

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-NGS 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-II, 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.

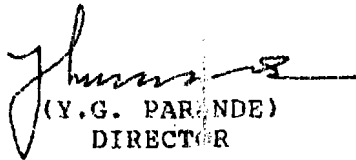
6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

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, Trikot-I, Bhikaji-cama-place, F.K. Puram, New Delhi.
9. Ministry of Welfare, Shastri Bhavan, New Delhi.

EXPLANATORY NOTES:-

Principles for making & operating post based rosters.

1. As hitherto, these rosters are only an aid to determine the entitlement of different categories with regard to the quota reserved for them. They are not to determine seniority.
2. The model rosters have been drawn up keeping in mind two fundamental principles - the reservation for the entitled categories is to be kept within the prescribed percentage of reservation and the total reservation should in no case exceed 50% of the cadre.
3. There should be separate rosters for direct recruitment and for promotions where reservation in promotion applies.
4. The number of points in each roster shall be equal to the number of posts in a cadre.
5. While cadre is generally to be construed as the number of posts in a particular grade, for the purpose of preparation of roster, it shall comprise posts required to be filled by a particular mode of recruitment in terms of the applicable recruitment rules. To illustrate, in a cadre comprising 200 posts, where the recruitment rules prescribe a ratio of 50:50 for direct recruitment and promotions, the roster for direct recruitment shall have 100 points and that for promotion shall have 100 points - thus making a total of 200.
6. As indicated in the model roster, the method for making a roster is to multiply each post by the prescribed percentages of reservation for the different reserved categories. The point at which the multiple for a community obtains a complete number or oversteps the number is to be reserved for that community - while taking care to evenly space out the different reserved categories. Thus, at point no. 15, in the roster at Annexure-II both OBC and SC get entitled. However, since earlier reserved point has gone to OBC, point no. 15 has been reserved for SC and point no. 16 for OBC.
7. Since reservation does not apply to transfer/transfer on deputation, where rules prescribe a percentage of posts to be filled by this method, the corresponding proportion of posts should be excluded while drawing up the rosters.
8. It would be noted that at the end of the roster, "squeezing" has been done for the reserved categories to reach the number of posts to be reserved for them without violating the 50% limit

laid down by the Courts. While drawing up rosters, the cadre controlling authorities should similarly "squeeze" the last points of the roster. Such squeezing may not, however, be done where it would violate the rule of 50%.

9. Whenever there is any increase or decrease in the cadre strength, the roster shall be correspondingly expanded or contracted. The same will also apply whenever there is a change in recruitment rules which affects the proportion of posts to be filled by a particular mode of recruitment.

10. The roster is to be operated on the principle of replacement and not as a "running account" as hitherto. In other words, the points at which reservation for different categories applies are fixed as per the roster and vacancies caused by retirement etc. of persons occupying those points shall be filled by appointment of persons of the respective categories.

11. While operating the roster, persons belonging to communities for whom reservation has been made, but who are appointed on merit and not owing to reservation, should not be shown against reserved points. They will occupy the unreserved points.

12. In the case of small cadres (upto 15 posts), all the posts shall be earmarked on the same pattern as in the model post based rosters. Initial recruitment against these posts shall be by the category for which the post is earmarked. Replacement of incumbents of posts shall be by rotation as shown horizontally against the cadre strength as applicable. While operating the relevant roster, care will have to be taken to ensure that on no occasion the percentage of reserved category candidates exceed 50%. If such a situation occurs at any time, the relevant reserved point occurring as a result of rotation will be skipped.

INITIAL OPERATION:-

1. At the point of initial operation of the roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in a cadre vis-a-vis the points earmarked for each category viz. SC/ST/OBC and General in the roster. This may be done by plotting the appointments made against each point in the roster starting with the earliest appointee. Thus if the earlier appointee in the cadre happens to be a candidate belonging to the Scheduled Caste, against point No. 1 of the roster, the remark "utilised by SC" shall be entered. If the next appointee is a general category candidate, the remark "utilised by general category" shall be made against point No. 2:

and so on and so forth till all appointments are adjusted in the respective rosters. In making these adjustments, SC/ST/OBC candidates on merit, in direct recruitment, shall be treated as general category candidates.

2. After completing the adjustment as indicated above, a tally should be made to determine the actual percentages of representation of appointees belonging to the different categories in the cadre. If there is an excess representation of any of the reserved categories, or if the total representation of the reserved categories exceeds 50%, it shall be adjusted in the future recruitment. Vacancies arising from retirement etc. of candidates belonging to such categories shall be filled by appointment of candidates belonging to the categories to which the relevant roster points, against which the excesses occur, belong.

3. Since recruitment is generally vacancy based, it may happen that the actual number of promotees and direct recruits in the cadre does not correspond to the number of posts earmarked in the respective reservation roster. For the purpose of calculations of representation of reserved category in a cadre, total of promotees and direct recruits may be taken. Rectification of the representation as per prescribed percentage by the prescribed mode of recruitment at the earliest possible should however be the goal.

OBJECTIVE:- REPRESENTATION OF EACH OF THE RESERVED CATEGORY SHOULD AT NO POINT OF TIME EXCEED THE RESERVATION PRESCRIBED FOR IT.

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MODEL ROSTER OF RESERVATION WITH REFERENCE TO POSTS FOR DIRECT RECRUITMENT ON ALL INDIA BASIS BY OPEN COMPETITION

Sl. No. of post	Share of entitlement			category for which the post should be earmarked.
	SC @15%	ST @7.5%	OBC @27%	
1.	0.15	0.075	0.27	UR
2.	0.30	0.15	0.54	UR
3.	0.45	0.225	0.81	UR
4.	0.6	0.3	1.08	OBC-1
5.	0.75	0.375	1.35	UR
6.	0.90	0.45	1.62	UR
7.	1.05	0.525	1.89	SC-1
8.	1.2	0.6	2.16	OBC-2
9.	1.35	0.675	2.43	UR
10.	1.5	0.75	2.7	UR
11.	1.65	0.825	2.97	UR
12.	1.8	0.9	3.24	OBC-3
13.	1.95	0.975	3.51	UR
14.	2.1	1.05	3.78	ST-1
15.	2.25	1.125	4.05	SC-2
16.	2.40	1.2	4.32	OBC-4
17.	2.55	1.275	4.59	UR
18.	2.70	1.35	4.86	UR
19.	2.85	1.425	5.13	OBC-5
20.	3.00	1.5	5.4	SC-3
21.	3.15	1.575	5.67	UR
22.	3.30	1.65	5.94	UR
23.	3.45	1.725	6.21	OBC-6
24.	3.60	1.8	6.48	UR
25.	3.75	1.875	6.75	UR