri 12/05/22	 Jagdish Prasad 12/05/22	 Md. Wasi Ahmad 12/05/2022	 M. S. Dasul 12/05/22	 N. D. Ram 12/05/2022
PGM SR	GM&CLO(SCT)	GS AIGETOA	GS SNEA	GS SEWA

(For BSNL Management)

List of participants**Members from Management**

Sh. R.K. Goyal	PGM(Pers.)
Ms. Anita Johri	PGM(SR)
Sh. Jagdish Prasad	GM & CLO(SCT)
Sh. G. P. Vishnoi	DGM(Pers-DPC SM)
Sh. M. Udaya Kumar	DGM(Pers-Legal)
Ms. Sunita Arora	DGM(SR-II)
Sh. P. K. Gupta	AGM(SR-II)
Sh. K. M. Ruhela	AGM(SR-I)

Members from Associations

Shri Ravi Shil Verma	Chairman, AIGETOA
Shri Wasi Ahmad	GS, AIGETOA
Shri G.Veerabhadhra Rao	President, AIGETOA
Sh. M.S. Adasul	GS, SNEA
Sh. Jagtar Singh	Jt. Sec.(N), SNEA
Sh. N.D.Ram	GS, SEWA
Sh. Ramawtar Meena	VP-I, SEWA
Sh. Mukesh	CS, SEWA

No.36012/16/2019-Estt. (Res.)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
North Block, New Delhi-110 001
Date: 12th April 2022

Office Memorandum

Subject : Reservation in promotions – procedure to be followed prior to effecting reservations in the matter of promotions by all departments of the Central Government.

The undersigned is directed to bring to your notice the judgement dated 28.01.2022 of the Supreme Court of India in the case of **Jarnail Singh and Ors. V. Lachmi Narain Gupta and Ors.** (Civil Appeal No. 629 of 2022 arising out of SLP (C) No. 30621 of 2011) and other connected matters. Pursuant to this judgement, the Ld. Attorney General for India has rendered his considered opinion in the matter.

2. In the judgement dated 28.1.2022, the Supreme Court has set out the conditions that are to be satisfied by the Government for the purpose of implementing the policy of reservation in promotions. These conditions are :

- (i) Collection of quantifiable data regarding inadequacy of representation of Scheduled Castes and Scheduled Tribes;
- (ii) Application of this data to each cadre separately; and
- (iii) If a roster exists, the unit for operation of the roster would be the cadre for which the quantifiable data would have to be collected and applied in regard to the filling up of the vacancies in the roster.

This judgement currently holds the field.

3. All the Ministries/Departments are required to ensure that the above conditions are complied with before implementing the policy of reservation in promotions and carrying out any promotions based thereon.

4. For this purpose, all Ministries/Departments are also required to ensure the following:

- (a) In terms of DoPT OM No.43011/153/2010-Estt (Res.) dated 4.1.2013, the Liaison Officer shall ensure that the reservation rosters are strictly maintained as per the instructions/guidelines, laid down in DoPT OM No. 36012/2/96-Estt (Res.), dated 2.7.1997.
- (b) In order to ensure maintenance of efficiency of administration, the DPC shall carefully assess the suitability of the officers, being considered for promotion.

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(c) The Appointing Authority shall issue the appointment/promotion orders only after satisfying itself that the conditions mentioned in paragraph 2 and sub-para (a) & (b) of this paragraph have been fully complied with.

5. Since the **Jarnail Singh** batch of cases is pending in the Supreme Court of India, any promotion order issued shall be subject to further orders that may be passed by the Supreme Court in the said batch of cases.

6. All Ministries/Departments are requested to urgently bring these instructions to the notice of all their attached/subordinate offices as also the Public Sector Undertakings and Statutory Bodies etc. for adherence and strict compliance.

Soh
(Sandeep Saxena)
Deputy Secretary to the Govt. of India

To

1. The Secretaries of all the Ministries/Departments of the Govt. of India for ensuring strict compliance of the above instructions.
2. The Secretary, Department of Financial Services, New Delhi.
3. The Secretary, Department of Public Enterprises, New Delhi.
4. The Secretary, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
5. The Secretary, Union Public Service Commission
6. The Secretary, Staff Selection Commission
7. Office of Comptroller and Auditor General of India, 10, Bahadurshah Zafar Marg, New Delhi.
8. Supreme Court of India/Election Commission of India/ Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice President's Secretariat/ Prime Minister's Office/ Niti Ayog
9. National Commission for Scheduled Castes, Lok Nayak Bhawan, New Delhi
10. National Commission for Scheduled Tribes, Lok Nayak Bhawan, New Delhi
11. National Commission for Backward Classes, Trikoot-1, Bhikaji Cama Place, R. K. Puram, New Delhi
12. The Director, ISTM.
13. NIC, DoPT with the request to upload the same on the website of the Department.

No. 36012/2/96-Estt. (Res)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PERSONNEL & TRAINING)

North Block,
New Delhi, the 2nd July, 1997.

OFFICE MEMORANDUM

Subject: Reservation roster - Post based -
Implementation of the Supreme Court
Judgement in the case of R.K. Sabharwal Vs.
State of Punjab.

The undersigned is directed to say that under the existing instructions, vacancy-based rosters have been prescribed in order to implement the Government's policy relating to reservation of jobs for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. The application of reservation on the basis of these rosters was called into question before Courts. [The Constitution Bench of the Supreme Court, in the case of R.K. Sabharwal Vs. State of Punjab as well as J.C. Mallick Vs. Ministry of Railways has held that the reservation of jobs for the backward classes SC/ST/OBC should apply to posts and not to vacancies. The Court further held that the vacancy based rosters can operate only till such time as the representation of persons belonging to the reserved categories, in a cadre, reaches the prescribed percentages of reservation. Thereafter, the rosters cannot operate and vacancies released by retirement, resignation, promotion etc. of the persons belonging to the general and the reserved categories are to be filled by appointment of persons from the respective category so that the prescribed percentage of reservation is maintained.

2. The Court also held that persons belonging to the reserved categories, who are appointed on the basis of merit -- and not on account of reservation -- are not to be counted towards the quota meant for reservation.]

3. With a view to bringing the policy of reservation in line with the law laid down by the Supreme Court, it has been decided that the existing 200-point, 40-point and 120-point vacancy-based rosters shall be replaced by post-based rosters. All Ministries/Departments and concerned Authorities are requested to prepare the respective rosters based on the principles elaborated in the Explanatory Notes given in Annexure-I to this O.M. and illustrated in the Model Rosters annexed to this O.M. as Annexure-II, III and IV. Similarly, the concerned authorities may prepare rosters to replace the existing 100-point rosters in respect of local recruitment to Group C & D posts on the basis of the same principles.

4. The principles for preparing the rosters elaborated upon in the Explanatory Notes are briefly recapitulated below:

- a) [Since reservation for OBCs does not apply in promotions, there shall be separate rosters for direct recruitment and for promotions;]
- b) [The number of points 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;]
- c) [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 posts, where the recruitment rules prescribe 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;]
- d) [Since reservation does not apply to transfer on deputation/transfer, where the recruitment rules prescribe a percentage of posts to be filled by this method, such posts shall be excluded while preparing the rosters;]
- e) [In small cadres of upto 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/Departments may consider grouping of posts in different cadres as prescribed in this Department's O.M. No. 42/21/49-NCS dated 28.1.1952 and subsequent orders reproduced at pages 70 to 74 of the Brochure on Reservation for Scheduled Castes & Scheduled Tribes (Eighth Edition) and prepare common rosters for such groups. In the event it is not possible to resort to such grouping, the enclosed rosters (Appendices to Annexures-I, III & IV) for cadre strength upto 13 posts may be followed. The principles of operating these rosters are explained in the explanatory notes.]

5. [At the stage of initial operation of a roster, it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses/shortages, if any, in the respective categories in the cadre.) This may be done starting from the earliest appointment and making an appropriate remark- "utilised by SC/ST/OBC/Gen.", as the case may be, against each point in the rosters as

explained in the explanatory notes appended to the model rosters. (In making these adjustments, appointments of candidates belonging to SCs/STs/OBCs which were made on merit (and not due to reservation) are not to be counted towards reservation so far as direct recruitment is concerned.) In other words, they are to be treated as general category appointments.)

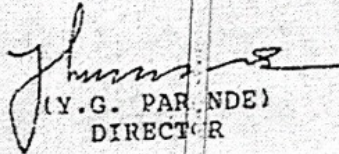
6. (Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.)

7. All Ministries/Departments are requested to initiate immediate action to prepare rosters and operate them according to these guidelines.

8. The existing orders on the subject are deemed to have been amended to the extent herein.

9. These orders shall take effect from the date of their issue. However, where selections have already been finalised they need not be disturbed and the necessary adjustments in such cases may be made in future. In other cases, recruitment may be withheld till the revised rosters are brought into operation and recruitment effected in accordance with these instructions.

(Hindi Version will follow).


(Y.G. PARANDE)
DIRECTOR

1. All Ministries/Departments of the Government of India.
2. Union Public Service Commission, Dholpur House, New Delhi.
3. Staff Selection Commission, C.G.O. Complex, Lodi Road, New Delhi.
4. Department of Economic Affairs (Banking Division), New Delhi.
5. Department of Economic Affairs (Insurance Division), New Delhi.
6. Department of Public Enterprises, New Delhi.
7. National Commission for SC & ST, Lok Nayak Bhavan, New Delhi.
8. National Commission for Backward Classes, Trikoat-I, Bhikaji-cama-place, P.K. Puram, New Delhi.
9. Ministry of Welfare, Shastri Bhavan, New Delhi.