

Information Sought :-

- (1) Date of receipt of Jaipur Zone's letter F. No. II-26(10) CCU/JZ/2007/1323 dated 10th October 2018 in Board's office.
- (2) Copies of note sheets and correspondence relating to processing, dealing, examination, decision by the Board in respect of letter F. No. II-26(10) CCU/JZ/2007/1323 dated 10th October 2018 of Jaipur Zone.
- (3) Copies of reminders /letter/emails sent by the office of Chief Commissioner (Jaipur Zone) Jaipur to Board's office in connection with letter F. No. II-26(10) CCU/JZ/2007/1323 dated 10th October 2018.
- (4) Copies of reminders /letter/emails received in Board's office in connection with Letter F. No. II-26(10) CCU/JZ/2007/1323 dated 10th October 2018 of the office of Chief Commissioner (Jaipur Zone) Jaipur.
- (5) Copies of note sheet, correspondence, letters, email, reminders, decision with reference to letter F. No. II-26(10) CCU/JZ/2007/1323 dated 10th October 2018 of the office of Chief Commissioner (Jaipur Zone) Jaipur by the Jaipur Zone.

Information Provided:-

“The above RTI application has been transferred to CGST & Central Excise (Jaipur Zone), Jaipur under section 6(3) of RTI Act, 2005 for Point No. 3 and 5 only. The reply of Point No. 3 and 5 is as under :-

Point No. 3:- A copy of this office letter F.No. GCCO/II/26/1/2025-ADMN-O/o CC-CGST-ZONE-JAIPUR dated 23.09.2025 alongwith its enclosures, is enclosed.

Point No. 5:- Copies of the Notesheet, E-mail with reference to letter F.No. II-26(10)CCU/JZ/2007/1323 dated 10.10.2018, are enclosed.”

Clarification regarding DoPT's O.M. No. 22011/2/2014- Estt.D dated 30.01.2015.

CCU CGST JAIPUR <ccu-cgst.jpr@gov.in>

Tue, 23 Sep 2025 1:18:15 PM +0530

To "M. Himabindu" <jsadm-cbec@nic.in>

Madam,

Please find attached herewith letter on the above subject.

With regards,
CCU, CGST Jaipur Zone, Jaipur

8 Attachment(s)

Letter dated 10.10.2018 - Boar...
11.6 MB

Letter dated 23.09.2025.pdf
198 KB

Representation 22.01.2025 Sh...
1.9 MB

Representation 22.01.2025 Sh...
2.3 MB

Representation dated 06.02.20...
1.4 MB

Representation dated 21.08.20...
1.5 MB

Representtation dated 06.02.2...
3.2 MB

Representation dated 22.08.20...
19.4 MB

Kindly peruse letter F. No. II-39(03)Estt./JPR/Misc./2017/1007 dated 13.06.2018 received from the Joint Commissioner (P&V), CGST & CX Commissionerate, Jaipur vide which a representation dated 28.05.2018 addressed to the Chairman, CBIC, New Delhi, submitted by Shri Prabhu Dayal Beniwal, Inspector regarding applying correct zone of consideration in respect of original and review DPC held for the post of regular Superintendent for the vacancy year 2012-13 in the Jaipur Zone has been forwarded to this office.

Vide above said representation, Shri Prabhu Dayal Beniwal, Inspector has stated that the original DPC and review DPC for the year 2012-13 held on 27.02.2012 and 01.08.2012 respectively are against the DOPT's circular No. 22011/2/2002-Estt(D) dated 06.01.2006 (P-91/c) read with O.M. No. 22011/2/2014-Estt.D dated 30.01.2015 (P-89/c), Shri Beniwal has stated that in the said OM dated 30.01.2015, it is clarified that the extended zone of consideration for reserved candidates is 5 times of actual number of vacancies and the OM No. 22011/2/2014-Estt./D dated 30.01.2015 is a clarification of OM No. 22011/2/2002-Estt(D) dated 06.01.2006 and the clarification of any notification / circular/ OM etc. is effected from the date of original notification /circular/OM etc. The points raised by Shri Beniwal in his representation are submitted as under:

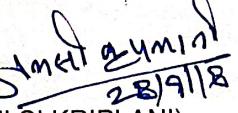
1. Vacancies are not calculated properly for the promotion of Superintendent Group "B".
2. Vacancy of long term deputation/VRS/Adhoc/vacancy kept for adjustment of deputationist was not clubbed in the panel year 2012-13.
3. Extended zone of consideration is not prepared in terms of DOPT's OM 22011/2/2014-Estt./D dated 30.01.2015.

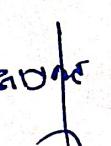
In this context, it is submitted that earlier Shri Prabhu Dayal Beniwal, Inspector has submitted a representation dated 03.05.2017 (P-173-176/c) addressed to the Chief Commissioner, CGST & CX, JZ, Jaipur and the same was disposed of vide this office letter dated 11.07.2017 (P-179/c) after carefully considering the submission made by Shri Beniwal. Note sheet pages I to VI of the file may please also be perused in this regard. Further, it is submitted that the present representation dated 28.05.2018 of Shri Beniwal is also on the same line.

In view of above, if approved, representation dated 28.05.2018 of Shri Beniwal, Inspector may be forwarded to the Board along with comments of this office as per NS I to VI of the file.

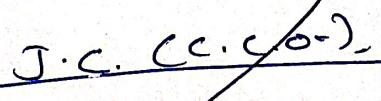
Accordingly, draft letter addressed to the Special Secretary & Member (Admn.), CBIC, New Delhi is submitted for perusal and approval please.


27/9/16
(RAMSNEHI JAT)
INSP. (CCU)

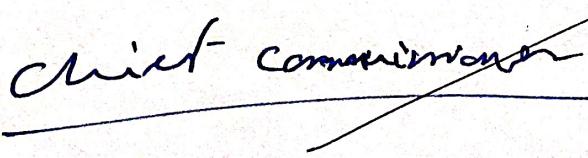

28/9/18
(TULSI KRIPLANI)
SUPDT. (CCU)

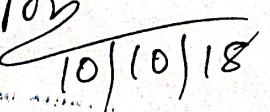

28/9/18
रामस्नेही जात
सुप्लियर डिपार्टमेंट

पी. पी. शर्मा
राहायक आयुक्त


J.C. (CCU)

10.10.18


Chief Commissioner


10/10/18
अर्चना पी. तिवारी
मुख्य आयुक्त

28/9/18
28/9/18



कार्यालय मुख्य आयुक्त
Office of the Chief Commissioner
सीजीएसटी एवं केन्द्रीय उत्पाद शुल्क (जयपुर परिक्षेत्र), जयपुर
CGST & Central Excise (Jaipur Zone), Jaipur

To,

The Joint Secretary (Admn.),
Central Board of Indirect Taxes and Customs,
Ministry of Finance, Department of Revenue,
New Delhi.

Madam,

Sub: Clarification regarding DoPT's O.M. No. 22011/2/2014- Estd.D dated 30.01.2015.

Please find enclosed herewith representations dated 22nd January 2025, 6th February 2025 & 21st / 22nd August 2025 received from Shri Sunil Kumar Verma and Shri D.S. Chetiwal both Superintendent, CGST & CEx, Jaipur Zone.

2. The two officers belong to the SC category and have represented that although they were promoted on 1st April 2014 (for the vacancy year 2014-2015), that they should have been considered for promotion to the grade of Superintendent in the vacancy year 2012-2013. They have requested for review DPC for grant of promotion to them in the vacancy year 2012-2013.

3. They submit that as per DoPT O.M. No. 22011/2/2014-Estd. (D) dated 30th January 2015, the procedure for conduct of supplementary DPC and for calculation of zone of consideration including extended zone of consideration has been prescribed. They submit that for the vacancy year 2012-2013, if the vacancies had been calculated correctly, they would have been considered for promotion in that year.

4. It is submitted that a similar representation from Shri P.D. Beniwal had been forwarded to the Board vide this zone letter F.No. II-26(10) CCU/JZ/2007/1323 dated 10th October 2018 (copy enclosed) but no response thereto was received. Since Shri Beniwal was removed from service vide Order F. No. II-39(06)/Vig./JPR-II/14/Pt. dated 30th September 2019, his issue no longer remained relevant, and was not pursued by this zone.

5. The plea of the officers is that the aforesaid O.M. dated 30th January 2015 of DoPT is retrospective in nature. Since the same is a policy issue involving

interpretation of a DoPT OM, the matter is referred to the Board for a decision in this matter.

6. This issues with the approval of the Chief Commissioner, CGST & C.Ex, Jaipur Zone, Jaipur.

Yours sincerely,

Digitally signed by
Mahabir Singh Meena
Date: 23-09-2025
(Mahabir Singh Meena)
11:00:45
Additional Commissioner (CCU)

Encl. : As above



मुख्य आयुक्त कार्यालय

OFFICE OF THE CHIEF COMMISSIONER
केंद्रीय वस्तु एवं सेवा कर व उत्पाद शुल्क (जयपुर जौन), जयपुर
CGST & CENTRAL EXCISE (JAIPUR ZONE), JAIPUR
(कैंडर कन्ट्रोल यूनिट)

फा.सं. II-26(10)सीसीयू/जेजेड/2017/1323

दिनांक:- 10.10.2018

To,

The Joint Secretary (Admn),
Central Board of Indirect Taxes and Customs,
Ministry of Finance, Department of Revenue,
North Block, New Delhi- 110001.

Sir,

Subject:- Forwarding of request of Shri Prabhu Dayal Beniwal, Inspector for applying correct zone of consideration in respect of Original and review DPC held for the post of regular Superintendent for the vacancy Year 2012-13 in the CGST & Central Excise, Jaipur Zone, Jaipur - reg.

Kindly find enclosed herewith a representation dated 28.05.2018 of Shri Prabhu Dayal Beniwal, Inspector, CGST & Central Excise, Jaipur Zone, Jaipur addressed to the Chairman, CBIC, New Delhi, requesting there under for applying correct zone of consideration in respect of Original and review DPC held for the post of Superintendent of Central Excise, Group "B" for the vacancy year 2012-13 in the CGST & Central Excise, Jaipur Zone, Jaipur and review the original DPC as well as review DPC for the vacancy year 2012-13 held on 27.02.2012 and 01.08.2012. Shri Beniwal, Inspector has submitted his representation for consideration please.

Shri Beniwal, Inspector vide his representation dated 28.05.2018 has referred his earlier representation dated 03.05.2017 (**Annexure- A-3**) and has requested to review the DPC for the year 2012-13 held on 27.02.2012 and 01.08.2012 as the same is against the DOPT's Circular No. 22011/2/2002-Estt(D) dated 06.01.2006 read with O.M. No. 22011/2/2014-Estt.(D) dated 30.01.2015. Shri Beniwal has stated that in the said OM dated 30.01.2015, it is clarified that the extended zone of consideration for reserved candidates is 5 times of actual number of vacancies. The OM 22011/2/2014-Estt.(D) dated 30.01.2015 is a clarification of OM No. 22011/2/2002-Estt(D) dated 06.01.2006 and the clarification of any Notification/Circular/OM etc. is effected from the date of original Notification/Circular/OM etc. Shri Beniwal has raised several issues in his representation and the legal provisioning in respect to the issues raised by Shri Beniwal is submitted as under:

1. Vacancies are not calculated properly for the promotion of Superintendent, Group "B". He has provided a chart (Annex-A) of vacancies arised due to different reasons in support of his claim.
2. Vacancies of long term deputation/VRS/Adhoc/vacancy kept for adjustment of deputationist was not clubbed in the panel year 2012-13.
3. Extended zone of consideration is not prepared in terms of DOPT's OM No. 22011/2/2014-Estt.D dated 30.01.2015.

It is submitted that earlier Shri Beniwal, Inspector along with 4 other SC category officers submitted their representations in the month of June, 2012 requesting therein that the DPC held on 27.02.2012 for regular promotion to the post of Superintendent Group "B" may be reviewed by counting the 25 regular vacancies instead of 21

354
SPEED POST

vacancies for panel /vacancy year 2012-13. The representations filed by these officers were carefully examined and the same were not found proper by the worthy Chief Commissioner, Central Excise (JZ), Jaipur. Accordingly, the representations of aforesaid officers were disposed of vide this office letter C.No. II-3(1)CCU/JPR/2007/1125 to 1129 dated 20.07.2012 (Annexure- Res-A).

The Ministry vide letters F.No. A-32012/8/2008- Ad.IIB dated 22.07.2011 and 15.02.2012 stated that DPCs for promotion to the grade of Superintendent, Group 'B' and other Group 'B' posts may be held in terms of DOPT's O.M. No. 22011/9/98-Estt. (D) dated 08.09.1998. In terms of DOPT's aforesaid O.M. dated 08.09.1998 read with Ministry's letter F.No. A-32012/1/89-Ad.IIB dated 29.03.1989; the vacancies in all the cadres including Superintendent **are calculated financial year wise i.e. 1st April to 31st March as ACRs are written financial year wise.**

As per Para 4.1 of DPC guidelines read with DOPT's O.M. No. 22034/1/2006-Estt.(D) dated 15.05.2007 forwarded by the Ministry vide letter F.No. 12/43/2007-Coord. dated 13.06.2007 regarding determination of regular vacancies, it is essential that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, the vacancies to be taken into account should be the clear vacancies arising in a post/grade/service due to death, retirement, resignation, regular long term promotion and deputation or from creation of additional posts on a long terms basis. As regards vacancies arising out of deputation, only those cases of deputation for periods exceeding one year should be taken into account, due note, however, being kept also of the number of the deputationists likely to return to the cadre and who have to be provided for. Purely short-term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training, etc. should not be taken into account for the purpose of preparation of a panel. In case, where there has been delay in holding DPCs for a year or more, vacancies should be indicated year wise separately. **Accordingly, the vacancies which had arised between 1st April, 2011 to 31st March, 2012 were calculated for the vacancy year/ panel year 2011-12 and vacancies which had arised during the period from 1st April, 2012 to 31st March, 2013 were calculated for the vacancy year/panel period 2012-13 and the vacancies for deputationist who were likely to be return during the vacancy year 2011-12 & 2012-13 were kept vacant. The correct and accurate vacancy position was kept before the DPC for promotion.**

In terms of Ministry/DOPT's instructions as discussed above, only **21** regular vacancies arising during the period from "**01.04.2012 to 31.03.2013**", which were clear vacancies for the panel/vacancy year 2012-2013, were counted and a DPC was held on **27.02.2012** for preparation of an advance panel for regular promotion to the grade of Superintendent, Group 'B' for filling up the said clear 21 regular vacancies for the panel/vacancy year 2012-2013. Out of these 21 regular vacancies, 13 vacancies were unreserved and 8 vacancies were reserved for the SC category candidates. **The contention of Shri Beniwal, Inspector of 29 regular vacancies in the grade of Superintendent Group "B" for panel year 2012-13 is not correct as the vacancies shown at S. No. E, G & H in his Chart (Annexure-A) pertains to the vacancy year 2011-12 and vacancy shown at S. No. F (in respect of Shri S.N. Sethi) does not exist for vacancy year 2011-12 and 2012-13. The vacancies were counted strictly in terms of the Ministry/DOPT's instructions on the same.** A chart analyzing the vacancy position and DPC held is prepared and is submitted as (Annexure- Res-B).

As per the instructions contained in the DOPT's O.M. No.22011/2/2002-Estt(D) dated 06.01.2006 regarding size of zone of consideration for promotion by 'Selection' method', the normal zone of consideration for filling up 21 regular vacancies is 35. Accordingly, a consideration list of 35 eligible Inspectors has been prepared. Three SC category Inspectors were available in the prescribed extended zone of consideration (i.e. 21 vacancies X 5 = 105). S/Shri Mohan Das (SC) and P.N. Parewa (SC) who were within the extended zone of consideration, were selected for regular promotion to the grade of Superintendent Group 'B' and the findings in respect of Shri Rakesh Kumar (SC), Inspector, was kept in the sealed cover by the said DPC held on 27.02.2012.

Since, adequate number of SC category Inspectors were not available in the normal zone as well as extended zone (5 X21 vacancies = 105) of consideration for regular promotion to the grade of Superintendent (Central Excise), Group "B" for filling up 8 regular vacancies reserved for the SC category, therefore, the remaining 6 regular vacancies (8 vacancies- 2 selected = 6) reserved for the SC category in the grade of Superintendent were kept vacant in terms of the DOPT's O.M. F.No. 89011/7/90-Estt.B dated 08.02.1991 and CBEC's letter F.No. A-14011/3/92-Ad.II.A dated 18.05.1993 as discussed in the Self Contained Note. Since, the name of Shri P.D. Beniwal, Inspector was falling at S.No. 118, i.e. beyond the said extended zone of consideration (S. No. 105), he was not considered for regular promotion to the grade of Superintendent, Group 'B' against the remaining 6 regular vacancies reserved for the SC category candidates by the said DPC held on 27.02.2012 for the panel/vacancy year 2012-2013.

As per para 6.4.2 (i) of DPC guidelines, where a DPC has already been held in a year, further vacancies due to death, voluntary retirement, new creations, etc. clearly belonging to the category which could not be foreseen at the time of placing facts and material before the DPC, **another meeting of the DPC should be held** for drawing up a panel for these vacancies as these vacancies could not be anticipated at the time of holding the earlier DPC. If, for any reasons, the DPC cannot meet for the second time, the procedure for drawing up of year wise panels may be followed when it meets next for preparing panels in respect of vacancies that arise in subsequent year(s).

In terms of said Para 6.4.2 (i) of DPC guidelines, four regular vacancies (two vacancies which arose due to relieving of S/Shri O.P. Saharan and Vivek Srivastava, Superintendents on deputation on 30.03.2012, one vacancy due to VRS of Shri M.D. Hirani w.e.f. 03.01.2012 and one vacancy which was kept vacant for Shri R.C. Dhakar, Supdt. as he was due for repatriation on 01.01.2012 from deputation arise due to extension of deputation period of Shri R.C. Dhakar, Supdt. upto 30.06.2012 i.e. in the panel year 2011-2012) which could not be foreseen at the time of holding the DPC dated 27.06.2011 for regular promotion to the grade of Superintendent, Group 'B' for the panel/vacancy year 2011-2012 (01.04.2011 to 31.03.2012) and could not be clubbed in the regular vacancies of the panel/vacancy year 2012-2013 (01.04.2012 to 31.03.2013). Accordingly, another DPC for filling up 12 regular vacancies (4 UR which were unforeseen at the time of DPC dated 27.06.2011 + 8 SC existing vacancies) of vacancy year 2011-12 in the Superintendent Group "B" was held on 01.08.2012. The DPC selected the UR category Inspectors against the 4 UR regular vacancies, no SC category Inspector was available in the normal zone as well as extended zone (5 X12 vacancies = 60) of consideration for regular promotion to the grade of Superintendent (Central Excise), Group "B" for filling up 8 regular vacancies reserved for the SC category, therefore, the 8 regular vacancies reserved for the SC category in the grade of Superintendent were kept vacant in terms of the DOPT's O.M. F.No. 89011/7/90-Estt.B dated 08.02.1991 and CBEC's letter F.No. A-14011/3/92-Ad.II.A dated 18.05.1993 as discussed in the Self Contained Note.

Some unforeseen vacancies arose during the vacancy year 2012-13 as the same could not be taken into account at the time of holding the regular DPC dated 27.02.2012 for preparing an advance panel for the vacancy year 2012-13, therefore, an another DPC for filling up of 12 (6 UR + 6 SC) unforeseen regular vacancies in the grade of Superintendent Group "B" was held on 01.08.2012 In terms of para 6.4.2 (i) of DPC guidelines. No SC category inspector was available in the normal as well as extended zone of consideration (i.e. 5 X 12) vacancies = 60) for regular promotion to the grade of Superintendent Group "B" for filling up 6 regular vacancies reserved for the SC category, therefore, these 6 regular vacancies reserved for SC category in the grade of Superintendent were kept vacant in terms of the DOPT's OM F.No. 89011/7/90-Estt.B dated 08.02.1991 and CBEC letter F.No. A-14011/3/92-Ad.III.A dated 18.05.1993. Since, Shri Beniwal, Inspector was falling at S.No. 104 i.e. beyond the said extended zone of consideration, therefore, he was not considered for regular promotion to the grade of Superintendent, Group 'B' by the DPC held on 01.08.2012. The reasons cited by Shri Beniwal, inspector in his representation are not valid for the purpose of reviewing the DPC held on 01.08.2012.

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The DOPT, New Delhi vide its O.M. No. 22011/2/2014-Estt.D dated 30.01.2015 has issued procedure for conduct of Supplementary DPC and has decided that the zone of consideration in case of holding supplementary DPC, shall be fixed as per the provisions in this Department OM NO. 22011/2/2002-Estt(D) dated 06.01.2006 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year. The DOPT, New Delhi's aforesaid instructions dated 30.01.2015 issued in respect of procedure for conduct of supplementary DPC are applicable from the date of issuance of the same and hence are not applicable for the DPC/ Review DPC held on 01.08.2012 for the vacancy year 2012-13.

The regular promotions in the grade of Superintendent are made by the selection method as per the Recruitment Rules. Whereas, the adhoc promotions are made by the seniority cum fitness basis (Non- Selection method) in terms of DOPT's O.M. Nos. 36011/14/83-Estt. (SCT) dated 30.04.1983 (Annexure-R/3), 28036/8/1987-Estt.(D) dated 30.03.1988 (Annexure-R/4) and 36012/27/2000-Estt.(Res.) dated 15.03.2002 (Annexure- Res-E). As per these O.Ms, there is no any restriction in the zone of consideration for filling up the vacancies reserved for the SC/ST categories for adhoc promotions on the basis of seniority-cum-fitness (Non-Selection method) even in the selection posts. Therefore, the selection process for regular promotion and Adhoc promotions are two separate methods and both of them can not be clubed. Therefore, contention of Shri P.D. Beniwal, Inspector to add the adhoc vacancies with regular vacancies in the grade of Superintendent Group "B" is against the instructions of the DOPT/ Ministry.

There were 5 cost recovery posts of Superintendent, Group 'B' sanctioned for Inland Container Depots (ICDs) situated in the Rajasthan. The existence of the cost recovery posts depend upon the deposition of cost by the Custodians of ICDs. The cost recovery of posts sanctioned for the ICDs (including posts of Superintendent Group 'B') was required to be paid by the custodians of ICDs but the custodians stopped the payment of the cost of posts, therefore, the cost recovery posts (including 5 posts of Superintendent) were reduced/deducted on 24.11.2011 in view of para 1(ii) of the Ministry's letter F.No. A-11018/7/90-Ad.IV dated 02.05.1990 readwith Ministry's letter F.No. 11018/23/2002-Ad.IV dated 23.03.2005 and Customs Office, Jaipur's letters dated 01.09.2011 and 19.10.2011. Since, the cost recovery posts of Superintendent Group "B" sanctioned were not in the existence during the vacancy year 2011-12 and 2012-13, therefore, the same were not considered for adhoc promotion.

In view of the above, the reasons cited by Shri Prabhu Dayal Beniwal, Inspector in his representations dated 28.05.2018 and 03.05.2017 appears to be not valid for the purpose of reviewing the original DPC and Review DPC conducted on 27.02.2012 and 01.08.2012 respectively. Shri Beniwal, Inspector thorough his controlling office i.e. CGST & Central Excise Commissionerate, Jaipur was informed vide this office letter dated 11.07.2017 (Annexure- A-2) that after carefully examination, his representation dated 03.05.2017 is not considered and the same is disposed of accordingly.

This issues with the approval of the Chief Commissioner, CGST & Central Excise, Jaipur Zone, Jaipur.

Yours faithfully,

Encl.: as Above

DK


(Vikas Kumar Jeph)
Joint Commissioner (CCU)

To,

The Chairman,
Central Board of Excise and Customs,
(Central Board of Indirect Taxes and Customs)
North Block, New Delhi.

THROUGH PROPER CHANNEL

Respected Madam,

Subject: - Request for applying correct zone of consideration in respect
Original and review DPC held for the post of regular
Superintendent for the Vacancy year 2012-13 in the Jaipur
Zone -reg.

I seek your permission and beg to submit that being aggrieved from the decision of Chief Commissioner, Central Goods and Services Tax (Jaipur Zone) Jaipur issued vide his letter C. No. II-26(10) CCU/JZ/2017/915 dated 11.07.2017 (copy enclosed as Annexure -A-1) and subsequently informed to me vide a letter C. No. I-26(01)Estt/JPR/PDB/2017/2425 dated 21.08.2017 (copy enclosed as Annexure-A-2) issued by the Deputy Commissioner, Office of the Principal Commissioner, Central Goods and Services Tax & Central Excise, Jaipur on the above subject.

2. A detailed representation was submitted by me on 03.05.2017 (copy enclosed as Annexure-A-3) before the Chief Commissioner, Central Excise (Jaipur Zone) Jaipur requesting therein to extend due benefit to the candidate of a reserved category by extending zones of five time of vacancies for the DPC conducted for the year, 2012-13 and the Chief Commissioner, Jaipur disposed of the said representation without considering my grievances as a category of scheduled caste employee and subsequently informed to me that all the DPCs/review DPC for the year 2012-13, as referred by P. D. Beniwal in his representation dated 03.05.2017 have been held in terms of rules and regulations applicable at the material time.

3. I like to raise this issue for your kind consideration as to how benefit of a scheduled caste candidate had been taken away by manipulation zone of consideration for the original DPC and how I was deprived of from the advantage of DOPT Circular issued under OM No. 22011/2/2002- Estt (D) dated

6.1.2006 (copy enclosed as Annexure-A-4) and which has further been clarified under DOPT's OM No. 22011/2/2014-Estt.D dated 30.01.2015(copy enclosed as Annexure-A-5) , at the time of counting of vacancies for the purpose of preparing zone of consideration for the original DPC held on 27.02.2012 and review DPC held on 01.08.2012 (copy of self contained Note of DPC held on 27.02.2012 enclosed as Annexure-A-6 and self contained Note & Minutes of review DPC held on 01.08.2012 enclosed as Annexure A-7) for the year 2012-13 for promotion to the post of Superintendent was not considered and DOPT's norms were not looked into properly for computation of vacancy norms. Hence, it is represented before you.

4. I beg to submit that I joined the department as direct recruit inspector on 08.02.1993. I was considered for promotion on ad-hoc basis as Superintendent under Chief Commissioner, Jaipur order No. 04/2012 dated 05.01.2012 C.No. II-3(13)CCU/JPR/2008/1827 dated 05.01.2012 (copy enclosed as Annexure-A-8).

5. I was placed at Sr. No.144 in the seniority list (as on 31.12.2010) of the Inspectors, Group-B (non-gazetted), Customs & Central Excise, Jaipur (copy enclosed as Annexure-A-9) whereas I had been placed at seniority S. No. 122 as on 01.04.2012 at the time of preparing of panel for the DPC for the year 2012-13. I also submitted that at the time of review DPC conducted on 01.08.2012, I was placed at seniority S. No. 107.

6. Since I am representing a category of scheduled caste candidate. As per policy to consider the reserved category candidate, it is applicable to extended zone five times of the available vacancies. But the practice followed in DPC's for the year 2012-13 were quite in-appropriate and due benefit of reserved category candidate was not extended to me in the DPC conducted on 27.02.2012 for the panel prepared for the year 2012-13. It can be seen that some of the inspectors/Adhoc- Superintendent were considered for regularisation in the grade of Superintendent vide Establishment Order No.58/2012 dated 02.04.2012 issued by the Addl. Commissioner (CCO) JZ, Jaipur(copy enclosed as Annexure-A-10) but the applicant was not regularised in the DPC for the panel year 2012-13. The applicant's name was ignored and not considered for regularization in DPC for the panel year 2012-13. The DOPT's norms were not looked into properly for computation of vacancy norms.

7. In this regard it is submitted that at the time for conducting DPC for the year 2012-13 total 29 regular vacancies were available in the grade of

superintendent and extended consideration zone were available upto seniority at S. No. $29 \times 5 = 145$. It is also submitted that the applicant was at S. No 122 in the seniority list. Hence, the applicant was very much eligible in promotion criterion as regular Superintendent in the DPC for the panel year 2012-13 which was held on 27.02.2012 but they have taken only 21 vacancies in the grade of superintendent to restrict the extended consideration zone upto seniority at S. No. $21 \times 5 = 105$ on 27.02.2012. They deliberately not clubbed/include the vacancy of long term deputation/VRS/Ad-hoc Superintendent etc and kept the same unfilled in the panel year 2012-13 and subsequently filled the remaining post by way of review DPCs resulted which the size of consideration zone became small to detain my benefit and my name was not considered for regular promotion for Superintendent, which is against the reserved category candidate. This aspect needs to be considered please.

The details of 29 vacancies are given hereunder for kind perusal:-

S. No.	Nature of Regular Vacancies	No. of Vacancies
A	Carry forward 9 Regular vacancies of SC category. However, these vacancies have been filled up by Ad-hoc promotion from the inspector belonging to the SC category on the basis of non-selection method due to non-availability of SC category candidates for regular promotion in the prescribed extended zone of vacancies i.e. 5 times of vacancies for the selection posts As per record following 9 officers who belong to SC category were working as adhoc Superintendent as on 01.04.2012(All Copies of order are enclosed)but only 8 vacancies were counted for panel year 2012-13.	
1	Sh. Mohan Das was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 150/2008 dated 30.12.2008 issued by the Addl. Commissioner (CCU) Jaipur. (copy enclosed as Annexure-A-11)	1
2	Sh. P. N. Parewa was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 16/2010 dated 24.02.2010 issued by the Addl. Commissioner (CCU) Jaipur. (copy enclosed as Annexure-A-12)	1
3	Sh. Sunil Kumar Verma was promoted as Ad-hoc Superintendent	1

	against a regular post of Superintendent vides Establishment order No. 80/2010 dated 22.10.2010 issued by the Joint Commissioner (CCU) Jaipur. (copy enclosed as Annexure-A-13)	
4	Sh. Prabhakar Morwal was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 14/2011 dated 07.02.2011 issued by the Joint Commissioner (CCU) Jaipur. (copy enclosed as Annexure-A-14)	1
5	Sh.Dharam Singh Chetiwal was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 14/2011 dated 07.02.2011 issued by the Joint Commissioner (CCU) Jaipur. (copy enclosed as Annexure-A-14)	1
6	Sh. Subhash Chandra was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 59/2011 dated 30.06.2011 issued by the Joint Commissioner (CCU) jaipur. (copy enclosed as Annexure-A-15)	1
7	Sh. S. K.Grover was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 131/2011 dated 01.12.2011 issued by the Addl. Commissioner (CCU) Jaipur. (copy enclosed as Annexure-A-16)	1
8	Sh. P. D. Beniwal was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 04/2012 dated 05.01.2012 issued by the Addl. Commissioner (CCU) Jaipur, (copy enclosed as Annexure-A-8)	1
9	Sh Suresh Chandra was promoted as Ad-hoc Superintendent against a regular post of Superintendent vides Establishment order No. 131/2011 dated 01.12.2011 issued by the Addl. Commissioner (CCU) Jaipur. (copy enclosed as Annexure-A-16)	1
B	14 Vacancies available on account of retirement during the vacancy year 2012-2013 (1.04.2012 to 31.03.2013.)	
	As per establishment order no. 39/2010 dated 17.05.2010 issued by the joint Commissioner (CCU), Jaipur, 12 Vacancies available on account of retirement during the period 01.04.2012 to 31.12.2012. (copy enclosed as Annexure-B-1)	
1	1. Sh. R.C.Karnani (Retired on 30.4.2012) S.No. 12	1
2	2. Sh. S.K. Verma (Retired on 30.4.2012) S.No. 11	1
3	3. Sh. S.L. jaiswal (Retired on 30.05.2012) S.No. 15	1

4	4. A.N. Choudhary (Retired on 30.6.2012) S.No. 22	1
5	5. Sh.Prem Raj paliwal (Retired on 30.6.12) S.No. 18	1
6	6. Sh. Darshan Singh (Retired on 31.7.12) S.No. 26	1
7	7. Sh. RC Dhakar (Retired on 31.7.12) S.No. 27	1
8	8. Sh .G.R.Arora (Retired on 31.7.12) S.No. 28	1
9	9. Sh. Aatma Ram Jethwani (Retired on 30.9.12) S.No. 34	1
10	10. Sh. N.K. Bhargava (Retired on 30.10.12) S.No. 36	1
11	11. Sh. SR Khandelwal (retired on 30.11.12) S.No. 38	1
12	12. Sh. M.L. Vijay (retired on 31.12.12) S.No. 39	1
	As per establishment order no. 84/2011 dated 17.08.2011 issued by the Addl. Commissioner (CCU), Jaipur. 2 Vacancies available on account of retirement during the period 01.01.2013 to 31.03.2013. (copy enclosed as Annexure-B-2)	
13	13. Sh. H. R. Gupta (retired on 31.1.13) S. No. 1	1
14	14. Sh. Jabbar Singh Rathore (retired on 31.1.13) S.No. 2	1
C	One vacancy created due to Completion of deputation. As per Establishment order No. 34/2009 dated 22.05.2009 issued under C. No. II-3(13)CCU/JPR/2009/ 1411-1436 by JC (CCU), Jaipur, (copy enclosed as Annexure-C-1). shri Rajesh Kanava, Superintendent is due for repatriation after Completion of deputation period of 3 year from Jaipur Zone to Delhi Zone during year 2012-13 who was relieved vide F.No. II-3(3)Estt./Addl./2012/2178 dated 25.04.2012 by the Deputy Commissioner(Hqrs) Customs, Jodhpur. (copy enclosed as Annexure-C-2)	1
D	One regular vacancy was already kept vacant for adjustment to Deputationist. At the time of holding DPC dated 27.06.2011 for the panel year 2011-2012 one regular post was kept for adjustment to deputationist sh. R. C. Dhakar. Shri R. C. Dhakar, Superintendent was on deputation since 01.02.2006 to CSI Airport, Mumbai and Extension granted upto 12/2009 vide letter C.No. II-13(02) CCO/JZ/ET/2008/Pt./265-66 dated 09.01.2009 issued by the JC, CCO, Jaipur (copy enclosed as Annexure-D-1). Shri R. C. Dhakar, Superintendent was further transferred on deputation basis to Customs Mumbai directly since 01.01.2010 to 31.12.2011 vides office order dated 10.12.2009 issued under C.No. II-3(28) CCO (JZ)ET/2007/9891-95 by the JC, CCO, Jaipur (copy enclosed as	1

	Annexure-D-2). Shri R. C. Dhakar, Superintendent was due for repatriation in the month of January, 2012 from Customs Mumbai to Jaipur Zone but he was granted the extension at customs Mumbai for next six months upto 30.06.2012 by customs Mumbai vide letter No. S/5-327/2011/ P&E (Prev.) dated 19.12.2011 issued by the Additional Commissioner, Customs Mumbai (copy enclosed as Annexure-D-3). At the time of DPC held on 27.02.2012, these facts were concealed by someone and this post was not considered for counting of vacancies in the year 2012-13 deliberately in order to restrict the extended zone of consideration. This vacancy should have been included for computation of vacancies for the purpose of preparing zone of consideration for the panel year 2012-13.	
E	One vacancy created due to VRS of Sh. M.D Hirani Superintendent. The Commissioner, office of the Chief Commissioner, Jaipur was accepted VRS notice of Sh. M. D. Hirani vide Establishment order no. 112/2011 dated 13.10.2011 w.e.f. 03.01.2012 issued under C.No. II-25(1)CCU/JZ/2010/963-994 (copy enclosed as Annexure-E-1). In compliance of this sh. Hirani was relieved vide office order F. No II-25(6) Pension/Estt/div-II/2011/70 dated 03.01.2012 issued by the Assistant Commissioner, Central Excise Division-II, Jaipur. (copy enclosed as Annexure-E-2). This post fell vacated on date 3.01.2012. Despite of, this post not being included in the panel constituted as on 27.02.2012 for the financial year 2012-13. This vacancy should have been counted at the time of preparing zone of consideration for the panel year 2012-13.	1
F	One vacancy already available on account of Ad-hoc promotion. Sh. S. N. Sethi was promoted as purely Ad-hoc Superintendent against a regular post of Superintendent vide order no. 23/2007 dated 22.03.2007 issued by the joint Commissioner, CCU, Jaipur (copy enclosed as Annexure-F-1 and Copy of Minutes of the DPC held on 22.03.2007 for the penal year 2006-07 also enclosed as Annexure-F-3). He was working as Adhoc Superintendent during the vacancy year 2012-13. A copy of a letter F. No. CCO(JZ) RTI/60/2013/7722 dated 14.11.2013 issued by Deputy Commissioner & CPIO for Chief Commissioner's Office, Jaipur received under RTI application (copy enclosed as Annexure-F-2).	1

	Though shri Sethi was working as Adhoc Superintendent, his post should have been counted at the time of preparing zone of consideration for the panel year 2012-13. This principle was followed in DPC held on 10.10.2007 for panel year 2007-08 (Copy of Note Sheet file No. II-39(6) CCU/JPR/2007- Page No. 152-153 enclosed as Annexure-F-4 and Minutes of the DPC held on 10.10.2007 enclosed as Annexure-F-5) but same was not followed in panel year 2012-13. Hence, this vacancy should have been included for counting of vacancies for preparing zone of consideration for the DPC penal year 2012-13.	
G	Two Vacancies created due to long term deputation to the department of Enforcement. Sh. O.P. Saharan and Sh. Vivek Shrivastav were selected for deputation to the Directorate of Enforcement, Jaipur as Assistant Director. In compliance of letter No A-4/2/2011 dated 14.03.2013(copy enclosed as Annexure-G-1) issued by the Assistant Director of Enforcement, New Delhi , Shri O. P. Saharan and Vivek Shrivastav Superintendent were Relieved vide relieving order dated 30.03.2011 issued under F. No. II-13(7)Estt./2008/3017 dated 30.03.2011 by the Additional Commissioner (P &V), Central Excise, Jaipur-I (copy enclosed as Annexure-G-2). At the time of DPC held on 27.02.2012 deputation process is complete and posts are seen/ anticipated but these two posts were not been considered for computing of vacancies in the panel year 2012-13 deliberately in order to restrict the extended zone of consideration. It is well established law / practice that the post vacant due to death, retirement, resignation, regular long term promotion and deputation on last working day for the financial year should be carry forwarded in the next financial year. In the instant case both the officers were relieved for directorate of enforcement on last working day of financial year 2011-12 i.e. 30.03.2012 (Friday) and next working day was Monday dated 02.04.2012. Therefore, these two posts should have been considered for counting of vacancies in the year 2012-13 and this view has also been considered by the Hon'ble CAT, Jabalpur Bench in OA No. 219/1995 dated 15.05.1995 in the case of N. R. Banerjee & others v/s UOI (Copy enclosed as Annexure G-4). The Hon'ble Supreme Court of India	2

328

	has also confirmed this view/order vide date of judgement 16.12.1996 in the case of Union of India V/s N.R. Banerjee & ors. (Copy enclosed as Annexure G-3). Therefore, these vacancies should have been included for counting of vacancies while preparing zone of consideration for the DPC panel year 2012-13.	
	TOTAL	29
	Deliberately deduction of following Posts at the time of preparing consideration Zone for the panel year 2012-13 in order to restrict the extended zone of consideration.	
H	<p>One regular vacancy was kept vacant for adjustment to Deputationist Sh. R. C. Dhakar, Superintendent at the time of holding DPC for the panel year 2012-13 on 27.02.2012.</p> <p>1. Shri R. C. Dhakar, Superintendent was due for repatriation in the month of January, 2012 from Customs Mumbai to Jaipur Zone but he was granted the extension at customs Mumbai for next six months upto 30.06.2012 by customs Mumbai vide letter No. S/5-327/2011/P&E (Prev.) dated 19.12.2011 issued by the Additional Commissioner, Customs Mumbai (copy enclosed as Annexure D-3). Therefore, no vacancy was required to be kept vacant for adjustment at the time of holding DPC dated 27.02.2012.</p> <p>2. Secondly. As per establishment order no. 39/2010 dated 17.05.2010 issued by the joint Commissioner (CCU), Jaipur (copy enclosed as Annexure B-2), Superannuation date of shri R.C Dhakar was 31.07.2012 which was same month of repatriation. Therefore, No vacancy was required to be kept for adjustment for Sh. R. C. Dhakar in the vacancy year 2012-13. Deduction of this post shows manipulation of counting of vacancies in the year 2012-13 and has created small consideration zone. This vacancy should not been deducted from the total vacancy for the purpose of computation zone of consideration in the DPC panel year 2012-13.</p>	
J	One regular vacancy was kept vacant for adjustment to Deputationist Shri Anil Chandela Superintendent at the time of holding DPC for the panel year 2012-13 on 27.02.2012. Deputation of Sh. Anil Chandela Supdt. has accepted as Senior Intelligence Officer by the DGCEI, New Delhi vide Memorandum dated 02.08.2007 issued	

	<p>under DGCEI F. No.A-428/22/17/2006-Estt./ by DD (Admn) DGCEI, New Delhi (copy enclosed as Annexure J-1). In compliance of this Sh. Anil Chandela Supdt was relieved on 07.11.2007 for deputation to DGCEI, New Delhi for 5 years vide Relieving Order C.No. II-39(01)Estt./04/Pt.I/1177-1180 dated 07.11.2007 issued by the Assistant Commissioner, Customs Division, Barmer (copy enclosed as Annexure J-2). Shri Anil Chandela, Superintendent was on deputation for a period of five years since 07.11.2007 to DGCEI, New Delhi. He was due for repatriation in the month of November, 2012 from DGCEI, New Delhi to Jaipur Zone but he was granted the extension effective from 21.11.2012 to 20.11.2013 vide letter dated 13.12.2012 issued under DGCEI F. No.A-428/22/05/2012-Estt./25483 by AD (Admn) DGCEI, New Delhi (copy enclosed as Annexure J-3) and he was granted further extension from 21.11.2013 to 20.11.2014 vide Office Order dated 27.11.2013 issued under DGCEI F. No.A-428/22/05/2012-Estt./9046 by DD (Admn) DGCEI, New Delhi are enclosed.(copy enclosed as Annexure J-4). The Department granted extension time to time and sh. Anil Chandela has not returned till now. Deputation is a regular process and many request for deputation was already pending before administration. So it is not justified to keep the post vacant for vacancy year 2012-13 in anticipation. Apparently, it is only manipulation of counting of vacancies in the year 2012-13 and has created small consideration zone. Hence, this vacancy should not have been deducted from the total vacancy for the purpose of computation zone of consideration in the DPC penal year 2012-13.</p>
K	<p>One regular vacancy was kept vacant for adjustment to Deputationist Shri R. C. Meena Superintendent in the year 2012-13 in the DPC held on 27.02.2012. Sh R. C. Meena was appointed as Air Customs Superintendent on deputation and posted at CSI Airport, Mumbai vide Estt. Office Order No. 243/2010 dated 11.08.2010 issued under F. No. S/5-679/2002 Estt./2283 by the Additional Commissioner of Customs, Mumbai (Copy enclosed as Annexure K-1) and Repatriation / Relieving Order dated 31.10.2012 issued under F. No. Air Cus/ 18-04/2008 Admn. by Assistant Commissioner of Customs, Mumbai (Copy enclosed as Annexure K-3) . This post/ vacancy</p>

326

should not have been deducted from the computation of vacancy for the panel year 2012-13. Because, as per Note Sheet file No. II-39(6) CCU/JPR/2007- Page No. 152-153 (Copy enclosed as Annexure F-4) one post of Superintendent of this zone (Jaipur Zone) is reserved for deputation to CSI Airport, Mumbai as evident from the CCO's letter dated 18.12.2002 placed in file at page No. P-7/c and A letter F. No. S/5-110/2011-ESTT/P&E(P) dated 22.01.2016 is also enclosed as Annexure K-3. if sh. R. C. Meena Superintendent comes back from deputation; the said reserved post would be filled up only from Rajasthan. This issue has already approved by the then chief commissioner, Jaipur. This principle was followed in DPC held on 10.10.2007 panel year 2007-08 but the same was not followed in panel year 2012-13. Therefore, this vacancy should not have been deducted from the total vacancy for the purpose of computation zone of consideration in the DPC panel year 2012-13.

Since the practice adopted in pursuance of Para 4 of DOPT's O.M. dated 06.11.2003 issued under F.No. 36012/17/2002-Estt.(Res) (Copy of OM enclosed as Annexure L-1), whenever the post are filled, efforts have to be made to complete reservation quota for SCs/STs in case of promotion so that the number of posts filled by reservation by SCs & STs as the case may be, in the cadre is equal to the number of posts earmarked for them. It means that if reservation quota is not complete, efforts would be made to complete the reservation quota whenever the recruitments are made in the cadre. Thus, reservation would not lapse in case of post based reservation for the reason that reserved posts could not be filled for a specified number of years.

In view of above position, if 2 regular vacancies which are being kept vacant and utilized for Shri R. C. Dhakar & S.N. Sethi as discussed above, are included there would be total regular vacancies and a sufficient number of SC category Inspector will be available in the extended zone of consideration ($31 \times 5 = 155$) for filling up all 6 vacancies reserved for the SC category.

(As per Note sheet of F.No. II-39(6)CCU/JPR/2007 page no. 152-153 as Annexure-F-4) Above Principle laid down in DOPT OM dated 06.11.2003 specifies to complete the reservation quota whenever the recruitments are made in the cadre. Thus, reservation would not lapse in case of post based reservation

which was followed in DPC held on 10.10.2007 for the panel year 2007-08. However the same was not followed in the panel year 2012-13 to restrict the extended zone of consideration. Therefore, these vacancies should be included for computation of vacancies for preparing zone of consideration for the DPC panel year 2012-13. This needs your kind attention

As per office memorandum No. 22013/1/97/Estt(D) dated 13.04.1998 issued by the Department of Personal and Training, New Delhi some of the situations in which review DPC is required to be held that non-reporting of vacancies due to error or omission (i.e. though the vacancies were available at the time of holding of DPC meeting but these were not reported to the DPC). This leads to injustice to the officers concerned by artificially restricting the zone of consideration.

Therefore, It is humbly requested to consider my request based on facts mentioned above, to secure my right as reserved candidate by computing the correct no. of total 29 regular vacancies for the purpose of calculating the extended zone of consideration i.e. $29 \times 5 = 145$ and review the DPC held on 27.02.2012 for the vacancy year 2012-13 and I should be considered for promotion as regular Superintendent w.e.f. 01.04.2012.

Some new vacancies which were created due to others reasons.

Details of which are as under:-

M	One post of Superintendent vacated due to VRS of Sh. Madhu Sudan Sharma w.e.f. 18.09.2012 was accepted on 18.06.2012 vide Establishment Order No. 116/2012 dated 20.07.2012 issued by the Commissioner, CCU, Jaipur. (Copy enclosed as Annexure-M-1). At the time of review DPC held on 01.08.2012 post is seen/ anticipated. Therefore, this vacancy should be included for computation of vacancies while preparing zone of consideration for the panel year 2012-13 at the time Review DPC held on 01.08.2012 as per DOPT OM dated 06.01.2006 read with OM dated 30.01.2015.	1
N	One post of Superintendent vacated due to Death of Shri H.C. Vyas Superintendent on 12.04.2012. At the time of review DPC held on 01.08.2012 post is seen/ available. Therefore, this vacancy should be included for computation of vacancies while preparing zone of consideration for the panel year 2012-13 at the time Review DPC held on 01.08.2012 as per DOPT OM dated 06.01.2006 read with	1

324

	OM dated 30.01.2015.	
O	<p>One post of Superintendent vacated due to long term deputation accepted of Sh. G. K. Gaur Superintendent. Willingness and Vigilance clearance of Sh. G. K. Gaur Superintendent for Deputation forwarded to DGCEI, New Delhi vide letter C.No. II-13(01)CCO(JZ)ET/2012/3340 dated 13.04.2012 by Additional Commissioner of Chief Commissioner's Office, Jaipur (copy enclosed as Annexure-O-1) . Deputation of Sh. G.K. Gaur Superintendent has been accepted by the DGCEI, New Delhi vide Memorandum dated 18.05.2012 issued under DGCEI No.A-428/22/41/2002-Estt./1694 by AD (Admn) DGCEI, New Delhi (copy enclosed as Annexure-O-2) and in compliance of this Sh. G.K. Gaur Superintendent was relieved on 02.06.2012 for deputation to DGCEI Regional Unit, Jaipur for 5 years. At the time of review DPC held on 01.08.2012 post is seen/available. Therefore, this vacancy should be included for computation of vacancies while preparing zone of consideration for the panel year 2012-13 at the time Review DPC held on 01.08.2012 as per DOPT OM dated 06.01.2006 read with OM dated 30.01.2015.</p>	1
P	<p>Three post of Superintendent vacated due to promotion from Superintendent to Assistant Commissioner vide office order No. 124/2012 dated 12.07.2012 issued by the CBEC, New Delhi under F.No. A-32012/42/2011-Ad.II (copy enclosed as Annexure-P-1).</p> <ol style="list-style-type: none"> 1. Sh. N.K. Gupta Superintendent at S.No. 28 2. Sh. Satpal Talwaria Superintendent at S.No.29 and 3. Sh. Rajeev Narain Singhal, Superintendent at S.No. 84 and further posted vide office order no. 138/2012 dated 31.07.2012 issued by the CBEC, New Delhi (copy enclosed as Annexure-P-2). <p>Joining reports of above officers dated 13.07.2012 is enclosed as Annexure P-3/P-4/P-5. At the time of review DPC held on 01.08.2012 these posts are seen/available. Therefore, this vacancy should be included for computation of vacancies while preparing zone of consideration for the panel year 2012-13 at the time Review DPC held on 01.08.2012 as per DOPT OM dated 06.01.2006 read with OM dated 30.01.2015.</p>	3
Q	In the cadre of Superintendent one post was reserved for SC	1

	<p>candidate but due to non availability of SC candidate, this post was filled by (ST) candidate by exchange the reservation norms in the panel year 2002-2003 in respect of sh. Lala Ram Meena Superintendent. Minutes of DPC held on 29.01.2003 for the panel year 2002-03 (copy enclosed as Annexure-Q-1). Therefore, this vacancy should be restores in SC cadre and counted for preparing zone of consideration for the panel year 2012-13 as per DOPT OM dated 06.01.2006 read with OM dated 30.01.2015.</p>	
R	<p>Central Board of Excise & Customs, New Delhi has sanctioned 4 post of Superintendent (2 post for ICD Concor, Jodhpur and 2 post for ICD Thar Dry Port, Jodhpur) to CCA jaipur vide letter F.No.A-11018/24/2002-Ad-IV dated 23.03.2005 (copy enclosed as Annexure-R-1) Central Board of Excise & Customs, New Delhi has further sanctioned 4 another post (1 post for ICD Rajsicco, Jodhpur/ 1 post for ICD Rajsicco, Udaipur/1 post for ICD Rajsicco, Bhilwara and 1 post for ICD Rajsicco, Bhiwadi) to CCA Jaipur vide letter F.No. A-11018/23/2002-Ad-IV dated 20.12.2005(copy enclosed as Annexure-R-2). The Chief Commissioner (JZ), Jaipur has conducted DPC on 5.11.2007 for 05 cost recovery post of Superintendent out of 08(1 post for ICD Rajsicco, Jodhpur/1 post for ICD Rajsicco, Bhiwadi/1 post for ICD Rajsicco, Bhilwara and 2 post for ICD Thar Dry Port, Jodhpur) (Copy of note sheet F.No. II-39(6) CCU/JPR/2007 & minutes of DPC dt. 05.11.2007 enclosed as Annexure-R-3). These posts are normally continued from year to year and these posts were not withdrawn/abolished by the CBEC till date. Therefore, these posts were in the existence at the time of DPC/ review DPC conducted for panel year 2012-13. It is also submitted that these posts were in existance more than one year, so these posts should be included in the every panel year for the purpose of zone of consideration. There were 8 post sanctions for Cost recovery but DPC was conducted for only 05 cost recovery posts. Out of them one post should have been reserved to SC category as per roster point and due benefit should have been given to a scheduled caste candidate. At the time of original DPC/ review DPC held on 27.02.2012 & 01.08.2012 these posts are seen. Therefore, these vacancies should be included for computation of vacancies while</p>	5

322

	preparing zone of consideration for the DPC/Review DPC for the panel year 2012-13 held on 27.02.2012 & 01.08.2012 as per DOPT OM dated 06.01.2006 read with OM dated 30.01.2015.	
	TOTAL	41

It is further submitted that the DPC for vacancy year 2012-13, which was further reviewed and conducted on 1.08.2012 in four parts and 41 vacancies for the year 2012-13 were split up into four parts and conducted by creating four different consideration zones to restrict the size of zone of consideration. The total 41 vacancies in the panel year 2012-13 were filled up in four parts (i.e. 4, 5, 20 and 12) on same date 1/08/2012 by reviewing or conducting second DPC as well. The whole exercise was done to restrict extended zone, so that due benefit for reserved candidates may not be given.

Following are the details furnished for kind perusal:-

- Review DPC held on 01.08.2012 against the original DPC held on 27.06.2011 for the panel year, 2011-12 for 4 posts.
- DPC held on 01.08.2012 and 6 post of superintendent were not included in any zone of consideration.
- Review DPC held on 01.08.2012 against the original DPC held on 27.02.2012 for the panel year, 2012-13 for 20 Post.
- Second DPC was held on 01.08.2012 for the panel year 2012-13 for 12 posts.

As per Review DPC held on 01.08.2012, four posts which should have been included in the panel year 2012-2013 were wrongly computed in the panel year 2011-12 and the six posts were also not included in the Review DPC held on 01.08.2012 for the year 2012-13, to restrict the size of zone of consideration .

It is further submitted that the zone of consideration should have been considered as per DOPT OM No. 22011/2/2002- *Estt (D) dated 6.1.2006 which has been clarified by the DOPT vide OM No. 22011/2/2014-Estt.D dated 30.01.2015*, an extract of which is re-produced hereunder:

.....

“ 3 (i) The zone of consideration, in case of holding supplementary DPC, shall be fixed as per the provisions in this Department OM No. 22011/2/2002- Estt (D) dated 6.1.2006 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year. “

.....

The Review DPC for the year 2012-13 held on 01.08.2012 conducted by the department is also against the norms of DOPT Circular No. 22011/2/2002-Estt (D) dated 6.1.2006 read with OM No. 22011/2/2014-Estt.D dated 30.01.2015. In the said OM it has been clarified that the extended zone of consideration for reserved candidate is five times of actual number of vacancies. The OM 22011/2/2014-Estt.D dated 30.01.2015 is a clarification of OM dated 22011/2/2002-Estt (D) dated 6.1.2006. It is a well settled law that the clarification of any notification/circular/OM etc is effected from the date of original notification/circular/ OM etc.

In the instant case the original OM is effective from 6.1.2006 and clarified vide OM dated 30.01.2015. Therefore, the OM dated 30.01.2015 should be implemented from 06.01.2006. Therefore, 41 vacancies available for the panel year 2012-13 and consideration zone for DPC should be extended up to S. No. 205 = (41x5) but it was restricted at S. No. 100 of the seniority by taking maximum no vacancies 20 i.e. 20x5=100 only.

In view of above submission, it is apparent that the zone of consideration had not been prepared as per correct procedure. Therefore, It is humbly requested to consider my request based on facts mentioned herein above, to secure my right as reserved candidate in terms of DOPT Circular No. 22011/2/2002-Estt (D) dated 6.1.2006 read with DOPT OM No. 22011/2/2014-Estt.D dated 30.01.2015 by computing the correct no. of total regular vacancies and review all the DPC's for the vacancy year 2012-13 held on 27.02.2012 and 01.08.2012 and promote the applicant as regular Superintendent from 01.04.2012 taken into consideration the spirit of office memorandum No. 22013/1/97/Estt(D) dated 13.04.1998 issued by the Department of Personal and Training, New Delhi.

320

On the basis of submissions as aforesaid, I earnestly request your honour to kindly accede to my request and I should not be deprived from the legitimate privilege required to be given to an SC candidate, I further request you to kindly give a serious thought to it and consider my request accordingly.

I also request your honour to kindly accord me an opportunity of personal hearing so that I may be able to furnish additional submissions in person.

Thanking you.

Yours faithfully,

Encl: As above

Date: 28/05/2018

28/5/2018

(PRABHU DAYAL BENIWAL)

Inspector (then superintendent)

Central Goods and Service Tax

Commissionerate Jaipur

Mobile No. 9414293279

To,

Dated : 03/05/2017

The Chief Commissioner,
 Central Excise, (Jaipur Zone)
 Jaipur.(Rajasthan)

Respected Madam,

**Subject: - Request for applying correct zone of consideration in respect
 Original and review DPC held for the post of regular
 Superintendent for the Vacancy year 2012-13 in the Jaipur
 Zone -reg.**

It is humbly submitted that I have joined the department as Inspector on 08.02.1993 and promoted as Superintendent on Ad-hoc basis vide order No.04/2012 dated 05.01.2012 issued by the Additional Commissioner, CCU, Jaipur under C. No.II-3(13)CCU/JPR/2008/1827 dated 05.01.2012.

2. I have placed at Sr. No.144 in the seniority list (as on 31.12.2010) of the Inspectors, Group-B (non-gazette), Customs & Central Excise, Jaipur and I was at seniority no. 122 as on 01.04.2012 in the penal of DPC for the year 2012-13. I also submitted that the undersigned belongs to Schedule Caste category.
3. It is submitted that a policy to consider the reserved candidate by applying extended zone 5 times of the vacancies but the practice adopted in the DPC's 2012-13 truly against it and due benefit of reserved candidate had not been extended to me in the DPC conducted on 27.02.2012 for the penal year 2012-13. whereas some Inspectors/Adhoc Superintendents were regularized in the grade of Superintendent vide Establishment Order No.58/2012 dated 02.04.2012 issued by the Addl. Commissioner (CCO) JZ, Jaipur but the applicant was not regularised in the DPC for the penal year 2012-13. The vacancy of long term deputation/VRS/Ad-hoc/ vacancy kept for adjustment of deputationist were not clubbed in the panel year 2012-13

3(i). In this regard it is submitted that there are 29 vacancies available in the penal year 2012-13 which should be included in the original DPC held on 27.02.2012 for the penal year 2012-13 (The details mentioned in Annexure-A at sr no. 1,2,3,4,5,6 and 7) .

3(ii). I also submitted these facts before the Chief Commissioner, Central Excise Jaipur Zone vide letter dated 18.06.2012 for kind consideration but same was rejected by the Commissioner (CCU), Jaipur vide letter dated 20.07.2012.

3(iii). With due respect it is submitted that some new facts have been come to notice in the documents obtained from the department under RTI Act 2005, those are mentioned in the Annexure-A, therefore, I again requested for kind consideration for review the DPC originally held on 27.2.2012 and reviewed on 1.8.2012.

3(iv). It is submitted that at the time for conducting DPC for the year 2012-13 total 29 regular vacancies were available in the grade of superintendent and extended consideration zone available upto seniority at S. no. $29 \times 5 = 145$. It is also submitted that the applicant was S. no 122 in the seniority list. Hence, the applicant is very much eligible for promotion as regular Superintendent in the DPC for the penal year 2012-13 which was held on 27.02.2012.

4. It is further submitted that the DPC of vacancy year 2012-13 which was further reviewed & conducted on 1.08.2012 in four parts and 41 vacancies for the year 2012-13 were split into four parts to restrict the size of Zone of consideration. The total 41vacancies in the penal year 2012-13 were filled up in the four part (i.e. 4, 5, 20 and 12) on same date 1/08/2012 by reviewing or conducting second DPC. The whole exercise was done to restrict extended zone, so that the due benefit of reserve candidates could not be given. **It is pertinent to mentioned that the undersigned is belongs to Schedule Cast.**

Details as under-

- Review DPC held on 01.08.2012 against the original DPC held on 27.06.2011 for the penal year, 2011-12 for 4 post (Post mentioned at S. No. 4,6&7 of Annexure A).
- DPC held on 01.08.2012 and 5 post of superintendent were not included in any consideration of zone. (Post mentioned at S.No. 9,10 & 11 of Annexure-A)
- Review DPC held on 01.08.2012 against the original DPC held on 27.02.2012 for the penal year, 2012-13 for 20 Post.

315

- Second DPC held on 01.08.2012 for the penal year 2012-13 for 12 post.

As per Review DPC held on 01.08.2012, the four posts which should be included in the panel year 2012-2013 has wrongly computed in the panel year 2011-12 (post mentioned at S.No. 4,6&7 of Annexure-A) and the five posts (detailed mentioned in the Annexure A at s.no. 9,10&11) has also not included in the Review and Second DPC held on 01.08.2012 for the year 2012-13, to restrict the size of Zone of consideration .

4(i). It is further submitted that the Zone of consideration has been conducted vide DOPT OM No. 22011/2/2002- Estt (D) dated 6.1.2006 and same has been clarified by the DOPT vide OM No. 22011/2/2014-Estt.D dated 30.01.2015(copy enclosed),

.....

" 3 (i) The zone of consideration, in case of holding supplementary DPC, shall be fixed as per the provisions in this Department OM No. 22011/2/2002- Estt (D) dated 6.1.2006 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year. "

.....

4(ii). Respected Madam, ^{Sir} the Review DPC for the year 2012-13 held on 01.08.2012 conducted by the department is also against the Dopt Circular No. 22011/2/2002-Estt (D) dated 6.1.2006 read with OM No. 22011/2/2014-Estt.D dated 30.01.2015. In the said OM it is clarified that the extended zone of considering for reserved candidate is 5 times of actual number of vacancies. The OM 22011/2/2014-Estt.D dated 30.01.2015 is a clarification of OM dated 22011/2/2002-Estt (D) dated 6.1.2006. It is a well settled law that the clarification of any notification/circular/OM etc is effected from the date of original notification/circular/ OM etc.

4(iii). In the instant case the original OM effected from 6.1.2006 and clarified vide OM dated 30.01.2015. Therefore, the OM dated 30.01.2015 should be

implemented from 06.01.2006. Therefore the extended zone of DPC for the panel year 2012-13 should be extended up to Sr no. 205 – (41x5) but it was restricted to Sr no. 100 of the seniority by taking maximum no vacancies 20 i.e. $20 \times 5 = 100$.

5. It is humbly requested to consider my request as the fact mentioned above to secure the my right as reserved candidate in terms of Dopt Circular No. 22011/2/2002-Estt (D) dated 6.1.2006 read with DOPT OM No. 22011/2/2014-Estt.D dated 30.01.2015 by computing the correct no. of total Regular vacancies and review the original DPC as well as review DPC for the vacancy year 2012-13 held on 27.02.2012 and 01.08.2012.
6. In view of above you are requested to please consider my request sympathetically and oblige me.

Kindly allow me personal hearing to brief the case with some additional facts to re-store natural justice.

Thanking you,

Yours faithfully,

Encl: As above & list of documents


 (PRABHU DAYAL BENIWAL)
 Superintendent (Ad hoc)
 Central Excise, Audit Commissionerate Jaipur
 Mobile No. 9414293279

2/3/5/17
 Ramesh Kumar (CVO)
 TPA

<p>वस्तु एवं सेवाकर आसूचना महानिदेशालय, जयपुर आंचलिक इकाई, सी-62, सरोजनी मार्ग, सी-स्कीम, जयपुर - 302001 टूर्भाष: 0141-2225582, फैक्स: 0141-2225581</p>		<p>DIRECTORATE GENERAL OF GST INTELLIGENCE, JAIPUR ZONAL UNIT, C-62, Sarojani Marg, C-Scheme, Jaipur-302001 Phone: 0141-2225582, Fax: 0141-2225581 E-mail: dggi-jzu@gov.in</p>
<p>F.No.: I-22(8)Admn/DGGSTI/JZU/Misc. Corr/17-18</p>		<p>Date: 24.01.2025</p>

To,
The Additional Commissioner (CCO),
CGST & Central Excise, Jaipur Zone,
New Central Revenue Building,
Statue Circle, C-Scheme,
Jaipur, Rajasthan-302005.

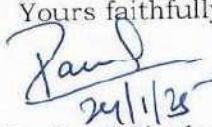
Madam,

Sub: Forwarding of representation regarding request for rectification of seniority due to Erroneous Promotions and granting eligible benefit.

Please find enclosed herewith representation received from Shri Dharma Singh Chetiwal, Superintendent (who is currently working as SIO in this office on loan basis) regarding request for rectification of seniority due to Erroneous Promotions and granting eligible benefit.

2. The representation in original is being forwarded for further necessary action at your end.

Encls:A/a

Yours faithfully,

 24/1/25
 (Dr. Parul Singhal)
 Deputy Director

To,

The Chief Commissioner,
CGST & CE (JZ),
NCRB, Statue Circle, C-Scheme,
Jaipur -302005.

*h
24/1/15*

ADD

*DD (colonial)
24/1/15*

*Sh Ashish
Kumarat*

*U/12/15
24/1/15*

(Advance copy/Through proper channel)

Respected Sir,

Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit-regarding.

Most respectfully and humbly, it is submitted that the applicant has joined the department on 04.02.1993 and promoted as Regular Superintendent vide Establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014.

- 1.1 In this regard, it appeared that the applicant has been covered under the extended zone of consideration for regular promotion in the previous DPCs and review DPCs and actual regular vacancies were either suppressed or not seen before the DPCs which has restricted the consideration zone and deprived my eligibility for regular promotions on various grounds, which are being submitted for kind consideration.
2. The DPC dated was 29.01.2003 held for regular promotion to the grade of Superintendent from Inspector for filling up 15 vacancies (panel /vacancy year 2002-2003). In the relevant minutes of DPC dated was 29.01.2003, at Page no. 2, it has been mentioned that as per the clarification no 8(c) in respect of maintenance of post-based roaster with reference to DOPT's OIM No. 36012/2/96-Estt(Res) dated 02.07.1997 the existing practice of exchange between SC and ST will be continue to be applicable.

The OM No. 36012/17/2002-Estt.(Res) dated 06/11/2003 provides that after introduction of post-based reservation, it is not permissible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice-versa by exchange of reservation between SCs and STs. This OM also provided that "6 It is possible that some posts reserved for STs might have been filled by SC candidates by exchange of reservation or vice versa before issue of this OM. Such cases need not be reopened. However, if number of SC or ST candidates appointed by reservation including by exchange of reservation between SCs and STs is in excess of reservation prescribed for them, such excess representation may be adjusted in future recruitment.

Since one vacancy reserved for SC category was filled for ST category and no further adjustments for this utilized vacancy were made in subsequent DPCs or review DPCs, thus the utilized vacancy is required to be re-credited for SC category.

- 2.1 That after issue of post based roaster with reference to DOPT's OIM No. 36012/2/96-Estt (Res) dated 02.07.1997 the CCU Jaipur vide letter No. II-39(3)CCU/JPR/2003 dated 22.08.2003 has sent proposal for de-reservation of 2 vacancies reserved for SC category in the grade of Superintendent however, the proposal was not considered.

2.2 The Hon'ble Supreme court in it's Order dated 19.09.1999 in the case of Chandra Kishore Jha v. Mahavir Prasad & Ors. has held that "....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner". The Hon'ble Supreme Court in Order dated 08.05.2014 in the case of Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors. has held that "14. Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure.....". These views have been upheld and accepted by the Hon'ble Supreme Court in various cases including Order dated 25.07.2022 in the matter of Union of India & Ors. Versus Mahendra Singh in Civil Appeal No. 4807 of 2022.

2.3 Thus, it is clear that for interpretation of statute, one cannot supplement or add words to the Rules. When a particular thing is directed to be performed in a manner prescribed by Rules, it should be performed in that manner itself and not otherwise and when the rule is that where a power is given to do a certain thing in certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden.

2.4 Shri RC Dhakar , Superintendent on deputation was to be repatriated from Customs, Mumbai in January 2012 however he was not repatriated and granted extension for the period from 01.01.2012 to 30.06.2012. One regular vacancy for the panel year 2011-2012 was erroneously been considered as unforeseen vacancy arose during the year 2011-2012 whereas this vacancy is required to be considered and included for the panel year 2012-13 not the panel year 2011-12 and needs to be rectified.

2.5 Shri OP Saharan and Shri Vivek Srivastava both Superintendents were relieved in the afternoon of 30.03.2012 to join the Directorate of Enforcement, Jaipur on deputation. The date of relieving of both of the officer was last working day of year 2011-12 because 31.03.2012 and 01.04.2012 were Saturday and Sunday respectively. Thus, the vacancy on account of their deputation was required to be filled up in the year 2012-2013. This aspect was ignored and 2 regular vacancies were wrongly considered pertaining to the panel year 2011-12 in view of Hon'ble Supreme Court's Order dated 09.08.2023 in Civil Appeal No. 12/2013.

That an incumbent, who works till the last working day of any financial year remained in office on that day and, therefore, the post / vacancy becomes available only on the next day. It does not seem to be logical that the vacancy would arise on the date of relieving when the incumbent was still holding the post and it is not undisputed that the incumbent was holding the post till 30.03.2012.

In R.K. Sabharwal & Ors. v. State of Punjab & Ors., AIR 1995 SC 1371, while making a distinction between "posts" and "vacancies", it is opined that "post" means an appointment, job, office or employment, a position to which a person is appointed, whereas "vacancy" means an unoccupied post or office. The plain meaning of the two expressions makes it clear that there must be a post in existence to enable the vacancy to occur. A vacancy can arise only when the post is unoccupied. Thus, the vacancy really arose only on 30.03.2012. Therefore, it was to be calculated in the next vacancy year. Since 31.03.2012 and 01.04.2012 were holidays being Saturday and Sunday, thus the vacancy becomes available only on 02.04.2012. Vacancy would become a vacancy for the subsequent year, that is 2012-13. Thus, it

is not disputed that the vacancy year is for the period from 01.04.2012 to 31.03.2013.

In this regard, reliance is placed on Hon'ble Delhi High Court's Order dated 14.09.2011 in WP(C) No.665/2011 filed by Union of India & Anr. (Petitioners) R.K. Trivedi & Anr. (Respondents) which has further been upheld by the Hon'ble Supreme Court vide Order dated 09.08.2023 in Civil Appeal No. 12/2013.

In view of the above, three regular promotions considered for the panel/vacancy year 2011-12 made vide DPC/Review DPC held on 01.08.2012 are erroneous and incorrect hence needs to be revised / reviewed by considering vacancy year as 2012-13. Thus, it is requested to rectify the error, in order to ascertain correct position /number of regular vacancies for the year 2012-13.

- 2.6 Further the number of carried forward regular vacancies reserved for SC category for the panel year 2012-13 were 8. During 2012-13 total 14 Superintendents namely S/ Shri RC Karnani, SK Verma, SL Jaiswal, AN Choudhary, PR Paliwal, Darshan Singh, RC Dhakar, GR. Arora, AR Jethwani, NK Bhargava, SR Khandelwal, ML Vijay, HR Gupta and Jabbar Singh Rathore were retired on 30.04.2012, 30.04.2012, 30.05.2012, 30.06.2012, 30.06.2012, 31.07.2012, 31.07.2012, 31.07.2012, 30.09.2012, 30.10.2012, 30.11.2012, 31.12.2012, 31.01.2013 and 31.01.2013 respectively. Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the regular vacancy was related to panel year 2012-2013.
- 2.7 These facts have already been incorporated mentioned in the self-contained note dated 27.02.2012 drawn for the panel year 2012-2013. Further, at the time of holding DPC on 27.02.2012 only following vacancies could not be anticipated: -
 - (i) Shri H.C. Vyas, Superintendent expired on 12.04.2012;
 - (ii) Shri Madhusudan Sharma submitted VRS Notice dated 18.06.2012 effective from 18.09.2012 and same was accepted vide order dated 20.07.2012 application dated
 - (iii) Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years;
 - (iv) Three Superintendents namely S/Shri NK Gupta, SP Talwaria and RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.
- 2.8 In view of above, it appears that total and correct number of regular posts for which DPC / review DPC for the panel year 2012-2013 were to be presented/reported before the DPCs for granting regular promotions for the year 2012-2013 and accordingly the extended zone was to be prepared for consideration as regular superintendent. Since the DPCs has not been appraised factual and correct number of regular vacancies erroneously which has restricted the zone of consideration for regular promotions. It is also submitted that two DPC/Review DPC for the year 2012-13 were made conducted for 20 and 12 vacancies, in order to restrict the zone of consideration.
- 2.9 In view of above submission, the correct position of vacancies for the year 2012-13 come as under:

S. No.	Nature of Regular vacancies	Regular Vacancies for the year 2012-13
1.	Carry forward Regular vacancies of SC category	08
2.	Adjustment of one SC vacancy utilized for ST in 2003	01
3.	Clear vacancies on account of retirements during the year 2012-2013 (1.04.2012 to 31.03.2013.)	14
4.	Two officers relieved on last working day of 2011-12 for long term deputation (S/Shri OP Saharan Vivek Shrivastava) thus the anticipated regular vacancy was related to panel year 2012-2013.	02
5.	Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the anticipated regular vacancy was related to panel year 2012-2013.	01
6.	Regular post kept vacant for Deputationists. Shri RC Dhakar, Superintendent on deputation was granted extension for the period from 01.01.2012 to 30.06.2012.	01
7.	S/Shri NK Gupta, SP Talwaria and RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.	03
8	Regular vacancies generated due to death of Shri H.C. Vyas, Superintendent and VRS of Shri Madhusudan Sharma in 2012-13	02
9	Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years.	01
	Total	33
Less	Officers returning from deputation (if any)	02
	Total clear Vacancies for the year 2012-2013	31

2.10 It is imperative to mention that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, since action is to be initiated in advance, the vacancies to be taken into account should be clear vacancies arising in a post/grade/service in the relevant vacancy year due to retirement, regular long-term promotion and deputation. Purely short-term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated year- wise separately.

2.11 The O.M. No.18011/2/88-Estt (D) dated 09.08.1988 provided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official which was passed in contravention of the existing Rules/ instructions whether statutory or administrative/ executive, as otherwise it would amount to perpetuation of

the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principle of natural justice should be compiled with by giving the Government servant a show cause notice and opportunity to be heard in before passing any order affecting him.

3. In view of above, the total number of clear and regular posts for which DPCs/Review DPCs for the panel year 2012-13 comes to 31 and accordingly the extended zone comes to $31*5= 155$. Accordingly, the error/mistake apparent on record needs to be rectified in terms of guidelines contained in OM No. 22011/5/86-Estt. (D) dated 10.04.1989 and considering the number of actual or clear vacancies and extended zone for regular promotion.
 - 3.1 In view of above, it is submitted that the applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the year 2012-2013, whereas the applicant has been promoted as Regular Superintendent vide establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014. It appears that wrong facts have been produced before the DPC, so its required review DPC in the matter.
 - 3.2 Whereas the humble applicant has not been considered for regular promotion in the appropriate year i.e. 2012-13 due to wrong facts of the vacancies have been submitted/produced to the DPC vide various reasons as mentioned above, or curtailment of extended zone of consideration for regular promotion due to Part DPCs, incorrect determination of regular vacancies etc., unforeseen vacancies, long term deputation, incorrect determination of vacancy year, utilization of SC's vacancy for ST etc., and all these facts have restricted the zone of consideration zone as well as eligibility for regular promotions.
4. The above facts it is kindly requested to get re-examined the matter for taking corrective measures and to rectify the erroneous promotions. Further, it is humbly prayed that the seniority may kindly be revised appropriately and the eligible benefits, if any, may kindly be extended in the interest of justice.

Yours faithfully,

Date: 22.01.2025

Place: Jaipur

Sdl

(DS Chetiwal)

SIO, DGGI, JZU, Jaipur

✓ Copy submitted to the Additional Director, DGGI, Jaipur Zonal Unit, Jaipur request to forward this application to the Chief Commissioner, CGST & CE (JZ), NCRB, Statue Circle, C-Scheme, Jaipur -302005 at the earliest.

Ch

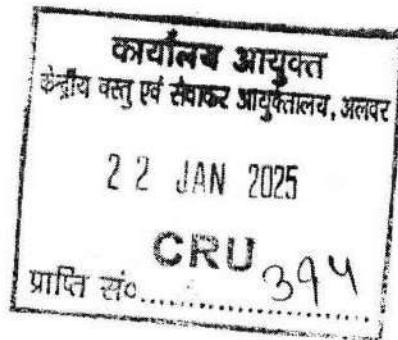
(DS Chetiwal)

SIO, DGGI, JZU, Jaipur



To,
The Chief Commissioner,
CGST & CE (JZ),
NCRB, Statue Circle, C-Scheme,
Jaipur -302005.

[Signature]
22/1
ADC



(Advance copy/Through proper channel)



Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit- regarding.

Most respectfully and humbly, it is submitted that the applicant has joined the department on 15.02.1993 and promoted as Regular Superintendent vide Establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014.

1. In this regard, it appeared that the applicant has been covered under the extended zone of consideration for regular promotion in the previous DPCs and review DPCs and actual regular vacancies were either suppressed or not seen before the DPCs which has restricted the consideration zone and deprived my eligibility for regular promotions on various grounds, which are being submitted for kind consideration.
2. The DPC dated was 29.01.2003 held for regular promotion to the grade of Superintendent from Inspector for filling up 15 vacancies (panel /vacancy year 2002-2003). In the relevant minutes of DPC dated was 29.01.2003, at Page no. 2, it has been mentioned that as per the clarification no 8(c) in respect of maintenance of post-based roaster with reference to DOPT's OIM No. 36012/2/96-Estt(Res) dated 02.07.1997 the existing practice of exchange between SC and ST will be continue to be applicable.

The OM No. 36012/17/2002-Estt.(Res) dated 06/11/2003 provides that after introduction of post-based reservation, it is not permissible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice-versa by exchange of reservation between SCs and STs. This OM also provided that "6 It is possible that some posts reserved for STs might have been filled by SC candidates by exchange of reservation or vice versa before issue of this OM. Such cases need not be reopened. However, if number of SC or ST candidates appointed by reservation including by exchange of reservation between SCs and STs is in excess of reservation prescribed for them, such excess representation may be adjusted in future recruitment.

Since one vacancy reserved for SC category was filled for ST category and no further adjustments for this utilized vacancy were made in subsequent DPCs or review DPCs, thus the utilized vacancy is required to be recredited for SC category.

- 2.1 That after issue of post based roaster with reference to DOPT's OIM No. 36012/2/96-Estt (Res) dated 02.07.1997 the CCU Jaipur vide letter No. II-39(3)CCU/JPR/2003 dated 22.08.2003 has sent proposal for de-reservation of 2 vacancies reserved for SC category in the grade of Superintendent however, the proposal was not considered.
- 2.2 The Hon'ble Supreme court in it's Order dated 19.09.1999 in the case of Chandra Kishore Jha v. Mahavir Prasad & Ors. has held that ".....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner". The Hon'ble Supreme Court in Order dated 08.05.2014 in the case of Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors. has held that "14. Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure.....". These views have been upheld and accepted by the Hon'ble Supreme Court in various cases including Order dated 25.07.2022 in the matter of Union of India & Ors. Versus Mahendra Singh in Civil Appeal No. 4807 of 2022.
- 2.3 Thus, it is clear that for interpretation of statute, one cannot supplement or add words to the Rules. When a particular thing is directed to be performed in a manner prescribed by Rules, it should be performed in that manner itself and not otherwise and when the rule is that where a power is given to do a certain thing in certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden.
- 2.4 Shri RC Dhakar , Superintendent on deputation was to be repatriated from Customs, Mumbai in January 2012 however he was not repatriated and granted extension for the period from 01.01.2012 to 30.06.2012. One regular vacancy for the panel year 2011-2012 was erroneously been considered as unforeseen vacancy arose during the year 2011-2012 whereas this vacancy is required to be considered and included for the panel year 2012-13 not the panel year 2011-12 and needs to be rectified.
- 2.5 Shri OP Saharan and Shri Vivek Srivastav both Superintendents were relieved in the afternoon of 30.03.2012 to Join the Directorate of Enforcement, Jaipur on deputation. The date of relieving of both of the officer was last working day of year 2011-12 because 31.03.2012 and 01.04.2012 were Saturday and Sunday respectively. Thus, the vacancy on account of their deputation was required to be filled up in the year 2012-2013. This aspect was ignored and 2 regular vacancies were wrongly considered pertaining to the panel year 2011-12 in view of Hon'ble Supreme Court's Order dated 09.08.2023 in Civil Appeal No. 12/2013.

That an incumbent, who works till the last working day of any financial year remained in office on that day and, therefore, the post / vacancy becomes available only on the next day. It does not seem to be logical that the vacancy would arise on the date of

relieving when the incumbent was still holding the post and it is not undisputed that the incumbent was holding the post till 30.03.2012.

In R.K. Sabharwal & Ors. v. State of Punjab & Ors., AIR 1995 SC 1371, while making a distinction between "posts" and "vacancies", it is opined that "post" means an appointment, job, office or employment, a position to which a person is appointed, whereas "vacancy" means an unoccupied post or office. The plain meaning of the two expressions makes it clear that there must be a post in existence to enable the vacancy to occur. A vacancy can arise only when the post is unoccupied. Thus, the vacancy really arose only on 30.03.2012. Therefore, it was to be calculated in the next vacancy year. Since 31.03.2012 and 01.04.2012 were holidays being Saturday and Sunday, thus the vacancy becomes available only on 02.04.2012. Vacancy would become a vacancy for the subsequent year, that is 2012-13. Thus, it is not disputed that the vacancy year is for the period from 01.04.2012 to 31.03.2013.

In this regard, reliance is placed on Hon'ble Delhi High Court's Order dated 14.09.2011 in WP(C) No.665/2011 filed by Union of India & Anr. (Petitioners) R.K. Trivedi & Anr. (Respondents) which has further been upheld by the Hon'ble Supreme Court vide Order dated 09.08.2013 in Civil Appeal No. 12/2013.

In view of the above, three regular promotions considered for the panel/ vacancy year 2011-12 made vide DPC/Review DPC held on 01.08.2012 are erroneous and incorrect hence needs to be revised / reviewed by considering vacancy year as 2012-13. Thus, it is requested to rectify the error, in order to ascertain correct position /number of regular vacancies for the year 2012-13.

2.6 Further the number of carried forward regular vacancies reserved for SC category for the panel year 2012-13 were 8. During 2012-13 total 14 Superintendents namely S/ Shri RC Karnani, SK Verma, SL Jaiswal, AN Choudhary, PR Paliwal, Darshan Singh, RC Dhakar, GR. Arora, AR Jethwani, NK Bhargava, SR Khandelwal , ML Vijay, HR Gupta and Jabbar Singh Rathore were retired on 30.04.2012, 30.04.2012, 30.05.2012, 30.06.2012, 30.06.2012, 31.07.2012, 31.07.2012, 31.07.2012, 30.09.2012, 30.10.2012, 30.11.2012, 31.12.2012, 31.01.2013 and 31.01.2013 respectively. Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the regular vacancy was related to panel year 2012-2013.

2.7 These facts have already been incorporated mentioned in the self-contained note dated 27.02.2012 drawn for the panel year 2012-2013. Further, at the time of holding DPC on 27.02.2012 only following vacancies could not be anticipated: -

- (i) Shri H.C. Vyas, Superintendent expired on 12.04.2012;
- (ii) Shri Madhusudan Sharma submitted VRS Notice dated 18.06.2012 effective from 18.09.2012 and same was accepted vide order dated 20.07.2012 application dated
- (iii) Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years;

(iv) Three Superintendents namely S/Shri NK Gupta, SP Talwaria and RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.

2.8 In view of above, it appears that total and correct number of regular posts for which DPC / review DPC for the panel year 2012-2013 were to be presented/reported before the DPCs for granting regular promotions for the year 2012-2013 and accordingly the extended zone was to be prepared for consideration as regular superintendent. Since the DPCs has not been appraised factual and correct number of regular vacancies erroneously which has restricted the zone of consideration for regular promotions. It is also submitted that two DPC/Review DPC for the year 2012-13 were made conducted for 20 and 12 vacancies, in order to restrict the zone of consideration.

2.9 In view of above submission, the correct position of vacancies for the year 2012-13 come as under:

S. No.	Nature of Regular vacancies	Regular Vacancies for the year 2012-13
1.	Carry forward Regular vacancies of SC category	08
2.	Adjustment of one SC vacancy utilized for ST in 2003	01
3.	Clear vacancies on account of retirements during the year 2012-2013 (1.04.2012 to 31.03.2013.)	14
4.	Two officers relieved on last working day of 2011-12 for long term deputation (S/Shri OP Saharan Vivek Shrivastava) thus the anticipated regular vacancy was related to panel year 2012-2013.	02
5.	Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the anticipated regular vacancy was related to panel year 2012-2013.	01
6.	Regular post kept vacant for Deputationists. Shri RC Dhakar, Superintendent on deputation was granted extension for the period from 01.01.2012 to 30.06.2012.	01
7.	S/Shri NK Gupta, SP Talwaria and RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.	03

8	Regular vacancies generated due to death of Shri H.C. Vyas, Superintendent and VRS of Shri Madhusudan Sharma in 2012-13	02
9	Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years.	01
	Total	33
Less	Officers returning from deputation (if any)	02
	Total clear Vacancies for the year 2012-2013	31

2.10 It is imperative to mention that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, since action is to be initiated in advance, the vacancies to be taken into account should be clear vacancies arising in a post/grade/service in the relevant vacancy year due to retirement, regular long-term promotion and deputation. Purely short-term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated year- wise separately

2.11 The O.M. No.18011/2/88-Estt (D) dated 09.08.1988 provided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official which was passed in contravention of the existing Rules/ instructions whether statutory or administrative/ executive, as otherwise it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principle of natural justice should be compiled with by giving the Government servant a show cause notice and opportunity to be heard in before passing any order affecting him.

3. In view of above, the total number of clear and regular posts for which DPCs/Review DPCs for the panel year 2012-13 comes to 31 and accordingly the extended zone comes to $31*5= 155$. Accordingly, the error/ mistake apparent on record needs to be rectified in terms of guidelines contained in OM No. 22011/5/86-Estt. (D) dated 10.04.1989 and considering the number of actual or clear vacancies and extended zone for regular promotion.

3.1 The applicant was promoted as Regular Superintendent vide establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014.

3.2 In view of above, it is submitted that the applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the year 2012-2013.

3.2 Whereas the humble applicant has not been considered for regular promotion in the appropriate year due to various reasons as mentioned above, or curtailment of

extended zone of consideration for regular promotion due to Part DPCs, incorrect determination of regular vacancies etc., unforeseen vacancies, long term deputation, incorrect determination of vacancy year, utilization of SC's vacancy for ST etc., and all these facts have restricted the zone of consideration zone as well as eligibility for regular promotions.

4. The above facts it is kindly requested to get re-examined the matter for taking corrective measures and to rectify the erroneous promotions. Further, it is humbly prayed that the seniority may kindly be revised appropriately and the eligible benefits, if any, may kindly be extended in the interest of justice.

Yours faithfully,

Date: 22.01.2025

Place: Alwar

Sunil Kumar Verma
22/01/2025
(Sunil Kumar Verma)
Superintendent (Tech)
CGST & CE Commissionerate, Alwar

Copy submitted to the Commissioner, CGST & CE Commissionerate, Alwar with request to forward this application to the Chief Commissioner, CGST & CE (JZ), NCRB, Statue Circle, C-Scheme, Jaipur -302005 at the earliest.

Sunil Kumar Verma
22/01/2025
(Sunil Kumar Verma)
Superintendent (Tech)

By Speed Post/Mail

<p>वस्तु एवं सेवाकर आसूचना महानिदेशालय, जयपुर आंचलिक इकाई, स्टॉ-62, सरोजनी मार्ग, सी-स्कीम, जयपुर - 302001 दूरभाष: 0141-2225582, फैक्स: 0141-2225581</p>		<p>DIRECTORATE GENERAL OF GST INTELLIGENCE, JAIPUR ZONAL UNIT, C-62, Sarojini Marg, C-Scheme, Jaipur-302001 Phone: 0141-2225582, Fax: 0141-2225581 E-mail: dggi-jzu@gov.in</p>
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F.No.: I-22(8)Admn/DGGSTI/JZU/Misc. Corr/17-18

Date: 07.02.2025

To,

The Additional Commissioner (CCO),
CGST & Central Excise, Jaipur Zone,
New Central Revenue Building,
Statue Circle, C-Scheme,
Jaipur, Rajasthan-302005.

Madam,

Sub: Forwarding of representation regarding request for rectification of seniority due to Erroneous Promotions and granting eligible benefit.

Please find enclosed herewith representation received from Shri Dharma Singh Chetiwal, Superintendent (who is currently working as SIO in this office on loan basis) regarding request for rectification of seniority due to Erroneous Promotions and granting eligible benefit.

2. The representation in original is being forwarded for further necessary action at your end.

Encls:A/a

Yours faithfully,

(Dr. Parul Singhal)
Deputy Director



To,

The Chief Commissioner,
CGST & CE (JZ),
NCRB, Statue Circle, C-Scheme,
Jaipur -302005.

(Advance copy/Through proper channel)

Sir,

Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit-
regarding.

Most respectfully and humbly, kindly refer to letter dated 22.01.2025 on the above subject.

In continuation to above, it is further submitted that O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 issued by the DOPT provided that a review DPC should be held keeping in mind the total vacancies of the year.

Further, it appears that the DOPT has also issued a clarificatory OM No. 22011/2/2014-Estt.D dated 30.01.2015 in view of references received with regard to the consideration zone. Since the said OM has been issued with regard to references thus, it is applicable for past period undoubtedly.

In this regard, it is submitted that in similar matter, an employee of income tax has requested for promotion from 16.07.2007. In this case two DPCs were held in 2007 and he requested for taking into account the total number of vacancies in the vacancy year for determination of extended zone. The Income Tax department has sought a clarification from DOPT through CBDT regarding effective date of OM Dated 30.1.2015. Subsequently, the Income tax department considered the case and conducted a review DPC on 18.11.2016 and that employees was promoted with effect from 16.07.2007. In this regard, a copy of Order dated 18.04.2017 in Case Number 4450/102/2015 issued by the Hon'ble Court of Chief Commissioner For Persons With Disability,

ADD(AX)

Copy

DP(Calcutta)
06/4/25

Adm

Ministry of Social Justice and Empowerment, Govt of India is enclosed for ready reference.

In view of above, it is again submitted that the applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the earlier year and kindly requested to get re-examined the matter for taking corrective measures and to rectify the erroneous promotions. Further, it is humbly prayed that the seniority may kindly be revised appropriately and the eligible benefits, if any, may kindly be extended in the interest of justice.

Encl. As above

Yours faithfully,

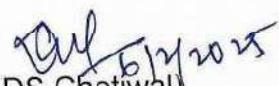
Date: 06.02.2025

Place: Jaipur



(DS Chetiwal)
SIO, DGGI, JZU, Jaipur

✓ Copy submitted to the Additional Director, DGGI, Jaipur Zonal Unit, Jaipur request to forward this application to the Chief Commissioner, CGST & CE (JZ), NCRB, Statue Circle, C-Scheme, Jaipur -302005 at the earliest.


(DS Chetiwal)
SIO, DGGI, JZU, Jaipur



Extra

न्यायालय मुख्य आयुक्त विकलांगजन
COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES
 विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities
 सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment
 भारत सरकार / Government of India

Case No.4450/10/1/2015

Dated 18.04.2017

In the matter of:

Shri K.G. Kachhadiya,
 Income Tax Inspector,
 Income Tax Office, ITO-Ward-1(1)(5),
 5th Floor, Aayakar Bhavan,
 Race Course Ring Road, Rajkot, Gujarat
 Email - kgk5566@gmail.com

.... Complainant

Versus

O/o the Principal Chief Commissioner of Income Tax (Gujarat),
 Through: Principal Chief Commissioner of Income Tax,
 2nd Floor, Aayakar Bhavan, Ashram Road,
 Ahmedabad, Gujarat-380014

.... Respondent

Date of Hearing – 22.11.2016

Present:

None of the parties appeared

ORDER

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 The above named complainant, a person with 75% locomotor disability filed a complaint dated 07.06.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act'. regarding non-maintenance of the cadre-wise Roster Register and non-implementation of reservation in promotion for the persons with disabilities.

2. The complainant submitted that he was working as Income Tax Inspector in Rajkot. After passing the Departmental Examination for Inspector in the year 2001, he was promoted as Income tax Inspector on 22.12.2008. He passed the Departmental Examination for Income tax Officer in the year 2009. He was expecting to be promoted as Income Tax Officer in PH quota in respective Departmental Promotion Committee selection. He made a representation on 15.05.2015 to the Principal Chief Commissioner of Income Tax, Ahmedabad to verify his eligibility and pre-pone him in Re-casted Seniority list of Inspectors of Income-Tax. He was told that his case was pending for disposal. He further submitted that PH quota of reservation was either not maintained properly or was altogether not maintained at all by his establishment. In the Recruitment

Year 2007, two DPCs were held in which, no PH persons were promoted. His seniority number was at 245, which was within the extended zone. The reservation of PII category being horizontal, the extended zone had to be considered on the total number of posts (i.e. five times of 61 which come 305). He requested to consider his promotion to the post of Income-Tax Inspector in the first DPC held on 16.07.2007 of 61 candidates pre-poning his seniority from 16.07.2007.

3. The matter was taken up with the respondent under Section 59 of the Act vide this Court's letter dated 16.06.2015.

4. The respondent vide letter No.Pr.CC/ABD/HQ-Personnel/K.GK/2015-16 dated 09.09.2015 submitted that the complaint regarding non-implementation of reservation in promotion for persons with disabilities was wrong as in every DPC conducted for promotion in Group 'C' cadre, 3% of the vacancy was earmarked for persons with disabilities and the same was filled up by extending the zone by 5 times the number of vacancy for the recruitment years. The complainant was promoted as Inspector in Recruitment Year 2008-09 in the reserved quota for PH candidate. The respondent intimated that unified vacancies were carried forward till three subsequent recruitment years. Regarding the claim of the complainant that he should have been promoted in Recruitment Year 2007-08, the DPC for Recruitment Year 2007-08 examined and found that two DPCs were conducted in Recruitment Year 2007-08. First DPC was conducted on 12.07.2007 which was again reviewed on 01.08.2008. A total of 60 vacancies were determined including carried forward 17 vacancy (13 ministerial and 4 stenographer cadre), out of which 44 vacancies were allotted to Ministerial cadre and 16 for stenographer cadre. 3% quota of the vacancy was earmarked for PH quota in both categories. Accordingly, 3% of 31 current years ministerial vacancy i.e. 1 vacancy was allotted to ministerial cadre. As the complainant belonged to ministerial cadre, the zone of consideration was extended to 44 and the eligibility list of 220 candidates was prepared for consideration. As the complainant did not appear with the list of 220 candidates, he was not considered for promotion. On account of Ahmedabad CATs decision that Shri Parag R. Shah belonged to PII quota and senior to the complainant was promoted against the reserved quota for PH candidate in the Recruitment Year 2007-08. In the Eligibility list of officials for Recruitment Year 2007-08, complainant name appeared at Sr. No.274 and the promotion was considered till the Sr. No.220 in the extended zone. The second DPC for Recruitment Year 2007-08 was held on 07.11.2007 wherein 25 vacancies including 13 carried forward vacancies were determined out of which 20 vacancies were allotted to Ministerial cadre and 5 to stenographer cadre. The current vacancy for the DPC was only 12. Accordingly, 3% of 12 vacancies being less than 0.5 no vacancy were earmarked to PH candidates. As per DoP&T's OM dated 30.01.2015, the total vacancy of regular and supplementary DPC had to be summed up. The OM relied upon by the complainant had effect only from the date of issue of OM and

KC

could not be implemented retrospectively. Besides this, the complainant had claimed that 3% of total vacancies including carried forward vacancies had to be earmarked every year. That could not be entertained as 3% vacancies were already earmarked from the vacancies of previous years which were carried forward to subsequent years.

5. The respondent vide letter No.Pr.CC/GUJ/DC(HQ-Pers)/KGK/Misc./179-2/2015-16 dated 29.01.2016 further submitted that feeder cadres for promotion to the post of Inspector of Income-Tax comprised of Office Superintendent, Sr. Tax Assistant and Tax Assistant/UDC from the ministerial cadre and Stenographer Gr.I, Stenographer Gr.II and Stenographer Gr.III from the Stenographer's cadre. As per the recruitment rules, the promotion to the post of Inspector had to be made from the ministerial cadre and Stenographer's cadre in the ratio of 3:1. Therefore, separate list had to be prepared for ministerial cadre and stenographer's cadre and provision for reservation (including horizontal reservation for PH) had to be considered in both the ministerial and stenographer cadre. When sufficient number of candidates belonging to reserved category was not available either in ministerial cadre or stenographer's cadre then the eligibility list of respective cadre was to be extended upto 5 times as per the vacancy determined for their cadre. This was done to maintain the ratio 3:1 between ministerial and stenographer's cadre. Accordingly, the complainant was not considered for promotion in the DPC held on 12.07.2007 as his name did not appear even in the extended zone as per the vacancy for Ministerial staff. Even the OM dated 30.01.2015 did not state that the zone of consideration for the original DPC had to be considered taking into account the future vacancy that might likely arise for unforeseen circumstances. The contention of the complainant that he should be considered for promotion in the original DPC held on 12.07.2007 was found to be untenable as the official was neither within the extended zone of consideration of the original DPC dated 12.07.2007 nor the O.M. dated 30.01.2015 referred by him supported his claim. The O.M. was issued on account of references made on various issues related to supplementary DPC, including the issue of zone of consideration. The respondent further submitted that the contention of the complainant that the O.M. dated 30.01.2015 is clarificatory in nature and is effective retrospectively is wrong and misinterpreted. The respondent intimated that clarification was being sought from DoP&T through CBDT regarding the effective date of the O.M. dated 30.01.2015 and whether it would also apply in case where DPC was conducted in the year 2007. The respondent further requested that the petition of the complainant be kept on hold till clarification was received from CBDT/DoP&T.

6. The complainant vide rejoinder dated 16.09.2015 submitted that he was promoted in the Recruitment Year 2008-09 in reserved PH quota. But the respondent had not maintained proper Reservation Roster since 1996 to earmarked 3% reservation for persons with disabilities as per para 15(a) of the DoP&T's O.M. dated 29.12.2005. During Recruitment Year 2007, the department stopped giving reservation benefit to

persons with disabilities in the cadre of Inspector. This Court vide order dated 30.05.2008 in case No.5108/2008 advised the respondent that the post of Income Tax Inspector be treated as Group 'C' post and separate DPC be held to consider complainant's promotion if he was eligible. The Income Tax Department had informed that since the complainant did not fall within the extended zone of previous two DPCs his promotion was not due. His colleague Shri Parag R. Shah was promoted on 01.08.2008 and complainant's seniority was fixed from 12.07.2007. Thereafter, with effect from 03.06.2014 the complainant was promoted as Income Tax Officer. Further, on 29.04.2004 both Shri Parag Shah and the complainant was promoted to Senior Tax Assistant and their seniority were No.706 and 708 respectively. The complainant again filed complaints dated 11.08.2008, 15.10.2008 and 14.11.2008 [Case No.20/1021/08-09]. After direction dated 27.01.2010 of this Court, DoP&T vide O.M. No.22011/2/2014-Estt. dated 30.01.2015 clarified as under:

"(a) Zone of consideration (Normal as well as Extended) shall be decided taking into account total number of vacancies in the relevant vacancy year; and (b) all the officers already assessed in the original DPC are not to be included in the fresh zone of consideration in respect of the S-DPC."

The complainant submitted that since he was coming from ministerial staff quota, the zone of consideration in original and supplementary DPC in his case, according to the clarification of DoP&T was as under:

Original DPC dated 12.07.2007

No.0 of vacancies	-	45 (After reducing 16 posts of stenographers)
Normal zone	-	$45 \times 2 + 4 = 94$
Extended zone	-	$45 \times 5 = 225$

Supplementary DPC dated 07.11.2007

No. of vacancies	-	20 (After reducing 5 posts of stenographers)
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Zone of consideration was to decide taking into account the total number of vacancies in the vacancy year, i.e. 65 (vacancies at the time of original DPC + unanticipated vacancies for the same year i.e. 45+20)

For 65 vacancies, normal zone was : $65 \times 2 + 4 = 134$

Extended Zone : $65 \times 5 = 325$

Accordingly, the complainant submitted that his seniority No. was 245 within the extended zone and he was eligible for promotion for the post of Income Tax Officer w.e.f. 16.07.2007. The complainant further requested that the DPC already held on 22.12.2014 be reviewed and consider his case for promotion to the post of Income-Tax Officer.

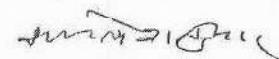
7. The complainant in his rejoinder vide email dated 21.12.2015 submitted that DPC meeting for Recruitment Year 2009-10, was held on 29.06.2009 to consider promotion to the cadre of Income-Tax Inspector, in which 05 posts were already vacant for Recruitment year 2007-08 for PH employees out of which only 01 post was filled up by the Department though eligible candidates were available.

8. Upon considering the replies received from the respondent and rejoinders received from the complainant, this Court vide Notice of Hearing dated 21.09.2016 scheduled the case for personal hearing on 22.11.2016 and summoned the parties to appear before the court.

9. In the meanwhile, the complainant vide representation dated 18.11.2016 intimated to this Court that the Income Tax Department Gujarat vide order No.50(NG) of 2016-17 dated 18.11.2016 had promoted him to the cadre of Inspector with effect from 16.07.2007. The complainant also desired to withdraw the case filed by him.

10. The respondent vide letter No.Pr.CC/GUJ/CD (HQ-Pers)/KGK/Misc./179-2/2016-17/5153 dated 18.11.2016 intimated that the case of the complainant was considered and a Review DPC was conducted on 18.11.2016, whereby the complainant was given promotion to the cadre of ITI in Recruitment Year 2007-08 w.e.f. 16.07.2007 and accordingly an order No.50 (NG) of 2016-17 dated 18.11.2016 was issued. The respondent also intimated that the complainant vide letter dated 18.11.2016 also withdrawn his case filed before this Court.

11. In view of the above, since the grievance of the complainant has been redressed, no further action is required in the matter and the case is accordingly closed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities

No. 22011/2/2014- Estt.D
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training

North Block, New Delhi,
Dated the 30th January, 2015.

Office Memorandum

Subject:- Procedure for conduct of supplementary DPC

This Department instructions issued vide OM No. 22011/5/86-Estt (D) dated 10.4.89 [para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary retirement, new creations etc. could not be foreseen at the time of placing facts and material before the DPC, therefore, another meeting of DPC (commonly referred to supplementary DPC) should be held for drawing up a panel for these vacancies.

2. References have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year.

3. These issues have been examined in consultation with UPSC and following is decided:-

(i) The zone of consideration, in case of holding supplementary DPC, shall be fixed as per the provisions in this Department OM No. 22011/2/2002-Estt(D) dated 6.1.2006 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year.

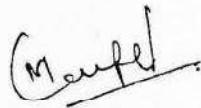
(ii) The eligibility list for supplementary DPC shall be prepared by removing the names of all such officers who have already been assessed by earlier DPC as fit, unfit or placed in the sealed cover by the original DPC before placing the same for consideration by the supplementary DPC.

(iii) The officers who have already been empanelled or placed in the extended panel but could not be promoted due to these vacancies not actually becoming available; need not be re-assessed by the supplementary DPC as the assessment matrix remains the same. They may be appointed against the additional vacancies of the same vacancy year as per

recommendations of the earlier DPC. In such situation the number of vacancies for supplementary DPC shall be accordingly adjusted.

4. While calculating the regular vacancies for a DPC, it is incumbent upon administrative department to ensure that there is no arbitrariness in calculation of anticipated vacancies.

5. To provide clarity in implementation of these instructions some situation specific illustrations are enclosed as Annexure to this OM.



(Mukta Goel)
Director (E.I)

All Ministries/Departments of the Government of India

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Vice-president's Sectt, New Delhi
3. The Prime Minister's Office, New Delhi.
4. The Cabinet Secretariat, New Delhi.
5. The Lok Sabha /Rajya Sabha Secretariat, New Delhi.
6. The Comptroller and Audit General of India, New Delhi.
7. The Secretary, Union Public Service Commission, New Delhi
8. The Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
10. All Officers and Sections in the Department of Personnel and Training.
11. Establishment (D) Section, DoP&T **(20 copies)**
12. NIC for updation on the website

IllustrationOriginal DPC

No. of vacancies	-	5
Normal zone	-	$5 \times 2 + 4 = 14$
Extended zone	-	$5 \times 5 = 25$

Supplementary DPC

No. of vacancies - 2

Zone of consideration will be decided taking into account total number of vacancies in the vacancy year, i.e. 7 (Vacancies at the time of original DPC + unanticipated vacancies for the same year i.e. 5+2) in this case.

For 7 vacancies, normal zone is $7 \times 2 + 4 = 18$

Extended Zone $7 \times 5 = 35$

Situation 1 - In the original DPC, first 5 officers are assessed as 'Fit' and no officer is assessed for extended panel or assessed as 'Unfit' and/or kept in 'Sealed Cover'

Zone of consideration for Supplementary DPC will now be 13 (Normal Zone of consideration for total number of vacancies for that year – number of officers assessed by earlier DPC i.e 18-5).

As such, in the eligibility list of Supplementary DPC in the above illustration, 13 officers (9 left over officers from the original DPC and 4 additional officers) shall be included.

Situation 2 - In the original DPC, first 5 officers are assessed as 'Fit' and next 3 officers are assessed for extended panel and no officer is assessed as 'Unfit' and /or kept in 'Sealed Cover'

Zone of consideration for Supplementary DPC will now be 10 (Normal Zone of consideration for total number of vacancies for that year – number of officers assessed by earlier DPC i.e 18-8).

As such, in the eligibility list of Supplementary DPC in the above illustration, 10 officers (6 left over officers from the original DPC and 4 additional officers) shall be included.

Situation 3 - In the original DPC, 5 officers are assessed as 'Fit', 2 officers are assessed for extended panel and 4 officers are assessed as 'Unfit' and/or kept in 'Sealed Cover'

Zone of consideration for Supplementary DPC will now be 7 (Normal Zone of consideration for total number of vacancies for that year – number of officers assessed by earlier DPC i.e 18-11)

As such, in the eligibility of Supplementary DPC in the above illustration, 7 officers (3 left over officer not assessed in the original DPC and 4 additional officers) shall be included in the normal zone.

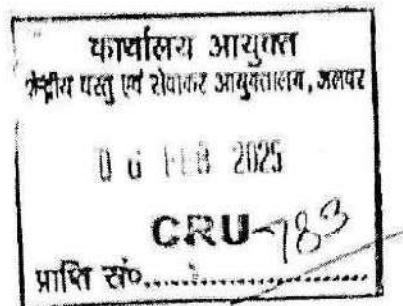
Extended Zone in situation 1,2 & 3 above:

Extended zone in the Supplementary DPC, wherever resorted to, may be operated accordingly leaving out the SC/ST officers assessed by the original DPC.

Important- In the Supplementary DPC, (a) Zone of consideration (Normal as well as Extended) shall be decided taking into account total number of vacancies in the relevant vacancy year; and (b) all the officers already assessed in the original DPC are not to be included in the fresh zone of consideration in respect of the S-DPC.

To,

The Chief Commissioner,
CGST & CE (JZ),
NCRB, Statue Circle, C-Scheme,
Jaipur -302005.



(Advance copy/Through proper channel)

Sir,

Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit- regarding.

Most respectfully and humbly, kindly refer to letter dated 22.01.2025 on the above subject.

In continuation to above, it is further submitted that O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 issued by the DOPT provided that a review DPC should be held keeping in mind the total vacancies of the year.

Further, it appears that the DOPT has also issued a clarificatory OM No. 22011/2/2014-Estt.D dated 30.01.2015 in view of references received with regard to the consideration zone. Since the said OM has been issued with regard to references thus, it is applicable for past period undoubtedly.

In this regard, it is submitted that in similar matter, an employee of income tax has requested for promotion from 16.07.2007. In this case two DPCs were held in 2007 and he requested for taking into account the total number of vacancies in the vacancy year for determination of extended zone. The Income Tax department has sought a clarification from DOPT through CBDT regarding effective date of OM Dated 30.1.2015. Subsequently, the Income tax department considered the case and conducted a review DPC on 18.11.2016 and that employee was promoted with effect from 16.07.2007. In this regard, a copy of Order dated 18.04.2017 in Case Number 4450/102/2015 issued by the Hon'ble Court of Chief Commissioner For Persons With Disability, Ministry of Social Justice and Empowerment, Govt of India is enclosed for ready reference.

In view of above, it is again submitted that the applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the earlier year and kindly requested to get re-examined the matter for taking corrective measures and to rectify the erroneous promotions. Further, it is humbly prayed that the seniority may kindly be revised appropriately and the eligible benefits, if any, may kindly be extended in the interest of justice.

Encl. As above

Yours faithfully,

Date: 06.02.2025

Place: Alwar

Sunil Verma
06/02/2025

(Sunil Kumar Verma)

Superintendent (Tech)

CGST & CE Commissionerate,

Alwar

Copy submitted to the Commissioner, CGST & CE Commissionerate, Alwar with request to forward this application to the Chief Commissioner, CGST & CE (JZ), NCRB, Statue Circle, C-Scheme, Jaipur -302005 at the earliest.

Sunil Verma
06/02/2025

(Sunil Kumar Verma)

Superintendent (Tech)



न्यायालय मुख्य आयुक्त विकलांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities

राजाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

गारत सरकार / Government of India

Case No.4450/1021/2015

Dated 18.04.2017

In the matter of:

Shri K.G. Kuchhadiya, R657
Income Tax Inspector,
Income Tax Office, ITO-Ward-I(1)(5),
5th Floor, Aayakar Bhavan,
Race Course Ring Road, Rajkot Gujarat
Email - kgk556@gmail.com

.... Complainant

Versus

O/o the Principal Chief Commissioner of Income Tax (Gujarat),
Through: Principal Chief Commissioner of Income Tax,
2nd Floor, Aayakar Bhavan, Ashram Road,
Ahmedabad, Gujarat-380014

.... Respondent

Date of Hearing - 22.11.2016

Present:

None of the parties appeared

ORDER

The above named complainant, a person with 75% locomotor disability filed a complaint dated 07.06.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding non-maintenance of the cadre-wise Roster Register and non-implementation of reservation in promotion for the persons with disabilities.

2. The complainant submitted that he was working as Income Tax Inspector in Rajkot. After passing the Departmental Examination for Inspector in the year 2001, he was promoted as Income tax Inspector on 22.12.2008. He passed the Departmental Examination for Income tax Officer in the year 2009. He was expecting to be promoted as Income Tax Officer in PH quota in respective Departmental Promotion Committee selection. He made a representation on 15.05.2015 to the Principal Chief Commissioner of Income Tax, Ahmedabad to verify his eligibility and pre-pone him in Re-casted Seniority list of Inspectors of Income-Tax. He was told that his case was pending for disposal. He further submitted that PH quota of reservation was either not maintained properly or was altogether not maintained at all by his establishment. In the Recruitment

सरोजिनी हाउस, 6, भगवान दास रोड, नई दिल्ली-110001; दूरध्वान: 23386054, 23386154; टेलीफ़ोन: 23386006
Sarojini House, 6, Bhagwan Dass Road, New Delhi-110001; Tel: 23386054, 23386154; Telefax: 23386006

E-mail: ccdp@nic.in; Website: www.ccdisabilities.nic.in
(पुनराय प्रिया में प्रयोगात् फैले अपरोक्ष फाईल/फैस राखा। अपराया लिखें)
(Please quote the above file/case number in future correspondence)

Year 2007, two DPCs were held in which, no PH persons were promoted. His seniority number was at 245, which was within the extended zone. The reservation of PH category being horizontal, the extended zone had to be considered on the total number of posts (i.e. five times of 61 which come 305). He requested to consider his promotion to the post of Income-Tax Inspector in the first DPC held on 16.07.2007 of 61 candidates pre-poning his seniority from 16.07.2007.

3. The matter was taken up with the respondent under Section 59 of the Act vide this Court's letter dated 16.06.2015,

4. The respondent vide letter No.Pr.CC/ABD/HQ-Personnel/KGK/2015-16 dated 09.09.2015 submitted that the complaint regarding non-implementation of reservation in promotion for persons with disabilities was wrong as in every DPC conducted for promotion in Group 'C' cadre, 3% of the vacancy was earmarked for persons with disabilities and the same was filled up by extending the zone by 5 times the number of vacancy for the recruitment years. The complainant was promoted as Inspector in Recruitment Year 2008-09 in the reserved quota for PH candidate. The respondent intimated that unified vacancies were carried forward till three subsequent recruitment years. Regarding the claim of the complainant that he should have been promoted in Recruitment Year 2007-08, the DPC for Recruitment Year 2007-08 examined and found that two DPCs were conducted in Recruitment Year 2007-08. First DPC was conducted on 12.07.2007 which was again reviewed on 01.08.2008. A total of 60 vacancies were determined including carried forward 17 vacancy (13 ministerial and 4 stenographer cadre), out of which 44 vacancies were allotted to Ministerial cadre and 16 for stenographer cadre. 3% quota of the vacancy was earmarked for PH quota in both categories. Accordingly, 3% of 31 current years ministerial vacancy i.e. 1 vacancy was allotted to ministerial cadre. As the complainant belonged to ministerial cadre, the zone of consideration was extended to 44 and the eligibility list of 220 candidates was prepared for consideration. As the complainant did not appear with the list of 220 candidates, he was not considered for promotion. On account of Ahmedabad CATs decision that Shri Parag R. Shah belonged to PH quota and senior to the complainant was promoted against the reserved quota for PH candidate in the Recruitment Year 2007-08. In the Eligibility list of officials for Recruitment Year 2007-08, complainant name appeared at Sr. No.274 and the promotion was considered till the Sr. No.220 in the extended zone. The second DPC for Recruitment Year 2007-08 was held on 07.11.2007 wherein 25 vacancies including 13 carried forward vacancies were determined out of which 20 vacancies were allotted to Ministerial cadre and 5 to stenographer cadre. The current vacancy for the DPC was only 12. Accordingly, 3% of 12 vacancies being less than 0.5 no vacancy were earmarked to PH candidates. As per DoP&T's OM dated 30.01.2015, the total vacancy of regular and supplementary DPC had to be summed up. The OM relied upon by the complainant had effect only from the date of issue of OM and

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could not be implemented retrospectively. Besides this, the complainant had claimed that 3% of total vacancies including carried forward vacancies had to be earmarked every year. That could not be entertained as 3% vacancies were already earmarked from the vacancies of previous years which were carried forward to subsequent years.

5. The respondent vide letter No.Pr.CC/GUJ/DC(HQ-Pers)/KGK/Misc./179-2/2015-16 dated 29.01.2016 further submitted that feeder cadre for promotion to the post of Inspector of Income-Tax comprised of Office Superintendent, Sr. Tax Assistant and Tax Assistant/UDC from the ministerial cadre and Stenographer Gr.I, Stenographer Gr.II and Stenographer Gr.III from the Stenographer's cadre. As per the recruitment rules, the promotion to the post of Inspector had to be made from the ministerial cadre and Stenographer's cadre in the ratio of 3:1. Therefore, separate list had to be prepared for ministerial cadre and stenographer's cadre and provision for reservation (including horizontal reservation for PH) had to be considered in both the ministerial and stenographer cadre. When sufficient number of candidates belonging to reserved category was not available either in ministerial cadre or stenographer's cadre then the eligibility list of respective cadre was to be extended upto 5 times as per the vacancy determined for their cadre. This was done to maintain the ratio 3:1 between ministerial and stenographer's cadre. Accordingly, the complainant was not considered for promotion in the DPC held on 12.07.2007 as his name did not appear even in the extended zone as per the vacancy for Ministerial staff. Even the OM dated 30.01.2015 did not state that the zone of consideration for the original DPC had to be considered taking into account the future vacancy that might likely arise for unforeseen circumstances. The contention of the complainant that he should be considered for promotion in the original DPC held on 12.07.2007 was found to be untenable as the official was neither within the extended zone of consideration of the original DPC dated 12.07.2007 nor the O.M. dated 30.01.2015 referred by him supported his claim. The O.M. was issued on account of references made on various issues related to supplementary DPC, including the issue of zone of consideration. The respondent further submitted that the contention of the complainant that the O.M. dated 30.01.2015 is clarificatory in nature and is effective retrospectively is wrong and misinterpreted. The respondent intimated that clarification was being sought from DoP&T through CBDT regarding the effective date of the O.M. dated 30.01.2015 and whether it would also apply in case where DPC was conducted in the year 2007. The respondent further requested that the petition of the complainant be kept on hold till clarification was received from CBDT/DoP&T.

6. The complainant vide rejoinder dated 16.09.2015 submitted that he was promoted in the Recruitment Year 2008-09 in reserved PH quota. But the respondent had not maintained proper Reservation Roster since 1996 to earmarked 3% reservation for persons with disabilities as per para 15(a) of the DoP&T's O.M. dated 29.12.2005. During Recruitment Year 2007, the department stopped giving reservation benefit to

persons with disabilities in the cadre of Inspector. This Court vide order dated 30.05.2008 in case No.5108/2008 advised the respondent that the post of Income Tax Inspector be treated as Group 'C' post and separate DPC be held to consider complainant's promotion if he was eligible. The Income Tax Department had informed that since the complainant did not fall within the extended zone of previous two DPCs his promotion was not due. His colleague Shri Parag R. Shah was promoted on 01.08.2008 and complainant's seniority was fixed from 12.07.2007. Thereafter, with effect from 03.06.2014 the complainant was promoted as Income Tax Officer. Further, on 29.04.2004 both Shri Parag Shah and the complainant was promoted to Senior Tax Assistant and their seniority were No.706 and 708 respectively. The complainant again filed complaints dated 11.08.2008, 15.10.2008 and 14.11.2008 [Case No.20/1021/08-09]. After direction dated 27.01.2010 of this Court, DoP&T vide O.M. No.22011/2/2014-Estt. dated 30.01.2015 clarified as under:

"(a) Zone of consideration (Normal as well as Extended) shall be decided taking into account total number of vacancies in the relevant vacancy year; and (b) all the officers already assessed in the original DPC are not to be included in the fresh zone of consideration in respect of the S-DPC."

The complainant submitted that since he was coming from ministerial staff quota, the zone of consideration in original and supplementary DPC in his case, according to the clarification of DoP&T was as under:

Original DPC dated 12.07.2007

No.0 of vacancies	-	45 (After reducing 16 posts of stenographers)
Normal zone	-	$45 \times 2 + 4 = 94$
Extended zone	-	$45 \times 5 = 225$

Supplementary DPC dated 07.11.2007

No. of vacancies	-	20 (After reducing 5 posts of stenographers)
Zone of consideration was to decide taking into account the total number of vacancies in the vacancy year, i.e. 65 (vacancies at the time of original DPC + unanticipated vacancies for the same year i.e. 45+20)		

For 65 vacancies, normal zone was : $65 \times 2 + 4 = 134$

Extended Zone : $65 \times 5 = 325$

Accordingly, the complainant submitted that his seniority No. was 245 within the extended zone and he was eligible for promotion for the post of Income Tax Officer w.e.f. 16.07.2007. The complainant further requested that the DPC already held on 22.12.2014 be reviewed and consider his case for promotion to the post of Income-Tax Officer.

7. The complainant in his rejoinder vide email dated 21.12.2015 submitted that DPC meeting for Recruitment Year 2009-10, was held on 29.06.2009 to consider promotion to the cadre of Income-Tax Inspector, in which 05 posts were already vacant for Recruitment year 2007-08 for PH employees out of which only 01 post was filled up by the Department though eligible candidates were available.

8. Upon considering the replies received from the respondent and rejoinders received from the complainant, this Court vide Notice of Hearing dated 21.09.2016 scheduled the case for personal hearing on 22.11.2016 and summoned the parties to appear before the court.

9. In the meanwhile, the complainant vide representation dated 18.11.2016 intimated to this Court that the Income Tax Department Gujarat vide order No.50(NG) of 2016-17 dated 18.11.2016 had promoted him to the cadre of Inspector with effect from 16.07.2007. The complainant also desired to withdraw the case filed by him.

10. The respondent vide letter No.Pr.CC/GUI/CD (HQ-Pers)/KGK/Misc./179-2/2016-17/5153 dated 18.11.2016 intimated that the case of the complainant was considered and a Review DPC was conducted on 18.11.2016, whereby the complainant was given promotion to the cadre of ITI in Recruitment Year 2007-08 w.e.f. 16.07.2007 and accordingly an order No.50 (NG) of 2016-17 dated 18.11.2016 was issued. The respondent also intimated that the complainant vide letter dated 18.11.2016 also withdrawn his case filed before this Court.

11. In view of the above, since the grievance of the complainant has been redressed, no further action is required in the matter and the case is accordingly closed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities

Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit- regarding.

SUNIL KUMAR VERMA < sunilv-dor@nic.in >

Thu, 21 Aug 2025 6:22:28 PM +0530

To "ccu-cexjpr"<ccu-cexjpr@nic.in>

Cc "commr-cexalwar"<commr-cexalwar@nic.in>

Sir,

Kindly refer to my representation dated 22.01.2025 and subsequent representation dated 06.02.2025 Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit.

In this regard, it is submitted that after submission of these letters / representations and passing of more than sufficient time no communication has been received so far. Therefore, respectfully, present 3rd representation dated 21.08.2025 in the matter is being submitted alongwith relevant enclosures for kind information and necessary action in the matter. The hard copy of said representation has already been submitted for forwarding by the Commissionerate through proper channel.

Thanks and Kind regards
Yours faithfully,
Sunil Kumar Verma,
Superintendent (Tech)
CGST , Alwar (Raj).

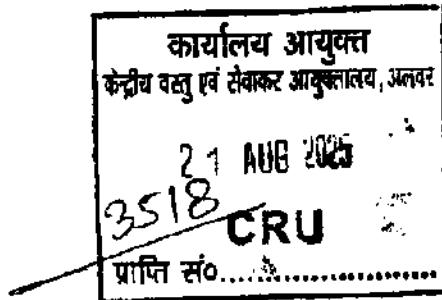
1 Attachment(s)

Rep dated 21.08.2025 to the C...

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To,

The Chief Commissioner,
CGST & CE (Jaipur Zone),
NCRB, Statue Circle, C-Scheme,
Jaipur (Raj) 302005



(Advance copy/Through proper channel)

Sir,

Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit- regarding.

Kindly refer to my representation dated 22.01.2025 and subsequent representation dated 06.02.2025 on the above subject.

- 1.1 In this regard, it is pertinent to mention that Office Memorandum No. DOPT-1667545596919 dated 23.09.2022 available online (Source: <https://doptcirculars.nic.in/OM/ViewOMNew.aspx?id=132>) with reference to Representations on other service matters provided that if the individual has not received a reply thereto within a month of its submission, he could address or ask for an interview with the next higher officer for redress of his grievances. Such superior officer should immediately send for the papers and take such action as may be called for, without delay".
- 1.2 In view of above, it is submitted that after submission of these letters / representations and passing of more than sufficient time no communication has been received so far. Therefore, respectfully, present 3rd representation in the matter is being submitted.
2. That the applicant has joined the department on 15.02.1993 (SC) and promoted as Adhoc Superintendent vide Establishment Order No. 80/2010 dated 22.10.2010. Further, promoted as Regular Superintendent vide Establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014. The applicant has not been covered under the extended zone of consideration for regular promotion in the previous DPCs and Review DPCs and actual regular vacancies were either suppressed or not seen before the DPCs which has restricted the consideration zone, thereby deprived my eligibility for regular promotions on various grounds, which are being again submitted for kind consideration.
- 2.1 That DPC dated 29.01.2003 held for regular promotion to the grade of Superintendent from Inspector for filling up 15 vacancies (panel /vacancy year 2002-2003). In the relevant minutes of DPC dated 29.01.2003, at Page no. 2, it has been mentioned that as per the *clarification no 8(c) in respect of maintenance of post-based roaster with reference to DOPTs OM No. 36012/2/96-Estt(Res)* dated **02.07.1997**

(Source: [https://documents.doptcirculars.nic.in/D2/D02adm/36012_2_96_Estt\(Res\).pdf](https://documents.doptcirculars.nic.in/D2/D02adm/36012_2_96_Estt(Res).pdf)) the existing practice of exchange between SC and ST will be continue to be applicable.

2.2 That DOPT's OM No. 36012/17/2002-Estt.(Res) dated 06/11/2003 (Source: <https://documents.doptcirculars.nic.in/D2/D02adm/OM%20dated%2006-11-2003VroVj.pdf>) provides that after introduction of post-based reservation, it is not permissible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice-versa by exchange of reservation between SCs and STs. This OM also provided that "It is possible that some posts reserved for STs might have been filled by SC candidates by exchange of reservation or vice versa before issue of this OM. Such cases need not be reopened. However, if number of SC or ST candidates appointed by reservation including by exchange of reservation between SCs and STs is in excess of reservation prescribed for them, such excess representation may be adjusted in future recruitment.

Since one vacancy reserved for SC category was filled for ST category and no further adjustments for this utilized vacancy were made in subsequent DPCs or review DPCs, thus the utilized vacancy is required to be re-credited for SC category.

2.3 That after issue of post based roaster with reference to DOPT's OM No. 36012/2/96-Estt (Res) dated 02.07.1997 the CCU Jaipur vide letter No. II-39(3)CCU/JPR/2003 dated 22.08.2003 has sent proposal for de-reservation of 2 vacancies reserved for SC category in the grade of Superintendent however, the proposal was not considered.

2.4 That the Hon'ble SUPREME COURT in its Order dated 21.09.1999 (source <https://api.sci.gov.in/jonew/judis/16656.pdf>) in the case of Chandra Kishore Jha v. Mahavir Prasad & Others has held that

"....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner".

The Hon'ble Supreme Court in Order dated 08.05.2014 in the case of Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors. has held that

"15. Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure....." (source: <https://api.sci.gov.in/jonew/judis/41522.pdf>)

These views have been upheld and accepted by the Hon'ble Supreme Court in various cases including Order dated 25.07.2022 in the matter of Union of India & Ors. Versus Mahendra Singh in Civil Appeal No. 4807 of 2022.(source: https://api.sci.gov.in/supremecourt/2019/24781/24781_2019_9_1501_36652_Judgement_25-Jul-2022.pdf)

2.5 Thus, it is clear that for interpretation of statute, one cannot supplement or add words to the Rules. When a particular thing is directed to be performed in a manner prescribed by Rules, it should be performed in that manner itself and not otherwise and when the rule is that where a power is given to do a certain thing in certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden.

3. That Shri RC Dhakar, Superintendent on deputation was to be repatriated from Customs, Mumbai in January-2012 however, he was not repatriated and granted extension for the period from 01.01.2012 to 30.06.2012. One regular vacancy for the panel year 2011-2012 was erroneously been considered as unforeseen vacancy arose during the year 2011-2012 whereas this vacancy is required to be considered and included for the panel year 2012-13 not the panel year 2011-12 and needs to be rectified.

3.1 That S/Shri OP Saharan and Vivek Srivastav, both Superintendents were relieved in the afternoon of 30.03.2012 to join the Directorate of Enforcement, Jaipur on deputation. The date of relieving of both of the officer was last working day of year 2011-12 because 31.03.2012 and 01.04.2012 were Saturday and Sunday respectively. Thus, the vacancy on account of their deputation was required to be filled up in the year 2012-2013. This aspect was ignored and 2 regular vacancies were wrongly considered pertaining to the panel year 2011-12 in view of Hon'ble Supreme Court's Order dated 09.08.2023 in Civil Appeal No. 12/2013 (Source: https://api.sci.gov.in/supremecourt/2012/384/384_2012_16_115_45923_Order_09-Aug-2023.pdf).

3.2 That an incumbent, who works till the last working day of any financial year remained in office on that day and, therefore, the post / vacancy becomes available only on the next day. It does not seem to be logical that the vacancy would arise on the date of relieving when the incumbent was still holding the post and it is not undisputed that the incumbent was holding the post till 30.03.2012.

That in R.K. Sabharwal & Ors. v. State of Punjab & Ors., AIR 1995 SC 1371, (source: <https://api.sci.gov.in/jonew/judis/10894.pdf>) while making a distinction between "posts" and "vacancies", it is opined that "post" means an appointment, job, office or employment, a position to which a person is appointed, whereas "vacancy" means an unoccupied post or office. The plain meaning of the two expressions makes it clear that there must be a post in existence to enable the vacancy to occur. A vacancy can arise only when the post is unoccupied. Thus, the vacancy really arose only on 30.03.2012. Therefore, it was to be calculated in the next vacancy year. Since 31.03.2012 and 01.04.2012 were holidays being Saturday and Sunday, thus the vacancy becomes available only on 02.04.2012. Vacancy would become a vacancy for the subsequent year that is 2012-13. Thus, it is not disputed that the vacancy year was for the period from 01.04.2012 to 31.03.2013.

3.3 In this regard, reliance is placed on Hon'ble Delhi High Court's Order dated 14.09.2011 in WP(C) No.665/2011 filed by Union of India & Anr. (Petitioners)

R.K. Trivedi & Anr. (Respondents) (source: [https://hcservices.ecourts.gov.in/hcservices/cases/display_pdf.php?filename=Wvv66Dud4dpqZq8Ja%2B1FGLBgFbPV4RHJfibqP8m%2FKCAWhFZhTs8MHG33Gx2HcW7&caseno=W.P.\(C\)/665/2011&cCode=1&appFlag=web&normal_v=1&cino=DLHC010138072011&state_code=26&flag=nojudgement](https://hcservices.ecourts.gov.in/hcservices/cases/display_pdf.php?filename=Wvv66Dud4dpqZq8Ja%2B1FGLBgFbPV4RHJfibqP8m%2FKCAWhFZhTs8MHG33Gx2HcW7&caseno=W.P.(C)/665/2011&cCode=1&appFlag=web&normal_v=1&cino=DLHC010138072011&state_code=26&flag=nojudgement)) which has further been upheld by the Hon'ble Supreme Court vide Order dated 09.08.2023 in Civil Appeal No. 12/2013. The ratio this judgement is squarely applicable in present case.

3.4 In view of the above, 03 regular promotions considered for the panel/ vacancy year 2011-12 made vide DPC/Review DPC held on 01.08.2012 are erroneous and incorrect hence needs to be revised / reviewed by considering vacancy year as 2012-13. Thus, it is requested to rectify the error, in order to ascertain correct position /number of regular vacancies for the year 2012-13.

3.5 Further, the numbers of carried forward regular vacancies reserved for SC category for the panel year 2012-13 were 8.

That total 14 Superintendents retired namely S/ Shri RC Karnani, SK Verma, SL Jaiswal, AN Choudhary, PR Paliwal, Darshan Singh, RC Dhakar, GR Arora, AR Jethwani, NK Bhargava, SR Khandelwal, ML Vijay, HR Gupta and Jabbar Singh Rathore on 30.04.2012, 30.04.2012, 30.05.2012, 30.06.2012, 30.06.2012, 31.07.2012, 31.07.2012, 31.07.2012, 30.09.2012, 30.10.2012, 30.11.2012, 31.12.2012, 31.01.2013 and 31.01.2013 respectively during 2012-13.

Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the regular vacancy was related to panel year 2012-2013.

3.6 That these facts have already been incorporated mentioned in the self-contained note dated 27.02.2012 drawn for DPC for the panel year 2012-2013.

Further, at the time of holding DPC on 27.02.2012 only following 06 vacancies could not be anticipated: -

- (i) Shri H.C. Vyas, Superintendent expired on 12.04.2012;
- (ii) Shri Madhusudan Sharma submitted VRS Notice dated 18.06.2012 effective from 18.09.2012 and same was accepted vide order dated 20.07.2012;
- (iii) Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years;
- (iv) S/Shri NK Gupta, SP Talwaria and RN Singhal Superintendents were promoted to the post of Assistant Commissioner vide Board's Order No. 124/2012 dated 12.07.2012.

3.7 In view of above, it is submitted that total and correct number of regular posts for which DPC / review DPC for the panel year 2012-2013 were to be presented/ reported before the DPCs for granting regular promotions for the year 2012-2013 and accordingly the extended zone was to be prepared for consideration as regular superintendent. Since the DPCs have not been

appraised factual and correct number of regular vacancies erroneously this has restricted the zone of consideration for regular promotions. It is also submitted that 02 DPC/Review DPC for the year 2012-13 were conducted for 20 and 12 vacancies, in order to restrict the zone of consideration.

3.8 In view of the above facts above, the correct position of vacancies for the year 2012-13 come as under:-

S. No.	Nature of Regular vacancies	Regular Vacancies for the year 2012-13
1.	Carry forward Regular vacancies of SC category	08
2.	Adjustment of one SC vacancy utilized for ST in 2003	01
3.	Clear vacancies on account of retirements during the year 2012-2013 (1.04.2012 to 31.03.2013.)	14
4.	Two officers relieved on last working day of 2011-12 for long term deputation (S/Shri OP Saharan Vivek Shrivastava) thus the anticipated regular vacancy was related to panel year 2012-2013.	02
5.	Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the anticipated regular vacancy was related to panel year 2012-2013.	01
6.	Regular post kept vacant for Deputationists. Shri RC Dhakar, Superintendent on deputation was granted extension for the period from 01.01.2012 to 30.06.2012.	01
7.	S/Shri NK Gupta, SP Talwaria & RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.	03
8	Regular vacancies generated due to death of Shri H.C. Vyas, Superintendent and VRS of Shri Madhusudan Sharma in 2012-13	02
9	Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years.	01
Total		33
Less	Officers returning from deputation (if any)	02
Total clear Vacancies for the year 2012-2013		31
Extended zone 31*5= 155		

4. It is imperative to mention that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, since action is to be initiated in advance, the vacancies to be taken into account should be clear vacancies arising in a post/grade/ service in the relevant vacancy year due to retirement, regular long-

term promotion and deputation. Purely short-term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated year- wise separately

- 4.1 That the O.M. No.18011/2/88-Estt (D) dated 09.08.1988 (source: https://documents.doptcirculars.nic.in/D2/D02est/18011_2_88-Estt-D.pdf) provided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official which was passed in contravention of the existing Rules/ instructions whether statutory or administrative/ executive, as otherwise it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principle of natural justice should be compiled with by giving the Government servant a show cause notice and opportunity to be heard in before passing any order affecting him.
5. In view of above, the total number of clear and regular posts for which DPCs/Review DPCs for the panel year 2012-13 comes to 31 and accordingly the extended zone comes to $31 \times 5 = 155$. The applicant is well covered in this extended zone. Accordingly, the error/ mistake apparent on record needs to be rectified in terms of guidelines contained in OM No. 22011/5/86-Estt. (D) dated 10.04.1989 (source: [https://documents.doptcirculars.nic.in/D2/D02est/22011_5_86_Estt\(D\).pdf](https://documents.doptcirculars.nic.in/D2/D02est/22011_5_86_Estt(D).pdf)) and amended and considering the number of actual or clear vacancies and extended zone for regular promotion.
6. That the OM No. 22011/5/86-Estt (D) dated 10.4.89 [Para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary retirement, new creations etc. could not be foreseen at the time of placing facts and material before the DPC, therefore, another meeting of DPC (commonly referred to supplementary DPC) should be held for drawing up a panel for these vacancies.
- 6.1 As per DOPTs O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 a review DPC should be held keeping in mind the total vacancies of the year.
- 6.2 That attention is also drawn towards DOPT OM No. DOPT-1721625311004 dated 22.07.2024 (source: <https://doptcirculars.nic.in/OM/ViewOMNew.aspx?id=496&headid=4>) and relevant portion is also reproduced as below:

"OFFICE MEMORANDUM

Subject:- Guidelines on Departmental Promotion Committees

.....

4.4.9 Cases of occurrence of additional vacancies in a year

Where a DPC has already been held in a year and further vacancies arise during the same year due to death, resignation, voluntary retirement etc. or because the vacancies were not intimated to the DPC due to error or omission on the part of the Department concerned, the following procedure should be followed:

(i) Vacancies due to death, voluntary retirement, new creations, etc., clearly belong to the category, which could not be foreseen at the time of placing facts and material before the DPC. In such cases, another meeting of the DPC should be held for drawing up a panel for these vacancies as these vacancies could not be anticipated at the time of holding the earlier DPC. If, for any reason, the DPC cannot meet for the second time, the procedure of drawing up of year wise panels may be followed when it meets next for preparing panels in respect of vacancies that arise in subsequent year(s).

(a) With regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year. These issues have been examined in consultation with UPSC and the following is decided.

(b) The zone of consideration, in case of holding supplementary DPC, shall be fixed as indicated in para 4.3 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year.

(c) The eligibility list for supplementary DPC shall be prepared by removing the names of all such officers who have already been assessed by earlier DPC as fit, unfit or placed in the sealed cover by the original DPC before placing the same for consideration by the supplementary DPC.

(d) The officers who have already been empanelled or placed in the extended panel but could not be promoted due to these vacancies not actually becoming available, need not be re-assessed by the supplementary DPC as the assessment matrix remains the same. They may be appointed against the additional vacancies of the same vacancy year as per recommendations of the earlier DPC. In such situation the number of vacancies for supplementary DPC shall be accordingly adjusted.

(e) While calculating the regular vacancies for a DPC, it is incumbent upon administrative department to ensure that there is no arbitrariness in calculation of anticipated vacancies

[O.M. No. 6.4.2(i) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 and O.M. No. 22011/2/2014-Estt.(D) dated 30.01.2015]

(ii) The second type of cases of non-reporting of vacancies due to error or omission (i.e. though the vacancies were there at the time of holding of DPC meeting but they were not reported to it results in injustice to the officers concerned by artificially restricting the zone of consideration. The wrong done cannot be rectified by holding a second DPC or preparing a year wise panel. In all such cases, a review DPC should be held keeping in mind the total vacancies of the year.

[O.M. No. 6.4.2(ii) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989] "

6.3 Further, it may be mention that DDPT OM No. 22013/1/97-Estt. (D) Dated 13.04.1998 (source: [https://documents.doptcirculars.nic.in/D2/D02est/22013_1_97-Estt.\(D\).pdf](https://documents.doptcirculars.nic.in/D2/D02est/22013_1_97-Estt.(D).pdf)) regarding Procedure to be observed by DPC-Holding of Review DPC provided that

".... The provisions made in para 6.4.2 and Para 18.1 of OM dated 10.04.1998 enumerate some of the situation in which review DPC is required to be held. These situations are:-

(a)

....

(f)

These instances are illustrative and not exhaustive.

2.The basis of doubt is that the situation has not been specifically enumerated in para 6.4.2 or Para 18.1 of the Office memorandum dated April 10, 1989.

3. In this connection it is clarified that the situations enumerated in the aforesaid paras (6.4.2 and 18.1) are only illustrative and not exhaustive."

7 As per OM No. 22011/2/2014-Estt.D dated 30.01.2015 (source : https://documents.doptcirculars.nic.in/D2/D02est/22011_2_2014-Estt.D-30012015.pdf), Zone of Consideration in case of holding supplementary DPC, shall be fixed as per the provisions in this Department OM No. 22011/2/2002-Estt(D) dated 06.01.2006 (source: [https://documents.doptcirculars.nic.in/D2/D02est/22011-2-2002-Estt\(D\).pdf](https://documents.doptcirculars.nic.in/D2/D02est/22011-2-2002-Estt(D).pdf)) keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year. However, in the department has not issued promotion order in view of the total vacancies of a year as per the above OM.

7.1 That Para 1 of OM No. 22011/2/2014-Estt.D dated 30.01.2015 provided that "This Department instructions issued vide OM No. 22011/5/86-Estt (D) dated 10.4.89 [para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary retirement, new creations etc. could not be foreseen at the time of placing facts and material before the DPC, therefore, another meeting of DPC (commonly referred to supplementary DPC)."

7.1.1 That meeting for DPC was held on 01.08.2012 and in the minutes and self-contained note for the panel year 2012-2013 for 12 regular vacancies the Term "another DPC" has been used. This is a matter of fact. These 12 vacancies of another DPC were required to be added /clubbed with 20 regular vacancies for determination of zone of consideration, but it has not been done. Since another meeting of DPC is commonly referred to supplementary DPC, therefore, the zone of consideration was required considering total number of vacancies for the panel/vacancy year 2012-2013. The error on the part of department is matter of record.

7.2 DOPT OM. 22011/2/2002-Estt(D) dated 06.01.2006 provided DPC Guidelines-Review of size of zone of consideration. This OM specifically provided that

"3. The matter has been considered carefully. Keeping in view the considerations in para-2 above, it has been decided to modify the existing provisions relating to size of zone of consideration as under:

(i) ...

(iii) The existing size of extended zone of consideration for SCIST officers, viz. five times the total number of vacancies, will continue to be applicable.

7.3 The DOPT has further issued procedural and clarificatory OM No. 22011/2/2014-Estt.D dated 30.01.2015 regarding Procedure for conduct of supplementary DPC.

7.4 In view of above, the OM No. 22011/5/86-Estt (D) dated 10.04.1989, OM No. 22011/2/2002-Estt(D) dated 06.01.2006 and OM No. 22011/2/2014-Estt.D dated 30.01.2015, promotions were to be made keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year, but it has not been done in the case of applicant.

7.5 It is pertinent to mention that the OM dated 30.01.2015 has been issued in view of references received with regard to the consideration zone. The OM dated 30.01.2015 provided that references have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year.

8. That the Hon'ble Supreme Court in it's Order dated 16.05.2023 in Appeal No. 3752 OF 2023 in the case of Sree Sankaracharya University of Sanskrit & Ors. Appellant(S) Vs. Dr. Manu & Anr (source: https://api.sci.gov.in/supremecourt/2017/24140/24140_2017_3_1502_44529_Judgement_16-May-2023.pdf) has held that for a subsequent order/provision/amendment passed to be considered a clarification to the original provision, it must not expand or alter the scope of the original provision and that the original must be sufficiently vague or ambiguous so as to require such clarification. The Apex Court observed while it was well established that a clarification or an explanation to clear any ambiguity or correct any glaring omissions in a statute would be applicable retrospectively, it had to consider the question of how such a clarification/ explanation to a statute could be identified and distinguished from a substantive amendment to a statute. "A clarification must not have the effect of saddling any party with an unanticipated burden or withdrawing from any party an anticipated benefit", the Apex Court observed in this regard.

8.1 Placing its reliance on State of Bihar v. Ramesh Prasad Verma, (2017) 5 SCC 665, the Court said that it is trite that any legislation or instrument having the force of law, which is clarificatory or explanatory in nature and purport and which seeks to clear doubts or correct an obvious omission in a statute, would generally be retrospective in operation. Therefore, the Court considered it appropriate to determine whether the said order was a clarification or a substantive amendment in order to identify whether it would be applicable retrospectively or not. Referring to a trajectory of cases on the lines of the similar issue, the Court culled out the following principles:-

- (i) *If a statute is curative or merely clarificatory of the previous law, retrospective operation thereof may be permitted.*
- (ii) *In order for a subsequent order/provision/amendment to be considered as clarificatory of the previous law, the pre-amended law ought to have been vague or ambiguous. It is only when it would be impossible to reasonably interpret a provision unless an amendment is read into it, that the amendment is considered to be a clarification or a declaration of the previous law and therefore applied retrospectively.*
- (iii) *An explanation/clarification may not expand or alter the scope of the original provision.*
- (iv) *Merely because a provision is described as a clarification/explanation, the Court is not bound by the said statement in the statute itself, but must proceed to analyse the nature of the amendment and then conclude whether it is in reality a clarificatory or declaratory provision or whether it is a substantive amendment which is intended to change the law and which would apply prospectively.*

8.2 In view of above judgement of Hon'ble Supreme Court, it is clear that the OM No. 22011/2/2014-Estt.D dated 30.01.2015 issued for clarifying or explaining the

earlier OM No. 22011/5/86-Estt.(D) dated 10.04.1989 consequent upon references received, has to be applied retrospectively.

- 8.3 It may also be mentioned that Supplementary DPC for vacancies arising during that particular year is an extension of the panel already prepared by the original DPC for empanelling more officers for filling up new vacancies which could not be reported to original DPC due to unforeseen circumstances such as VRS, retirement, death, creation of new post etc. and accordingly as per DOPT's O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 a review or another DPC was to be held keeping in mind the total vacancies of the year.
- 8.5 It is also imperative to mention that when a circular/notification/OM is issued clarifying or explaining the circular/notification/OM already in existence has to be given retrospective effect. Since the said OM dated 30.01.2015 has been issued with reference to references received by the DOPT to clarify the procedure thus, it is applicable for past period undoubtedly.
- 8.6 That the applicant has filed RTI application on 05.02.2025 to the DOPT requesting thereunder "Kindly refer DOPT OM No. 22011 2 2014 Estt.D dated 30th Jan 2015. In Para 2 of said OM it has been mentioned that 2. References have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year. In this regard it is requested to provide copies of all the references received with regard to the zone of consideration as mentioned in Para 2 of referred OM by email". (Copy enclosed)
- 8.6.1 That in response to above, RTI application, the DOPT vide reply dated 18.02.2025 intimated that "2. As per available records, DoPT guidelines dated 30.1.2015 regarding procedure for conduct of Supplementary DPC was issued on the basis of reference received from UPSC. A copy of the same is attached, as desired". (Copy of Final Status of DOPT&T/R/E/25/00949 enclosed)
- 8.6.2 Thus, it is clear that DoPT guidelines dated 30.01.2015 regarding procedure for conduct of Supplementary DPC was issued on the basis of reference received from UPSC and thus it is also clear that when a Circular/Notification/OM is issued clarifying or explaining the Circular/Notification/OM already in existence has to be given retrospective effect. This is supported by Supreme Court in its Order dated 16.05.2023 in Appeal No. 3752 OF 2023 in the case of Sree Sankaracharya University of Sanskrit & Ors. Appellant(S) Vs. Dr. Manu & Anr (supra)
9. Additionally, for correct calculation of zone of consideration, reliance is also placed on the followings:-
 - (i) Order dated 18.04.2017 in Case Number 4450/102/2015 issued by the Hon'ble Court of Chief Commissioner For Persons With Disability, Ministry of Social Justice and Empowerment, Govt. of India passed in

the matter of Shri K.G. Kachhadiya versus O/o the Principal Chief Commissioner of Income tax (Gujarat). (Copy already submitted vide letter dated 06.02.2025 and again enclosed)

(ii) Order No.50(NG) of 2017 dated 18.11.2016 issued by the O/o the Principal Chief Commissioner of Income tax (Gujarat) by which Shri Kachhadiya has been promoted with effect from 16.07.2007. Copy of this order has been provided by the CPIO, O/o the Principal Chief Commissioner of Income tax (Gujarat) and also enclosed.

9.1 That in similar matter, Shri KG Kachhadiya, was promoted as Income tax Inspector on 22.12.2008. He represented the Principal Chief Commissioner of Income Tax Ahmedabad to verify his eligibility and pre-pone in re-casted seniority. In this case 02 DPCs were held in 2007 (original DPC on 12.07.2007 for 45 vacancies and Supplementary DPC dated 07.11.2007 for 20 vacancies). Shri KG Kachhadiya claimed that he should have been promoted in 2007-2008. Shri KG Kachhadiya requested for taking into account the total number of vacancies in the vacancy year for determination of extended zone ($45+20 \times 5 = 325$). The Income Tax department has sought a clarification from DOPT through CBDT regarding effective date of OM Dated 30.1.2015.

Subsequently, the Income tax department considered the case and conducted a review DPC on 18.11.2016 and Shri Kachhadiya was promoted with effect from 16.07.2007 vide Order No. 50(NG) of 2017 dated 18.11.2016 (copy enclosed). This order clearly reveals that a review DPC has been held on 18.11.2016 for promoting Shri Kachhadiya with effect from 16.07.2007 as claimed by him.

10. In view of the above, the applicant has sufficient reason to believe that the applicant has not been considered for regular promotion in the appropriate year due to various reasons as mentioned above, or curtailment of extended zone of consideration for regular promotion due to Part DPCs in a year, incorrect determination of regular vacancies etc., unforeseen vacancies, long term deputation, incorrect determination of vacancy year, utilization of SC's vacancy for ST etc., and all these facts have restricted the zone of consideration zone as well as eligibility for regular promotions. The applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the earlier year.

10.1 For convenience, the authentic online link/source of orders, OM or references have been inserted which may kindly be seen.

11. The above facts and in the interest of justice, it is kindly requested and prayed in the interest of justice

- (i) The matters may kindly be re-examined on facts and merit for taking the corrective measures in view of the submissions made by the applicant;
- (ii) To rectify the erroneous promotions in respect of applicant and revise the seniority appropriately;

- (iii) To extend eligible benefits, if any, in the interest of justice;
- (iv) To take remedial action in the matter as deemed fit

Encl: As per Annexure- A

Yours faithfully,

Date: 21.08.2025

Place: Alwar

Sunil Kumar Verma
SK (Sunil Kumar Verma)
Superintendent (Tech)
CGST & CE Commissionerate, Alwar

Copy submitted to the followings:

- (i) The Commissioner, CGST & CE Commissionerate, Alwar with request to forward this application to the Chief Commissioner, CGST & CE (JZ), NCRB, Statue Circle, C-Scheme, Jaipur -302005 at the earliest.
- (ii) Ms Sunita Verma, Joint Commissioner of Customs & Liaison Officer (SC/ST) , NCRB, Statue Circle, C-Scheme, Jaipur -302005 for information and necessary action please with request to take up the matter with administration/authorities .

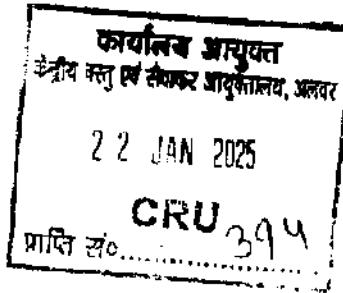
Sunil Kumar Verma
SK (Sunil Kumar Verma)

Annexure- A

S. No.	Description	Page No.
1	Letter dated 22.01.2025	1-6
2.	Letter dated 06.02.2025	1-2
3.	Order dated 18.04.2017 in Case Number 4450/102/2015 issued by the Hon'ble Court of Chief Commissioner For Persons With Disability, Ministry of Social Justice and Empowerment, Govt. of India passed in the matter of Shri K.G. Kachhadiya	1-5
4.	Order No. 50(NG) of 2017 dated 18.11.2016 issued by the O/o the Principal Chief Commissioner of Income tax (Gujarat) by which Shri Kachhadiya has been promoted with effect from 16.07.2007.	1
5.	Final Status of DOPT&T/R/E/25/00949 dated 18.02.2025 and copies of reference sent by UPSC to DOPT	3

To,

The Chief Commissioner,
CGST & CE (JZ),
NCRB, Statue Circle, C-Scheme,
Jaipur -302005.



(Advance copy/Through proper channel)

Sir,

Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit- regarding.

Most respectfully and humbly, it is submitted that the applicant has joined the department on 15.02.1993 and promoted as Regular Superintendent vide Establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014.

- 1.1 In this regard, it appeared that the applicant has been covered under the extended zone of consideration for regular promotion in the previous DPCs and review DPCs and actual regular vacancies were either suppressed or not seen before the DPCs which has restricted the consideration zone and deprived my eligibility for regular promotions on various grounds, which are being submitted for kind consideration.
2. The DPC dated was 29.01.2003 held for regular promotion to the grade of Superintendent from Inspector for filling up 15 vacancies (panel /vacancy year 2002-2003). In the relevant minutes of DPC dated was 29.01.2003, at Page no. 2, it has been mentioned that as per the clarification no 8(c) in respect of maintenance of post-based roaster with reference to DOPT's OIM No. 36012/2/96-Estt(Res) dated 02.07.1997 the existing practice of exchange between SC and ST will be continue to be applicable.

The OM No. 36012/17/2002-Estt.(Res) dated 06/11/2003 provides that after introduction of post-based reservation, it is not permissible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice-versa by exchange of reservation between SCs and STs. This OM also provided that "6 It is possible that some posts reserved for STs might have been filled by SC candidates by exchange of reservation or vice versa before issue of this OM. Such cases need not be reopened. However, if number of SC or ST candidates appointed by reservation including by exchange of reservation between SCs and STs is in excess of reservation prescribed for them, such excess representation may be adjusted in future recruitment.

Since one vacancy reserved for SC category was filled for ST category and no further adjustments for this utilized vacancy were made in subsequent DPCs or review DPCs, thus the utilized vacancy is required to be recrated for SC category.

- 2.1 That after issue of post based roaster with reference to DOPT's OIM No. 36012/2/96-Estt (Res) dated 02.07.1997 the CCU Jaipur vide letter No. II-39(3)CCU/JPR/2003 dated 22.08.2003 has sent proposal for de-reservation of 2 vacancies reserved for SC category in the grade of Superintendent however, the proposal was not considered.
- 2.2 The Hon'ble Supreme court in it's Order dated 19.09.1999 in the case of Chandra Kishore Jha v. Mahavir Prasad & Ors. has held that "....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner". The Hon'ble Supreme Court in Order dated 08.05.2014 in the case of Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors. has held that "14. Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure.....". These views have been upheld and accepted by the Hon'ble Supreme Court in various cases including Order dated 25.07.2022 in the matter of Union of India & Ors. Versus Mahendra Singh in Civil Appeal No. 4807 of 2022.
- 2.3 Thus, it is clear that for interpretation of statute, one cannot supplement or add words to the Rules. When a particular thing is directed to be performed in a manner prescribed by Rules, it should be performed in that manner itself and not otherwise and when the rule is that where a power is given to do a certain thing in certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden.
- 2.4 Shri RC Dhakar , Superintendent on deputation was to be repatriated from Customs, Mumbai in January 2012 however he was not repatriated and granted extension for the period from 01.01.2012 to 30.06.2012. One regular vacancy for the panel year 2011-2012 was erroneously been considered as unforeseen vacancy arose during the year 2011-2012 whereas this vacancy is required to be considered and included for the panel year 2012-13 not the panel year 2011-12 and needs to be rectified.
- 2.5 Shri OP Saharan and Shri Vivek Srivastav both Superintendents were relieved in the afternoon of 30.03.2012 to Join the Directorate of Enforcement, Jaipur on deputation. The date of relieving of both of the officer was last working day of year 2011-12 because 31.03.2012 and 01.04.2012 were Saturday and Sunday respectively. Thus, the vacancy on account of their deputation was required to be filled up in the year 2012-2013. This aspect was ignored and 2 regular vacancies were wrongly considered pertaining to the panel year 2011-12 in view of Hon'ble Supreme Court's Order dated 09.08.2023 in Civil Appeal No. 12/2013.

That an incumbent, who works till the last working day of any financial year remained in office on that day and, therefore, the post / vacancy becomes available only on the next day. It does not seem to be logical that the vacancy would arise on the date of

relieving when the incumbent was still holding the post and it is not undisputed that the incumbent was holding the post till 30.03.2012.

In R.K. Sabharwal & Ors. v. State of Punjab & Ors., AIR 1995 SC 1371, while making a distinction between "posts" and "vacancies", it is opined that "post" means an appointment, job, office or employment, a position to which a person is appointed, whereas "vacancy" means an unoccupied post or office. The plain meaning of the two expressions makes it clear that there must be a post in existence to enable the vacancy to occur. A vacancy can arise only when the post is unoccupied. Thus, the vacancy really arose only on 30.03.2012. Therefore, it was to be calculated in the next vacancy year. Since 31.03.2012 and 01.04.2012 were holidays being Saturday and Sunday, thus the vacancy becomes available only on 02.04.2012. Vacancy would become a vacancy for the subsequent year, that is 2012-13. Thus, it is not disputed that the vacancy year is for the period from 01.04.2012 to 31.03.2013.

In this regard, reliance is placed on Hon'ble Delhi High Court's Order dated 14.09.2011 in WP(C) No. 665/2011 filed by Union of India & Anr. (Petitioners) R.K. Trivedi & Anr. (Respondents) which has further been upheld by the Hon'ble Supreme Court vide Order dated 09.08.2013 in Civil Appeal No. 12/2013.

In view of the above, three regular promotions considered for the panel/ vacancy year 2011-12 made vide DPC/Review DPC held on 01.08.2012 are erroneous and incorrect hence needs to be revised / reviewed by considering vacancy year as 2012-13. Thus, it is requested to rectify the error, in order to ascertain correct position /number of regular vacancies for the year 2012-13.

- 2.6 Further the number of carried forward regular vacancies reserved for SC category for the panel year 2012-13 were 8. During 2012-13 total 14 Superintendents namely S/ Shri RC Karnani, SK Verma, SL Jaiswal, AN Choudhary, PR Paliwal, Darshan Singh, RC Dhakar, GR Arora, AR Jethwani, NK Bhargava, SR Khandelwal, ML Vijay, HR Gupta and Jabbar Singh Rathore were retired on 30.04.2012, 30.04.2012, 30.05.2012, 30.06.2012, 30.06.2012, 31.07.2012, 31.07.2012, 31.07.2012, 30.09.2012, 30.10.2012, 30.11.2012, 31.12.2012, 31.01.2013 and 31.01.2013 respectively. Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the regular vacancy was related to panel year 2012-2013.
- 2.7 These facts have already been incorporated mentioned in the self-contained note dated 27.02.2012 drawn for the panel year 2012-2013. Further, at the time of holding DPC on 27.02.2012 only following vacancies could not be anticipated:-

- (i) Shri H.C. Vyas, Superintendent expired on 12.04.2012;
- (ii) Shri Madhusudan Sharma submitted VRS Notice dated 18.06.2012 effective from 18.09.2012 and same was accepted vide order dated 20.07.2012 application dated
- (iii) Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years;

(iv) Three Superintendents namely S/Shri NK Gupta, SP Talwaria and RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.

2.8 In view of above, it appears that total and correct number of regular posts for which DPC / review DPC for the panel year 2012-2013 were to be presented/reported before the DPCs for granting regular promotions for the year 2012-2013 and accordingly the extended zone was to be prepared for consideration as regular superintendent. Since the DPCs has not been appraised factual and correct number of regular vacancies erroneously which has restricted the zone of consideration for regular promotions. It is also submitted that two DPC/Review DPC for the year 2012-13 were made conducted for 20 and 12 vacancies, in order to restrict the zone of consideration.

2.9 In view of above submission, the correct position of vacancies for the year 2012-13 come as under:

S. No.	Nature of Regular vacancies	Regular Vacancies for the year 2012-13
1.	Carry forward Regular vacancies of SC category	08
2.	Adjustment of one SC vacancy utilized for ST in 2003	01
3.	Clear vacancies on account of retirements during the year 2012-2013 (1.04.2012 to 31.03.2013)	14
4.	Two officers relieved on last working day of 2011-12 for long term deputation (S/Shri OP Saharan Vivek Shrivastava) thus the anticipated regular vacancy was related to panel year 2012-2013.	02
5.	Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the anticipated regular vacancy was related to panel year 2012-2013.	01
6.	Regular post kept vacant for Deputationists. Shri RC Dhakar, Superintendent on deputation was granted extension for the period from 01.01.2012 to 30.06.2012.	01
7.	S/Shri NK Gupta, SP Talwaria and RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.	03

8	Regular vacancies generated due to death of Shri H.C. Vyas, Superintendent and VRS of Shri Madhusudan Sharma in 2012-13	02
9	Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years.	01
	Total	33
Less	Officers returning from deputation (if any)	02
	Total clear Vacancies for the year 2012-2013	31

2.10 It is imperative to mention that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, since action is to be initiated in advance, the vacancies to be taken into account should be clear vacancies arising in a post/grade/service in the relevant vacancy year due to retirement, regular long-term promotion and deputation. Purely short-term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated year-wise separately.

2.11 The O.M. No.18011/2/88-Estt (D) dated 09.08.1988 provided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official which was passed in contravention of the existing Rules/ instructions whether statutory or administrative/ executive, as otherwise it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principle of natural justice should be complied with by giving the Government servant a show cause notice and opportunity to be heard in before passing any order affecting him.

3. In view of above, the total number of clear and regular posts for which DPCs/Review DPCs for the panel year 2012-13 comes to 31 and accordingly the extended zone comes to $31 \times 5 = 155$. Accordingly, the error/ mistake apparent on record needs to be rectified in terms of guidelines contained in OM No. 22011/5/86-Estt. (D) dated 10.04.1989 and considering the number of actual or clear vacancies and extended zone for regular promotion.

3.1 The applicant was promoted as Regular Superintendent vide establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014.

3.2 In view of above, it is submitted that the applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the year 2012-2013.

3.2 Whereas the humble applicant has not been considered for regular promotion in the appropriate year due to various reasons as mentioned above, or curtailment of

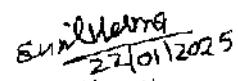
extended zone of consideration for regular promotion due to Part DPCs, incorrect determination of regular vacancies etc., unforeseen vacancies, long term deputation, incorrect determination of vacancy year, utilization of SC's vacancy for ST etc.. and all these facts have restricted the zone of consideration zone as well as eligibility for regular promotions.

4. The above facts it is kindly requested to get re-examined the matter for taking corrective measures and to rectify the erroneous promotions. Further, it is humbly prayed that the seniority may kindly be revised appropriately and the eligible benefits, if any, may kindly be extended in the interest of justice.

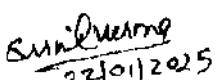
Yours faithfully,

Date: 22.01.2025

Place: Alwar

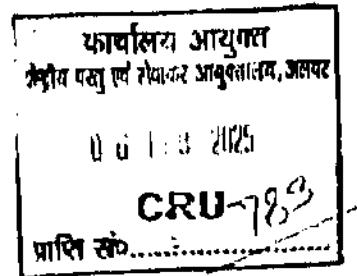

22/01/2025
(Sunil Kumar Verma)
Superintendent (Tech)
CGST & CE Commissionerate, Alwar

Copy submitted to the Commissioner, CGST & CE Commissionerate, Alwar with request to forward this application to the Chief Commissioner, CGST & CE (IJ), NCRB, Statue Circle, C-Scheme, Jaipur -302005 at the earliest.


22/01/2025
(Sunil Kumar Verma)
Superintendent (Tech)

To,

The Chief Commissioner,
CGST & CE (UZ),
NCRB, Statue Circle, C-Scheme,
Jaipur -302005.



(Advance copy/Through proper channel)

Sir,

Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit- regarding.

Most respectfully and humbly, kindly refer to letter dated 22.01.2025 on the above subject.

In continuation to above, it is further submitted that O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 issued by the DOPT provided that a review DPC should be held keeping in mind the total vacancies of the year.

Further, it appears that the DOPT has also issued a clarificatory OM No. 22011/2/2014-Estt.D dated 30.01.2015 in view of references received with regard to the consideration zone. Since the said OM has been issued with regard to references thus, it is applicable for past period undoubtedly.

In this regard, it is submitted that in similar matter, an employee of income tax has requested for promotion from 16.07.2007. In this case two DPCs were held in 2007 and he requested for taking into account the total number of vacancies in the vacancy year for determination of extended zone. The Income Tax department has sought a clarification from DOPT through CBDT regarding effective date of OM Dated 30.1.2015. Subsequently, the Income tax department considered the case and conducted a review DPC on 18.11.2016 and that employee was promoted with effect from 16.07.2007. In this regard, a copy of Order dated 18.04.2017 in Case Number 4450/102/2015 issued by the Hon'ble Court of Chief Commissioner For Persons With Disability, Ministry of Social Justice and Empowerment, Govt of India is enclosed for ready reference.

In view of above, it is again submitted that the applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the earlier year and kindly requested to get re-examined the matter for taking corrective measures and to rectify the erroneous promotions. Further, it is humbly prayed that the seniority may kindly be revised appropriately and the eligible benefits, if any, may kindly be extended in the interest of justice.

Encl. As above

Yours faithfully,

Date: 06.02.2025

Place: Alwar

Sunil Kumar Verma
06/02/2025
(Sunil Kumar Verma)
Superintendent (Tech)
CGST & CE Commissionerate,
Alwar

Copy submitted to the Commissioner, CGST & CE Commissionerate, Alwar with request to forward this application to the Chief Commissioner, CGST & CE (JZ), NCRB, Statue Circle, C-Scheme, Jaipur -302005 at the earliest.

Sunil Kumar Verma
06/02/2025
(Sunil Kumar Verma)
Superintendent (Tech)



न्यायालय मुख्य आयुक्त विकलांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

दिव्यालयांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities

सामाजिक न्याय और अधिकारिता संशालन / Ministry of Social Justice and Empowerment

गारक सरकार / Government of India

Case No.4450/10/1/2015

Dated 18.04.2017

In the matter of:

Shri K.G. Kuchhadia,
Income Tax Inspector,
Income Tax Office, P.O. Ward-I(1)(S),
5th Floor, Anyakar Bhavan,
Race Course Ring Road, Rajkot, Gujarat
Email - kgk5566@gmail.com

... Complainant

versus

Shri the Principal Chief Commissioner of Income Tax (Gujarat),
Through: Principal Chief Commissioner of Income Tax,
2nd Floor, Anyakar Bhavan, Ashram Road,
Ahmedabad, Gujarat-380014

... Respondent

Date of Hearing - 22.11.2016

Present:

None of the parties appeared

ORDER

14. The above named complainant, a person with 75% locomotor disability filed a complaint dated 07.06.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding non-maintenance of the cadre-wise Roster Register and non-implementation of reservation in promotion for the persons with disabilities.

2. The complainant submitted that he was working as Income Tax Inspector in Rajkot. After passing the Departmental Examination for Inspector in the year 2001, he was promoted as Income Tax Inspector on 22.12.2008. He passed the Departmental Examination for Income Tax Officer in the year 2009. He was expecting to be promoted as Income Tax Officer in PH quota in respective Departmental Promotion Committee selection. He made a representation on 15.05.2015 to the Principal Chief Commissioner of Income Tax, Ahmedabad to verify his eligibility and pre-pone him in Re-casted Seniority list of Inspectors of Income-Tax. He was told that his case was pending for disposal. He further submitted that PH quota of reservation was either not maintained properly or was altogether not maintained at all by his establishment. In the Recruitment

Year 2007, two DPCs were held in which, no PH persons were promoted. The total PIF number was 245, which was within the extended zone. The reservation of PIF category being horizontal, the extended zone had to be considered on the total number of posts i.e. five times of 61 which come 305. He requested to consider his promotion to the post of Income-Tax Inspector in the first DPC held on 16.07.2007 of 61 candidates preserving his seniority from 16.07.2007.

3. The matter was taken up with the respondent under Section 59 of the Act vide the Court's letter dated 16.06.2015.

4. The respondent vide letter No.Pr.CC/ADD/HQ-Personnel/KDK/2015-16 dated 09.09.2015 submitted that the complaint regarding non-implementation of reservation in promotion for persons with disabilities was wrong as in every DPC conducted for promotion in Group 'C' cadre, 3% of the vacancy was earmarked for persons with disabilities and the same was filled up by extending the zone by 5 times the number of vacancy for the recruitment years. The complainant was promoted as Inspector in Recruitment Year 2008-09 in the reserved quota for PH candidate. The respondent intimated that unified vacancies were carried forward till three subsequent recruitment years. Regarding the claim of the complainant that he should have been promoted in Recruitment Year 2007-08, the DPC for Recruitment Year 2007-08 examined and found that two DPCs were conducted in Recruitment Year 2007-08. First DPC was conducted on 12.07.2007 which was again reviewed on 01.08.2008. A total of 60 vacancies were determined including carried forward 17 vacancy (13 ministerial and 4 stenographer cadre), out of which 44 vacancies were allotted to Ministerial cadre and 16 for stenographer cadre. 3% quota of the vacancy was earmarked for PH quota in both categories. Accordingly, 3% of 31 current years ministerial vacancy i.e. 1 vacancy was allotted to ministerial cadre. As the complainant belonged to ministerial cadre, the zone of consideration was extended to 44 and the eligibility list of 220 candidates was prepared for consideration. As the complainant did not appear with the list of 220 candidates, he was not considered for promotion. On account of Ahmedabad CATs decision that Shri Parag R. Shahi belonged to PH quota and senior to the complainant was promoted against the reserved quota for PH candidate in the Recruitment Year 2007-08. In the Eligibility list of officials for Recruitment Year 2007-08, complainant name appeared at Sr. No.274 and the promotion was considered till the Sr. No.220 in the extended zone. The second DPC for Recruitment Year 2007-08 was held on 07.11.2007 wherein 25 vacancies including 13 carried forward vacancies were determined out of which 20 vacancies were allotted to Ministerial cadre and 5 to stenographer cadre. The current vacancy for the DPC was only 12. Accordingly, 3% of 12 vacancies being less than 0.5 no vacancy were earmarked to PH candidates. As per DoP&T's OM dated 30.01.2015, the total vacancy of regular and supplementary DPC had to be summed up. The OM relied upon by the complainant had effect only from the date of issue of OM and

could not be implemented retrospectively. Besides this, the complainant had claimed that 3% of total vacancies including carried forward vacancies had to be earmarked every year. That could not be entertained as 3% vacancies were already earmarked from the vacancies of previous years which were carried forward to subsequent years.

5. The respondent vide letter No.Pr.CC/GUJ/DC(HQ-Pers)/KGK/Misc./179-2/2015-16 dated 29.01.2016 further submitted that feeder cadre for promotion to the post of Inspector of Income-Tax comprised of Office Superintendent, Sr. Tax Assistant and Tax Assistant/UDC from the ministerial cadre and Stenographer Gr.I, Stenographer Gr.II and Stenographer Gr.III from the Stenographer's cadre. As per the recruitment rules, the promotion to the post of Inspector had to be made from the ministerial cadre and Stenographer's cadre in the ratio of 3:1. Therefore, separate list had to be prepared for ministerial cadre and stenographer's cadre and provision for reservation (including horizontal reservation for PH) had to be considered in both the ministerial and stenographer cadre. When sufficient number of candidates belonging to reserved category was not available either in ministerial cadre or stenographer's cadre then the eligibility list of respective cadre was to be extended upto 5 times as per the vacancy determined for their cadre. This was done to maintain the ratio 3:1 between ministerial and stenographer's cadre. Accordingly, the complainant was not considered for promotion in the DPC held on 12.07.2007 as his name did not appear even in the extended zone as per the vacancy for Ministerial staff. Even the O.M. dated 30.01.2015 did not state that the zone of consideration for the original DPC had to be considered taking into account the future vacancy that might likely arise for unforeseen circumstances. The contention of the complainant that he should be considered for promotion in the original DPC held on 12.07.2007 was found to be untenable as the official was neither within the extended zone of consideration of the original DPC dated 12.07.2007 nor the O.M. dated 30.01.2015 referred by him supported his claim. The O.M. was issued on account of references made on various issues related to supplementary DPC, including the issue of zone of consideration. The respondent further submitted that the contention of the complainant that the O.M. dated 30.01.2015 is clarificatory in nature and is effective retrospectively is wrong and misinterpreted. The respondent intimated that clarification was being sought from DoP&T through CBDT regarding the effective date of the O.M. dated 30.01.2015 and whether it would also apply in case where DPC was conducted in the year 2007. The respondent further requested that the petition of the complainant be kept on hold till clarification was received from CBDT/DoP&T.

6. The complainant vide rejoinder dated 16.09.2015 submitted that he was promoted in the Recruitment Year 2008-09 in reserved PH quota. But the respondent had not maintained proper Reservation Roster since 1996 to earmarked 3% reservation for persons with disabilities as per para 15(a) of the DoP&T's O.M. dated 29.12.2005. During Recruitment Year 2007, the department stopped giving reservation benefit to

persons with disabilities in the cadre of Inspector. This Court vide order dated 30.05.2008 in case No.5108/2008 advised the respondent that the post of Income Tax Inspector be treated as Group 'C' post and separate DPC be held to consider complainant's promotion if he was eligible. The Income Tax Department had informed that since the complainant did not fall within the extended zone of previous two DPCs his promotion was not due. His colleague Shri Parag R. Shah was promoted on 01.08.2008 and complainant's seniority was fixed from 12.07.2007. Thereafter, with effect from 03.06.2014 the complainant was promoted as Income Tax Officer. Further, on 29.04.2004 both Shri Parag Shah and the complainant was promoted to Senior Tax Assistant and their seniority were No.706 and 708 respectively. The complainant again filed complaints dated 11.08.2008, 15.10.2008 and 14.11.2008 [Case No.20/1021/OK-09]. After direction dated 27.01.2010 of this Court, DoP&T vide O.M. No.22011/2/2014-Est. dated 30.01.2015 clarified as under:

"(a) Zone of consideration (Normal as well as Extended) shall be decided taking into account total number of vacancies in the relevant vacancy year; and (b) all the officers already assessed in the original DPC are not to be included in the fresh zone of consideration in respect of the S-DPC."

The complainant submitted that since he was coming from ministerial staff quota, the zone of consideration in original and supplementary DPC in his case, according to the clarification of DoP&T was as under:

Original DPC dated 12.07.2007

No. of vacancies	-	45 (After reducing 16 posts of stenographers)
Normal zone	-	$45 \times 2 + 4 = 94$
Extended zone	-	$45 \times 5 = 225$

Supplementary DPC dated 07.11.2007

No. of vacancies	-	20 (After reducing 5 posts of stenographers)
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Zone of consideration was to decide taking into account the total number of vacancies in the vacancy year, i.e. 65 (vacancies at the time of original DPC + unanticipated vacancies for the same year i.e. 45+20)

For 65 vacancies, normal zone was : $65 \times 2 + 4 = 134$

Extended Zone : $65 \times 5 = 325$

Accordingly, the complainant submitted that his seniority No. was 245 within the extended zone and he was eligible for promotion for the post of Income Tax Officer w.e.f. 16.07.2007. The complainant further requested that the DPC already held on 22.12.2014 be reviewed and consider his case for promotion to the post of Income-Tax Officer.

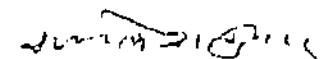
7. The complainant in his rejoinder vide email dated 21.12.2015 submitted that DPC meeting for Recruitment Year 2009-10, was held on 29.06.2009 to consider promotion to the cadre of Income-Tax Inspector, in which 05 posts were already vacant for Recruitment year 2007-08 for PH employees out of which only 01 post was filled up by the Department though eligible candidates were available.

8. Upon considering the replies received from the respondent and rejoinders received from the complainant, this Court vide Notice of Hearing dated 21.09.2016 scheduled the case for personal hearing on 22.11.2016 and summoned the parties to appear before the court.

9. In the meanwhile, the complainant vide representation dated 18.11.2016 intimated to this Court that the Income Tax Department Gujarat vide order No.50(NG) of 2016-17 dated 18.11.2016 had promoted him to the cadre of Inspector with effect from 16.07.2007. The complainant also desired to withdraw the case filed by him.

10. The respondent vide letter No.Pr.CC/GUJ/CD (HQ-Pers)/KGK/Misc./179-2/2016-17/5153 dated 18.11.2016 intimated that the case of the complainant was considered and a Review DPC was conducted on 18.11.2016, whereby the complainant was given promotion to the cadre of ITI in Recruitment Year 2007-08 w.e.f. 16.07.2007 and accordingly an order No.50(NG) of 2016-17 dated 18.11.2016 was issued. The respondent also intimated that the complainant vide letter dated 18.11.2016 also withdrawn his case filed before this Court.

11. In view of the above, since the grievance of the complainant has been redressed, no further action is required in the matter and the case is accordingly closed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



GOVERNMENT OF INDIA
OFFICE OF THE PRINCIPAL CHIEF COMMISSIONER OF INCOME-TAX (GUJARAT)
2nd Floor, Aaykar Bhavan, Ashram Road, Ahmedabad- 380 009
Tele (079) 27544157 / Fax (079) 27546740,

No. Pr.CC/ABD/HQ-Personnel/101-01/Inspector/2016-17

Date: 18/11/2016

ORDER NO. 50(NG) OF 2016-17

In view of the Review DPC held on 18/11/2016, the deemed date of promotion of Shri Kantilal G. Kachhadiya to the cadre of Income-tax Inspector is fixed on 16/07/2007. Accordingly, Shri Kantilal G. Kachhadiya, Sr. T.A. is promoted to the cadre of Income-tax Inspector notionally w.e.f. 16/07/2007.

- 2. He is not entitled to any arrears of pay for the period of notional promotion.
- 3. His seniority in the Inspector cadre is fixed below Shri Harshad N. Patel and above Shri Samir D. Vasava in the seniority list circulated vide letter Pr.CC/ABD/ITI-Seniority List(NRP)/2015-16 dtd.18/11/2016.

Sd/
(M. S. A. KHAN)
COMMISSIONER OF INCOME-TAX
(ADMN & TPS), Ahmedabad.
For, Principal Chief Commissioner of Income-tax, Gujarat.

No. Pr.CC/ABD/HQ-Personnel/101-01/Inspector/2016-17

Date: 18/11/2016

Copy to:

- 1. The Chief Commissioner of Income Tax, Rajkot.
- 2. The Pr. Commissioner of Income Tax -2, Rajkot.
- 3. The Addl. Commissioner of Income Tax, Range - 1, Rajkot.
- 4. The DCIT(HQ)(Admn.), Ahmedabad with a request to do further necessary action.
- 5. The Asst. Director (OL), Ahmedabad with a direction to publish the order in Hindi.
- 6. The ITO (PR & Welfare) / ITO (HQ) (Personnel) / ITO (HQ) (Admn) / ITO (HQ) (Co-ordination), A'bad.
- 7. The Z.A.O. (CBDT), Ahmedabad / A.O. (Pre-Check Unit), Rajkot.
- 8. The DDOs concerned / Officials concerned.
- 9. The Secretary, IRS Association / Secretary, ITGOA / Secretary, ITEF, Ahmedabad.
- 10. The SC / ST Uplift Union, Ahmedabad.
- 11. The Secretary, Staff Side, National Council (JCM), 13-C, Ferozshah Road, New Delhi – 110 001.
- 12. Master file.
- 13. All Sections of the O/o Pr. CCIT (Gujarat), Ahmedabad.

(Sonaliyan Pal)
Addl. CIT (HQ) (Personnel), Ahmedabad
For, Principal Chief Commissioner of Income-tax, Gujarat.



Final Status of DOP&T/R/E/25/00949

Applicant Name

Sunil Kumar Verma

Date of receipt

05/02/2025

Request Filed With

Department of Personnel & Training

Text of Application

Kindly refer DOPT GM No. 22012 2014 Estt. D dated 30th Jan 2015. In Para 2 of said GM it has been mentioned that 2. References have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year. In this regard it is requested to provide copies of all the references received with regard to the zone of consideration as mentioned in Para 2 of referred GM by email. Thanking you document not provided

Request document (if any)

REQUEST DISPOSED OF as on 18/02/2025

Status

18/02/2025

Date of Action

Reply :- Under the RTI Act, only such information can be supplied which already exists and is held by the Public Authority or held under the control of the Public Authority in the form of O.Ms, Notifications, rules, regulations, orders, letters, circulars etc. The Public Information Officer is not supposed to create information or to interpret information or to do some research and supply the conclusion so deduced from the material held or to solve the problems raised by the applicants or to furnish replies to hypothetical questions. Collection and collation of information are also outside the purview of RTI Act. Providing clarifications/opinions is also beyond the scope of the RTI Act.

2. As per available records, DoPT guidelines dated 30.1.2015 regarding procedure for conduct of Supplementary DPC was issued on the basis of reference received from UPSC. A copy of the same is attached, as desired.



Reply Document

(2)

F.No.10/ 6/2012-AUC
UNION PUBLIC SERVICE COMMISSION
DHOLPUR HOUSE, SHAHJAHAN ROAD,
New Delhi-110069

To

November 5, 2012.

The Secretary,
Department of Personnel & Training,
North Block,
New Delhi-110001.

Subject :- Supplementary DPC – procedure regarding preparation of eligibility list.

(Kind attention: Mrs. Mamta Kundra, JS (Estt.))

Sir,

I am directed to refer to the above cited subject and to state that it has been observed by the Commission that the Ministries / Departments while sending the proposals for convening Supplementary DPC invariably include names of officers already considered by the original DPC of that year.

2. In this connection attention is invited to para 6.4.1 of DOP&T OM dated 10.4.1989 which envisages that the DPC is required to prepare year-wise panels by considering in each year those officers only who would be within the field of choice with respect to the vacancies of that year. Supplementary DPC for vacancies arising during that particular year is an extension of the panel already prepared by the original DPC for empanelling more officers for filling up the new vacancies which could not be reported to original DPC due to unforeseen circumstances such as voluntary retirement, death, creation of new posts etc. Further, the ACRs matrix to be considered by such a supplementary DPC remains the same as was placed before the original DPC. Therefore, there is no reason for consideration of the suitability of an officer again for the same year of vacancy if his candidature has already been considered in the original DPC.

3. The existing DPC guidelines as contained in DOP&T OM dated 10.4.1989, as amended from time to time, are silent about the procedure for preparing eligibility list in case of Supplementary DPC. The DOP&T is, therefore, requested to issue necessary clarifications / instructions in this behalf to all the Ministries / Departments.

9330001
B

Yours faithfully,


(Dharmvir Sharma)
Under Secretary

①
Reminder

F.No.10/6/2012-AUC
UNION PUBLIC SERVICE COMMISSION
DHOLPUR HOUSE, SHAHJAHAN ROAD
NEW DELHI-110069

Dated the 13th June, 2014

To

Secretary to the Govt. of India,
Department of Personnel & Training,
North Block,
New Delhi-110001.

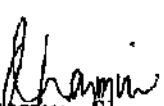
[Kind Attention: Smt. Mukta Goel, Director(Estt.I) Room No.278-B North Block]

Sub: Supplementary DPC- procedure regarding preparation of eligibility list-reg.

Sir,

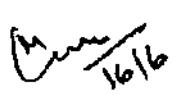
I am directed to invite your kind attention to the letter of even No. dated the 5th November, 2012 (copy enclosed) on the subject mentioned above and to request that action taken by the DOP&T for issue of clarification/ instructions in the matter may kindly be intimated to enable this Office to apprise the Commission suitably.

Yours faithfully,


(Dharmvir Sharma)
Under Secretary (AUC)

Encl: As above

1006418/DR(F3)/2014
16/6/14.


16/6
VS(D)

1. sent up
19/6.
P.J.

Representation of revised seniority list of Sh. DS chetiwal, Supdt.-Reminder-II

D.S Chetiwal <dschetiwal54@gmail.com>

Fri, 22 Aug 2025 11:04:18 AM +0530

To "cco-admn-jpr"<cco-admn-jpr@gov.in>, "ccu-cexjpr"<ccu-cexjpr@nic.in>

PI find enclosed herewith representation of revised my seniority list . Original letter has been submitted to your goodself in the month of Jan. 2025 but till date there no correspondence with the undersigned has been made in the matter. PI consider my request and obliged.
Thanking You.

Yours Faithfully,

(Dharm Singh Chetiwal)
Superintendent(Tech/Legal)
CGST Commissionerate Udaipur.

19 Attachment(s)

Reminder -II to CC.pdf 6.2 MB	03. DOPT's OM No. 36012 17 ... 169.1 KB
01 No.DOPT-1667545596919 ... 176.6 KB	02. DOPT OM 36012 2 96-Estt... 9 MB
07. R.K. TRIVEDI APPELLAN... 25.3 KB	04. Chandra Kishore Jha v. Ma... 27.4 KB
05. CHERUKURI MANI ... AP ... 216.8 KB	06. Union of India Ors. Versus ... 81.2 KB
10. O.M. No.18011 2 88-Estt D... 215.2 KB	08. R. K. SABHARWAL AND O... 27.8 KB
09. RK Trivedi 14.09.2011.pdf 503.2 KB	13 OM No. DOPT-1721625311... 739.2 KB
13. DOPT 13.04.1998 22013_... 117.8 KB	14. 22011_2_2014-Estt.D-30 0... 135 KB
15. Zone of consideration 2201... 261.9 KB	Annexure 3. Order dated 18.0... 295 KB
Annexure 3. Order dated 18.0... 295 KB	Annexure 5. Final status of RTI... 473.1 KB
Annexure A. RTI DOPT attach... 900.2 KB	

To,

The Chief Commissioner,
CGST & CE (Jaipur Zone),
NCRB, Statue Circle, C-Scheme,
Jaipur(Raj)302005

Respected Sir,

Subject: - Request for rectification of seniority due to Erroneous Promotions and granting eligible benefit- regarding.

Kindly refer to my representation dated 22.01.2025 and subsequent representation dated 06.02.2025 on the above subject.

- 1.1 In this regard, it is pertinent to mention that Office Memorandum No. DOPT-1667545596919 dated 23.09.2022 available online (Source:<https://doptcirculars.nic.in/OM/ViewOMNew.aspx?id=132>) with reference to Representations on other service matters provided that "If the individual has not received a reply thereto within a month of its submission, he could address or ask for an interview with the next higher officer for redress of his grievances. Such superior officer should immediately send for the papers and take such action as may be called for, without delay".
- 1.2 In view of above, it is submitted that after submission of these letters / representations and passing of more than sufficient time no communication has been received so far. Therefore, respectfully, present 3rd representation in the matter is being submitted.
2. That the applicant has joined the department on 04.02.1993 (SC) and promoted as Superintendent(Adhoc) on 07.02.2011 and Regular Superintendent vide Establishment Order No. 34/2014 dated 01.04.2014 issued by the CCO (JZ), Jaipur with reference to Minutes of DPC dated 31.03.2014. The applicant has not been covered under the extended zone of consideration for regular promotion in the previous DPCs and Review DPCs due to actual regular vacancies were either suppressed or not seen/placed before the DPCs which has restricted the consideration zone, thereby deprived my eligibility for regular promotions on various grounds, which are being again submitted for kind consideration.
- 2.1 That DPC dated 29.01.2003 held for regular promotion to the grade of Superintendent from Inspector for filling up 15 vacancies (panel /vacancy year 2002-2003). In the relevant minutes of DPC dated 29.01.2003, at Page no. 2, it has been mentioned that as per the *clarification no 8(c) in respect of maintenance of post-based roaster with reference to DOPT's OM No. 36012/2/96-Estt(Res)* dated 02.07.1997 (Source:[https://documents.doptcirculars.nic.in/D2/D02adm/36012_2_96_Estt\(Re](https://documents.doptcirculars.nic.in/D2/D02adm/36012_2_96_Estt(Re)

s).pdf) the existing practice of exchange between SC and ST will be continue to be applicable.

2.2 That DOPT's OM No.36012/17/2002-Estt.(Res) dated 06/11/2003(Source:<https://documents.doptcirculars.nic.in/D2/D02adm/OM%20dated%2006-11-2003VroVj.pdf>) provides that after introduction of post-based reservation, it is not permissible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice-versa by exchange of reservation between SCs and STs. This OM also provided that "6 It is possible that some posts reserved for STs might have been filled by SC candidates by exchange of reservation or vice versa before issue of this OM. Such cases need not be reopened. However, if number of SC or ST candidates appointed by reservation including by exchange of reservation between SCs and STs is in excess of reservation prescribed for them, such excess representation may be adjusted in future recruitment.

Since one vacancy reserved for SC category was filled for ST category and no further adjustments for this utilized vacancy were made in subsequent DPCs or review DPCs, thus the utilized vacancy is required to be re-credited for SC category.

2.3 That after issue of post based roaster with reference to DOPT's OM No. 36012/2/96-Estt(Res) dated 02.07.1997 (source:[https://documents.doptcirculars.nic.in/D2/D02adm/36012_2_96_Estt\(Res\).pdf](https://documents.doptcirculars.nic.in/D2/D02adm/36012_2_96_Estt(Res).pdf)) the CCU Jaipur vide letter No. II-39(3)CCU/JPR/2003 dated 22.08.2003 has sent proposal for de-reservation of 2 vacancies reserved for SC category in the grade of Superintendent however, the proposal was not considered.

2.4 That the Hon'ble SUPREME COURT in it's Order dated 21.09.1999 (source <https://api.sci.gov.in/jonew/judis/16656.pdf>) in the case of Chandra Kishore Jha v. Mahavir Prasad & Others has held that

"....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner".

The Hon'ble Supreme Court in Order dated 08.05.2014 in the case of Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors. has held that

"15. Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure....." (source: <https://api.sci.gov.in/jonew/judis/41522.pdf>)

These views have been upheld and accepted by the Hon'ble Supreme Court in various cases including Order dated 25.07.2022 in the matter of Union of India & Ors. Versus Mahendra Singh in Civil Appeal No. 4807 of 2022.(source:https://api.sci.gov.in/supremecourt/2019/24781/24781_2019_9_1501_36652_Judgement_25-Jul-2022.pdf)

2.5 Thus, it is clear that for interpretation of statute, one cannot supplement or add words to the Rules. When a particular thing is directed to be performed in a manner prescribed by Rules, it should be performed in that manner itself and not otherwise and when the rule is that where a power is given to do a certain thing in certain way, the thing must be done in that way or not at all and that other methods of performance are necessarily forbidden.

3. That Shri RC Dhakar , Superintendent on deputation was to be repatriated from Customs, Mumbai in January-2012 however, he was not repatriated and granted extension for the period from 01.01.2012 to 30.06.2012. One regular vacancy for the panel year 2011-2012 was erroneously been considered as unforeseen vacancy arose during the year 2011-2012 whereas this vacancy is required to be considered and included for the panel year 2012-13not the panel year 2011-12 and needs to be rectified.

3.1 That S/Shri OP Saharan and Vivek Srivastav, both Superintendents were relieved in the afternoon of 30.03.2012 tojoin the Directorate of Enforcement, Jaipur on deputation. The date of relieving of both of the officer was last working day of year 2011-12 because 31.03.2012 and 01.04.2012 were Saturday and Sunday respectively. Thus, the vacancy on account of their deputation was required to be filled up in the year 2012-2013. This aspect was ignored and 2 regular vacancies were wrongly considered pertaining to the panel year 2011-12 in view of Hon'ble Supreme Court's Order dated 09.08.2023 in Civil Appeal No. 12/2013(Source:https://api.sci.gov.in/supremecourt/2012/384/384_2012_16_115_45923_Order_09-Aug-2023.pdf).

3.2 That an incumbent, who works till the last working day of any financial year remained in office on that day and, therefore, the post / vacancy becomes available only on the next day. It does not seem to be logical that the vacancy would arise on the date of relieving when the incumbent was still holding the post and it is not undisputed that the incumbent was holding the post till 30.03.2012.

That in R.K. Sabharwal & Ors. v. State of Punjab & Ors., AIR 1995 SC 1371, (source: <https://api.sci.gov.in/jonew/judis/10894.pdf>)while making a distinction between "posts" and "vacancies", it is opined that"post" means an appointment, job, office or employment, a position to which a person is appointed, whereas "vacancy" means an unoccupied post or office. The plain meaning of the two expressions makes it clear that there must be a post in existence to enable the vacancy to occur. A vacancy can arise only when the post is unoccupied. Thus, the vacancy really arose only on 30.03.2012. Therefore, it was to be calculated in the next vacancy year. Since 31.03.2012 and 01.04.2012 were holidays being Saturday and Sunday, thus the vacancy becomes available only on 02.04.2012.Vacancy would become a vacancy for the subsequent year that is 2012-13. Thus, it is not disputed that the vacancy year was for the period from 01.04.2012 to 31.03.2013.

3.3 In this regard, reliance is placed on Hon'ble Delhi High Court's Order dated 14.09.2011 in WP(C) No.665/2011 filed by Union of India & Anr. (Petitioners) R.K. Trivedi & Anr. (Respondents) (source:

[https://hcservices.ecourts.gov.in/hcservices/cases/display_pdf.php?filename=Wvv66Dud4dpqZq8Ja%2B1FGLBgFbPV4RHJfibqP8m%2FKCAWnFZhft8MHG33Gx2HcW7&caseno=W.P.\(C\)/665/2011&cCode=1&appFlag=web&normal_v=1&cin=DLHC010138072011&state_code=26&flag=nojudgement](https://hcservices.ecourts.gov.in/hcservices/cases/display_pdf.php?filename=Wvv66Dud4dpqZq8Ja%2B1FGLBgFbPV4RHJfibqP8m%2FKCAWnFZhft8MHG33Gx2HcW7&caseno=W.P.(C)/665/2011&cCode=1&appFlag=web&normal_v=1&cin=DLHC010138072011&state_code=26&flag=nojudgement)) which has further been upheld by the Hon'ble Supreme Court vide Order dated 09.08.2023 in Civil Appeal No. 12/2013. The ratio this judgment is squarely applicable in present case.

- 3.4 In view of the above, 03 regular promotions considered for the panel/vacancy year 2011-12 made vide DPC/Review DPC held on 01.08.2012 are erroneous and incorrect hence needs to be revised/reviewed by considering vacancy year as 2012-13. Thus, it is requested to rectify the error, in order to ascertain correct position /number of regular vacancies for the year 2012-13.
- 3.5 Further, the numbers of carried forward regular vacancies reserved for SC category for the panel year 2012-13 were 8.

That total 14 Superintendents retired namely S/ Shri RC Karnani, SK Verma, SL Jaiswal, AN Choudhary, PR Paliwal, Darshan Singh, RC Dhakar, GR Arora, AR Jethwani, NK Bhargava, SR Khandelwal, ML Vijay, HR Gupta and Jabbar Singh Rathore on 30.04.2012, 30.04.2012, 30.05.2012, 30.06.2012, 30.06.2012, 31.07.2012, 31.07.2012, 31.07.2012, 30.09.2012, 30.10.2012, 30.11.2012, 31.12.2012, 31.01.2013 and 31.01.2013 respectively during 2012-13.

Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the regular vacancy was related to panel year 2012-2013.

- 3.6 That these facts have already been incorporated mentioned in the self-contained note dated 27.02.2012 drawn for DPC for the panel year 2012-2013.

Further, at the time of holding DPC on 27.02.2012 only following 06 vacancies could not be anticipated: -

- (i) Shri H.C. Vyas, Superintendent expired on 12.04.2012;
- (ii) Shri Madhusudan Sharma submitted VRS Notice dated 18.06.2012 effective from 18.09.2012 and same was accepted vide order dated 20.07.2012;
- (iii) Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years;
- (iv) S/Shri NK Gupta, SP Talwaria and RN Singhal Superintendents were promoted to the post of Assistant Commissioner vide Board's Order No. 124/2012 dated 12.07.2012.

- 3.7 In view of above, it is submitted that total and correct number of regular posts for which DPC / review DPC for the panel year 2012-2013 were to be presented/reported before the DPCs for granting regular promotions for the year 2012-2013 and accordingly the extended zone was to be prepared for consideration as regular superintendent . Since the DPCs have not been appraised factual and correct number of regular vacancies erroneously this

has restricted the zone of consideration for regular promotions. It is also submitted that 02 DPC/Review DPC for the year 2012-13 were conducted for 20 and 12 vacancies, in order to restrict the zone of consideration.

3.8 In view of the above facts above, the correct position of vacancies for the year 2012-13 come as under:-

S. No.	Nature of Regular vacancies	Regular Vacancies for the year 2012-13
1.	Carry forward Regular vacancies of SC category	08
2.	Adjustment of one SC vacancy utilized for ST in 2003	01
3.	Clear vacancies on account of retirements during the year 2012-2013 (1.04.2012 to 31.03.2013.)	14
4.	Two officers relieved on last working day of 2011-12 for long term deputation(S/Shri OP Saharan Vivek Shrivastava) thus the anticipated regular vacancy was related to panel year 2012-2013.	02
5.	Shri Rajesh Kanawa Superintendent completed deputation period of 3 years on 02.06.2012 and was due for repatriation in 02.06.2012, thus the anticipated regular vacancy was related to panel year 2012-2013.	01
6.	Regular post kept vacant for Deputationists. Shri RC Dhakar, Superintendent on deputation was granted extension for the period from 01.01.2012 to 30.06.2012.	01
7.	S/Shri NK Gupta, SP Talwaria & RN Singhal were promoted vide Board's Order No. 124/2012 dated 12.07.2012.	03
8	Regular vacancies generated due to death of Shri H.C. Vyas, Superintendent and VRS of Shri Madhusudan Sharma in 2012-13	02
9	Shri G.K. Gaur, Superintendent was relieved on 02.06.2012 on deputation to DGCEI, Jaipur for 5 years.	01
Total		33
Less	Officers returning from deputation (if any)	02
Total clear Vacancies for the year 2012-2013		31
Extended zone 31*5= 155		

4. It is imperative to mention that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, since action is to be initiated in advance, the vacancies to be taken into account should be clear vacancies arising in a post/grade/service in the relevant vacancy year due to retirement, regular long-term promotion and deputation. Purely short-term vacancies created as

a result of officers proceeding on leave, or on deputation for a shorter period, training etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated year- wise separately

- 4.1 That the O.M. No.18011/2/88-Estt (D) dated 09.08.1988 (source: https://documents.doptcirculars.nic.in/D2/D02est/18011_2_88-Estt-D.pdf) provided that there is no objection to the competent authority passing an order rectifying the earlier erroneous confirmation order of the official which was passed in contravention of the existing Rules/ instructions whether statutory or administrative/ executive, as otherwise it would amount to perpetuation of the mistake and would be detrimental to the larger interests of Government. However, in these cases, the principle of natural justice should be compiled with by giving the Government servant a show cause notice and opportunity to be heard in before passing any order affecting him.
5. In view of above, the total number of clear and regular posts for which DPCs/Review DPCs for the panel year 2012-13 comes to 31 and accordingly the extended zone comes to $31*5= 155$. The applicant is well covered in this extended zone. Accordingly, the error/ mistake apparent on record needs to be rectified in terms of guidelines contained in OM No. 22011/5/86-Estt. (D) dated 10.04.1989 (source: [https://documents.doptcirculars.nic.in/D2/D02est/22011_5_86_Estt\(D\).pdf](https://documents.doptcirculars.nic.in/D2/D02est/22011_5_86_Estt(D).pdf)) and amended and considering the number of actual or clear vacancies and extended zone for regular promotion.
6. That the OM No. 22011/5/86-Estt (D) dated 10.4.89 [Para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary retirement, new creations etc. could not be foreseen at the time of placing facts and material before the DPC, therefore, another meeting of DPC (commonly referred to supplementary DPC) should be held for drawing up a panel for these vacancies.
- 6.1 As per DOPT's O.M. No.22011/5/86-Estt.(D) dated 10.04.1989a review DPC should be held keeping in mind the total vacancies of the year.
- 6.2 That attention is also drawn towards DOPT OM No. DOPT-1721625311004 dated 22.07.2024(source: <https://doptcirculars.nic.in/OM/ViewOMNew.aspx?id=496&headid=4>) and relevant portion is also reproduced as below:

"OFFICE MEMORANDUM

Subject:- Guidelines on Departmental Promotion Committees

.....

4.4.9 Cases of occurrence of additional vacancies in a year

Where a DPC has already been held in a year and further vacancies arise during the same year due to death, resignation, voluntary retirement etc. or because the vacancies were not intimated to the

DPC due to error or omission on the part of the Department concerned, the following procedure should be followed:

(i) Vacancies due to death, voluntary retirement, new creations, etc., clearly belong to the category, which could not be foreseen at the time of placing facts and material before the DPC. In such cases, another meeting of the DPC should be held for drawing up a panel for these vacancies as these vacancies could not be anticipated at the time of holding the earlier DPC. If, for any reason, the DPC cannot meet for the second time, the procedure of drawing up of year wise panels may be followed when it meets next for preparing panels in respect of vacancies that arise in subsequent year(s).

(a) With regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year. These issues have been examined in consultation with UPSC and the following is decided.

(b) The zone of consideration, in case of holding supplementary DPC, shall be fixed as indicated in para 4.3 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year.

(c) The eligibility list for supplementary DPC shall be prepared by removing the names of all such officers who have already been assessed by earlier DPC as fit, unfit or placed in the sealed cover by the original DPC before placing the same for consideration by the supplementary DPC.

(d) The officers who have already been empanelled or placed in the extended panel but could not be promoted due to these vacancies not actually becoming available; need not be re-assessed by the supplementary DPC as the assessment matrix remains the same. They may be appointed against the additional vacancies of the same vacancy year as per recommendations of the earlier DPC. In such situation the number of vacancies for supplementary DPC shall be accordingly adjusted.

(e) While calculating the regular vacancies for a DPC, it is incumbent upon administrative department to ensure that there is no arbitrariness in calculation of anticipated vacancies

[O.M. No. 6.4.2(i) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 and O.M. No. 22011/2/2014-Estt.(D) dated 30.01.2015]

(ii) The second type of cases of non-reporting of vacancies due to error or omission (i.e. though the vacancies were there at the time of holding of DPC meeting but they were not reported to it results in injustice to the officers concerned by artificially restricting the zone of consideration. The wrong done cannot be rectified by holding a second DPC or preparing a year wise panel. In all such cases, a review DPC should be held keeping in mind the total vacancies of the year.

[O.M. No. 6.4.2(ii) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989] "

6.3 Further, it may be mention that DOPT OM No. 22013/1/97-Estt. (D) Dated 13.04.1998

(source:[https://documents.doptcirculars.nic.in/D2/D02est/22013_1_97-Estt.\(D\).pdf](https://documents.doptcirculars.nic.in/D2/D02est/22013_1_97-Estt.(D).pdf)) regarding Procedure to be observed by DPC-Holding of Review DPC provided that

"..... The provisions made in para 6.4.2 and Para 18.1 of OM dated 10.04.1998 enumerate some of the situation in which review DPC is required to be held. These situations are:-

(a)

.....

(f)

These instances are illustrative and not exhaustive.

2.The basis of doubt is that the situation has not been specifically enumerated in para 6.4.2 or Para 18.1 of the Office memorandum dated April 10, 1989.

3. In this connection it is clarified that the situations enumerated in the aforesaid paras (6.4.2 and 18.1) are only illustrative and not exhaustive."

7 As per OM No. 22011/2/2014-Estt.D dated 30.01.2015 (source : https://documents.doptcirculars.nic.in/D2/D02est/22011_2_2014-Estt.D-30012015.pdf), Zone of Consideration in case of holding supplementary DPC, shall be fixed as per the provisions in this Department OM No. 22011/2/2002-Estt(D) dated 06.01.2006 (source: [https://documents.doptcirculars.nic.in/D2/D02est/22011-2-2002-Estt\(D\).pdf](https://documents.doptcirculars.nic.in/D2/D02est/22011-2-2002-Estt(D).pdf)) keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year. However, in the department has not issued promotion order in view of the total vacancies of a year as per the above OM.

7.1 That Para 1 of OM No. 22011/2/2014-Estt.D dated 30.01.2015 provided that "This Department instructions issued vide OM No. 22011/5/86-Estt (D) dated 10.4.89[para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary

retirement, new creations etc. could not be foreseen at the time of placing facts and material before the DPC, therefore, another meeting of DPC (commonly referred to supplementary DPC)."

- 7.1.1 That meeting for DPC was held on 01.08.2012 and in the minutes and self-contained note for the panel year 2012-2013 for 12 regular vacancies the Term "another DPC" has been used. This is a matter of fact. These 12 vacancies of another DPC were required to be added /clubbed with 20 regular vacancies for determination of zone of consideration, but it has not been done. Since another meeting of DPC is commonly referred to supplementary DPC, therefore, the zone of consideration was required considering total number of vacancies for the panel/vacancy year 2012-2013. The error on the part of department is matter of record.
- 7.2 DOPT OM. 22011/2/2002-Estt(D) dated 06.01.2006 provided DPC Guidelines-Review of size of zone of consideration. This OM specifically provided that

"3. The matter has been considered carefully. Keeping in view the considerations in para-2 above, it has been decided to modify the existing provisions relating to size of zone of consideration as under:

 - (i)
 - (iii) The existing size of extended zone of consideration for SCIST officers, viz. five times the total number of vacancies, will continue to be applicable.
- 7.3 The DOPT has further issued procedural and clarificatory OM No. 22011/2/2014-Estt.D dated 30.01.2015 regarding Procedure for conduct of supplementary DPC.
- 7.4 In view of above, the OM No. 22011/5/86-Estt (D) dated 10.04.1989, OM No. 22011/2/2002-Estt(D) dated 06.01.2006 and OM No. 22011/2/2014-Estt.D dated 30.01.2015, promotions were to be made keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year, but it has not been done in the case of applicant.
- 7.5 It is pertinent to mention that the OM dated 30.01.2015 has been issued in view of references received with regard to the consideration zone. The OM dated 30.01.2015 provided that references have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year.
8. That the Hon'ble Supreme Court in its Order dated 16.05.2023 in Appeal No. 3752 OF 2023 in the case of Sree Sankaracharya University of Sanskrit & Ors. Appellant(S) Vs. Dr. Manu & Anr (source: https://api.sci.gov.in/supremecourt/2017/24140/24140_2017_3_1502)

44529_Judgement_16-May-2023.pdf) has held that for a subsequent order/provision/amendment passed to be considered a clarification to the original provision, it must not expand or alter the scope of the original provision and that the original must be sufficiently vague or ambiguous so as to require such clarification. The Apex Court observed while it was well established that a clarification or an explanation to clear any ambiguity or correct any glaring omissions in a statute would be applicable retrospectively, it had to consider the question of how such a clarification/ explanation to a statute could be identified and distinguished from a substantive amendment to a statute. "A clarification must not have the effect of saddling any party with an unanticipated burden or withdrawing from any party an anticipated benefit", the Apex Court observed in this regard.

8.1 Placing its reliance on State of Bihar v. Ramesh Prasad Verma, (2017) 5 SCC 665, the Court said that it is trite that any legislation or instrument having the force of law, which is clarificatory or explanatory in nature and purport and which seeks to clear doubts or correct an obvious omission in a statute, would generally be retrospective in operation. Therefore, the Court considered it appropriate to determine whether the said order was a clarification or a substantive amendment in order to identify whether it would be applicable retrospectively or not. Referring to a trajectory of cases on the lines of the similar issue, the Court culled out the following principles:-

- (i) *If a statute is curative or merely clarificatory of the previous law, retrospective operation thereof may be permitted.*
- (ii) *In order for a subsequent order/provision/amendment to be considered as clarificatory of the previous law, the pre-amended law ought to have been vague or ambiguous. It is only when it would be impossible to reasonably interpret a provision unless an amendment is read into it, that the amendment is considered to be a clarification or a declaration of the previous law and therefore applied retrospectively.*
- (iii) *An explanation/clarification may not expand or alter the scope of the original provision.*
- (iv) *Merely because a provision is described as a clarification/explanation, the Court is not bound by the said statement in the statute itself, but must proceed to analyse the nature of the amendment and then conclude whether it is in reality a clarificatory or declaratory provision or whether it is a substantive amendment which is intended to change the law and which would apply prospectively.*

8.2 In view of above judgment of Hon'ble Supreme Court, it is clear that the OM No. 22011/2/2014-Estt.D dated 30.01.2015 issued for clarifying or explaining the earlier OM No. 22011/5/86-Estt.(D) dated 10.04.1989consequent upon references received, has to be applied retrospectively.

8.3 It may also be mentioned that Supplementary DPC for vacancies arising during that particular year is an extension of the panel already prepared by the original DPC for empanelling more officers for filling up new vacancies which could not be reported to original DPC due to unforeseen circumstances such as VRS, retirement, death, creation of new post etc. and accordingly as per DOPT's O.M. No.22011/5/86-Estt.(D) dated 10.04.1989 a review or another DPC was to be held keeping in mind the total vacancies of the year.

8.5 It is also imperative to mention that when a circular/notification/OM is issued clarifying or explaining the circular/notification/OM already in existence has to be given retrospective effect. Since the said OM dated 30.01.2015 has been issued with reference to references received by the DOPT to clarify the procedure thus, it is applicable for past period undoubtedly.

8.6 That the applicant has filed RTI application on 05.02.2025 to the DOPT requesting thereunder "Kindly refer DOPT OM No. 22011 2 2014 Estt.D dated 30th Jan 2015. In Para 2 of said OM it has been mentioned that 2. References have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year. In this regard it is requested to provide copies of all the references received with regard to the zone of consideration as mentioned in Para 2 of referred OM by email".(Copy enclosed)

8.6.1 That in response to above, RTI application, the DOPT vide reply dated 18.02.2025 intimated that "2. As per available records, DoPT guidelines dated 30.1.2015 regarding procedure for conduct of Supplementary DPC was issued on the basis of reference received from UPSC.A copy of the same is attached, as desired".(Copy of Final Status of DOPT&T/R/E/25/00949 enclosed)

8.6.2 Thus, it is clear that DoPT guidelines dated 30.01.2015 regarding procedure for conduct of Supplementary DPC was issued on the basis of reference received from UPSC and thus it is also clear that when a Circular/Notification/OM is issued clarifying or explaining the Circular/Notification/OM already in existence has to be given retrospective effect. This is supported by Supreme Court in its Order dated 16.05.2023 in Appeal No. 3752 OF 2023 in the case of Sree Sankaracharya University of Sanskrit & Ors. Appellant(S) Vs. Dr. Manu & Anr (supra)

8.6.3 It is pertinent to mention here that the said matter has also been discussed with ADC(CCO) and dealing Superintendent of (CCO), undersigned and dealing persons/officers of Income tax Department Jaipur (cadre Control unit of Income tax department) . In presence of the ADC(CCO),dealing Superintendent of (CCO) and undersigned the dealing persons/officers of Income tax department have clarified/opined that the DOPT OM No. 22011/2/2014-Estt.D dated 30.01.2015 is applicable retrospective effect. Therefore, it is crystal clear that the said DOPT OM is applicable retrospectively and my request may consider sympathetically and conduct review DPC for the penal year 2012-13.

9. Additionally, for correct calculation of zone of consideration, reliance is also placed on the followings orders:-

- (i) Order dated 18.04.2017 in Case Number 4450/102/2015 issued by the Hon'ble Court of Chief Commissioner For Persons With Disability, Ministry of Social Justice and Empowerment, Govt. of India passed in the matter of Shri K.G.Kachhadiya versus O/o the Principal Chief Commissioner of Income tax (Gujarat). (Copy already submitted vide letter dated 06.02.2025 and again enclosed)
- (ii) Order No.50(NG) of 2017 dated 18.11.2016 issued by the O/o the Principal Chief Commissioner of Income tax (Gujarat) by which Shri Kachhadiya has been promoted with effect from 16.07.2007. Copy of this order has been provided by the CPIO, O/o the Principal Chief Commissioner of Income tax (Gujarat)(enclosed).

9.1 That in similar matter, Shri KG Kachhadiya, was promoted as Income tax Inspector on 22.12.2008. He represented the Principal Chief Commissioner of Income Tax Ahmedabad to verify his eligibility and pre-pone in re-casted seniority. In this case 02 DPCs were held in 2007 (original DPC on 12.07.2007 for 45 vacancies and Supplementary DPC dated 07.11.2007 for 20 vacancies). Shri KG Kachhadiya claimed that he should have been promoted in 2007-2008. Shri KG Kachhadiya requested for taking into account the total number of vacancies in the vacancy year for determination of extended zone(45+20 X5 = 325). The Income Tax department has sought a clarification from DOPT through CBDT regarding effective date of OM Dated 30.1.2015.

Subsequently, the Income tax department considered the case and conducted a review DPC on 18.11.2016 and Shri Kachhadiya was promoted with effect from 16.07.2007 vide Order No. 50(NG) of 2017 dated 18.11.2016(copy enclosed).This order clearly reveals that a review DPC has been held on 18.11.2016 for promoting Shri Kachhadiya with effect from 16.07.2007 as claimed by him.

10. In view of the above, the applicant has sufficient reason to believe that the applicant has not been considered for regular promotion in the appropriate year due to various reasons as mentioned above, or curtailment of extended zone of consideration for regular promotion due to Part DPCs in a year, incorrect determination of regular vacancies etc., unforeseen vacancies, long term deputation, incorrect determination of vacancy year, utilization of SC's vacancy for ST etc., and all these facts have restricted the zone of consideration zone as well as eligibility for regular promotions. The applicant is well covered within the consideration zone and accordingly deserves to be promoted as regular superintendent in the earlier year.

10.1 For convenience, the authentic online link/source of orders, OM or references have been inserted which may kindly be seen.

11. The above facts and in the interest of justice, it is kindly requested and prayed in the interest of justice:-

- (i) The matters may kindly be re-examined on facts and merit for taking the corrective measures in view of the submissions made by the applicant;
- (ii) To rectify the erroneous promotions in respect of applicant and revise the seniority appropriately;
- (iii) To extend eligible benefits, if any, in the interest of justice;
- (iv) To take remedial action in the matter as deemed fit

Encl: As Above

Yours faithfully,

Date: 22.08.2025

Place: Udaipur



(Dharm Singh Chetiwal)
Superintendent (Tech/Legal)
CGST & CE Commissionerate, Udaipur

Copy submitted to Ms Sunita Verma, Joint Commissioner of Customs & Liaison Officer (SC/ST) , NCRB, Statue Circle, C-Scheme, Jaipur -302005 for information and necessary action please.



(Dharm Singh Chetiwal)

(2)

F.No.10/ 6/2012-AUC
UNION PUBLIC SERVICE COMMISSION
DHOLPUR HOUSE, SHAHJAHAN ROAD,
New Delhi-110069

November 5, 2012.

To

The Secretary,
Department of Personnel & Training,
North Block,
New Delhi-110001.

Subject :- Supplementary DPC – procedure regarding preparation of eligibility list.

(Kind attention: Mrs. Mamta Kundra, JS (Estt.))

Sir,

I am directed to refer to the above cited subject and to state that it has been observed by the Commission that the Ministries / Departments while sending the proposals for convening Supplementary DPC invariably include names of officers already considered by the original DPC of that year.

2. In this connection attention is invited to para 6.4.1 of DOP&T OM dated 10.4.1989 which envisages that the DPC is required to prepare year-wise panels by considering in each year those officers only who would be within the field of choice with respect to the vacancies of that year. Supplementary DPC for vacancies arising during that particular year is an extension of the panel already prepared by the original DPC for empanelling more officers for filling up the new vacancies which could not be reported to original DPC due to unforeseen circumstances such as voluntary retirement, death, creation of new posts etc. Further, the ACRs matrix to be considered by such a supplementary DPC remains the same as was placed before the original DPC. Therefore, there is no reason for consideration of the suitability of an officer again for the same year of vacancy if his candidature has already been considered in the original DPC.

3. The existing DPC guidelines as contained in DOP&T OM dated 10.4.1989, as amended from time to time, are silent about the procedure for preparing eligibility list in case of Supplementary DPC. The DOP&T is, therefore, requested to issue necessary clarifications / instructions in this behalf to all the Ministries / Departments.

Yours faithfully,

gssned
E

(Dharinvir Sharma)
Under Secretary

①
Reminder

F.No.10/6/2012-AUC
UNION PUBLIC SERVICE COMMISSION
DHOLPUR HOUSE, SHAHJAHAN ROAD
NEW DELHI-110069

Dated the 13th June, 2014

To

Secretary to the Govt. of India,
Department of Personnel & Training,
North Block,
New Delhi-110001.

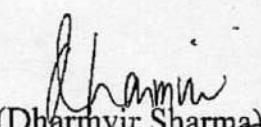
[Kind Attention: Smt. Mukta Goel, Director(Estt.I) Room No.278-B North Block]

Sub: Supplementary DPC- procedure regarding preparation of eligibility list-reg.

Sir,

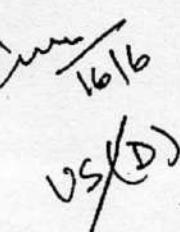
I am directed to invite your kind attention to the letter of even No. dated the 5th November, 2012 (copy enclosed) on the subject mentioned above and to request that action taken by the DOP&T for issue of clarification/ instructions in the matter may kindly be intimated to enable this Office to apprise the Commission suitably.

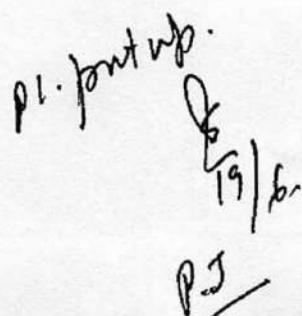
Yours faithfully,


(Dharmvir Sharma)
Under Secretary (AUC)

Encl: As above

1006418/Dir(Estt.I)/2014
16/6/14.


VSKD


pl. forward
19/6.
P.J.



Final Status of DOP&T/R/E/25/00949

Applicant Name	Sunil Kumar Verma
Date of receipt	05/02/2025
Request Filed With	Department of Personnel & Training
Text of Application	Kindly refer DOPT OM No. 22011 2 2014 Estt.D dated 30th Jan 2015. In Para 2 of said OM it has been mentioned that 2. References have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year. In this regard it is requested to provide copies of all the references received with regard to the zone of consideration as mentioned in Para 2 of referred OM by email. Thanking you
Request document (if any)	document not provided
Status	REQUEST DISPOSED OF as on 18/02/2025
Date of Action	18/02/2025
Remarks	<p>Reply :- Under the RTI Act, only such information can be supplied which already exists and is held by the Public Authority or held under the control of the Public Authority in the form of O.Ms, Notifications, rules, regulations, orders, letters, circulars etc. The Public Information Officer is not supposed to create information or to interpret information or to do some research and supply the conclusion so deduced from the material held or to solve the problems raised by the applicants or to furnish replies to hypothetical questions. Collection and collation of information are also outside the purview of RTI Act. Providing clarifications/opinions is also beyond the scope of the RTI Act.</p> <p>2. As per available records, DoPT guidelines dated 30.1.2015 regarding procedure for conduct of Supplementary DPC was issued on the basis of reference received from UPSC. A copy of the same is attached, as desired.</p>
Reply Document	
	Print



Extra

न्यायालय मुख्य आयुक्त विकलांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No.4450/10/2015

Dated 18.04.2017

In the matter of:

Shri K.G. Kachhadiya,
Income Tax Inspector,
Income Tax Office, ITO-Ward-1(1)(5),
5th Floor, Aayakar Bhavan,
Race Course Ring Road, Rajkot, Gujarat
Email – kkg5566@gmail.com

.... Complainant

Versus

O/o the Principal Chief Commissioner of Income Tax (Gujarat),
Through: Principal Chief Commissioner of Income Tax,
2nd Floor, Aayakar Bhavan, Ashram Road,
Ahmedabad, Gujarat-380014

.... Respondent

Date of Hearing – 22.11.2016

Present:

None of the parties appeared

ORDER

KL
The above named complainant, a person with 75% locomotor disability filed a complaint dated 07.06.2015 under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, hereinafter referred to as the 'Act', regarding non-maintenance of the cadre-wise Roster Register and non-implementation of reservation in promotion for the persons with disabilities.

2. The complainant submitted that he was working as Income Tax Inspector in Rajkot. After passing the Departmental Examination for Inspector in the year 2001, he was promoted as Income tax Inspector on 22.12.2008. He passed the Departmental Examination for Income tax Officer in the year 2009. He was expecting to be promoted as Income Tax Officer in PH quota in respective Departmental Promotion Committee selection. He made a representation on 15.05.2015 to the Principal Chief Commissioner of Income Tax, Ahmedabad to verify his eligibility and pre-pone him in Re-casted Seniority list of Inspectors of Income-Tax. He was told that his case was pending for disposal. He further submitted that PH quota of reservation was either not maintained properly or was altogether not maintained at all by his establishment. In the Recruitment

Year 2007, two DPCs were held in which, no PH persons were promoted. His seniority number was at 245, which was within the extended zone. The reservation of PH category being horizontal, the extended zone had to be considered on the total number of posts (i.e. five times of 61 which come 305). He requested to consider his promotion to the post of Income-Tax Inspector in the first DPC held on 16.07.2007 of 61 candidates pre-poning his seniority from 16.07.2007.

3. The matter was taken up with the respondent under Section 59 of the Act vide this Court's letter dated 16.06.2015.

4. The respondent vide letter No.Pr.CC/ABD/HQ-Personnel/KGK/2015-16 dated 09.09.2015 submitted that the complaint regarding non-implementation of reservation in promotion for persons with disabilities was wrong as in every DPC conducted for promotion in Group 'C' cadre, 3% of the vacancy was earmarked for persons with disabilities and the same was filled up by extending the zone by 5 times the number of vacancy for the recruitment years. The complainant was promoted as Inspector in Recruitment Year 2008-09 in the reserved quota for PH candidate. The respondent intimated that unified vacancies were carried forward till three subsequent recruitment years. Regarding the claim of the complainant that he should have been promoted in Recruitment Year 2007-08, the DPC for Recruitment Year 2007-08 examined and found that two DPCs were conducted in Recruitment Year 2007-08. First DPC was conducted on 12.07.2007 which was again reviewed on 01.08.2008. A total of 60 vacancies were determined including carried forward 17 vacancy (13 ministerial and 4 stenographer cadre), out of which 44 vacancies were allotted to Ministerial cadre and 16 for stenographer cadre. 3% quota of the vacancy was earmarked for PH quota in both categories. Accordingly, 3% of 31 current years ministerial vacancy i.e. 1 vacancy was allotted to ministerial cadre. As the complainant belonged to ministerial cadre, the zone of consideration was extended to 44 and the eligibility list of 220 candidates was prepared for consideration. As the complainant did not appear with the list of 220 candidates, he was not considered for promotion. On account of Ahmedabad CATs decision that Shri Parag R. Shah belonged to PH quota and senior to the complainant was promoted against the reserved quota for PH candidate in the Recruitment Year 2007-08. In the Eligibility list of officials for Recruitment Year 2007-08, complainant name appeared at Sr. No.274 and the promotion was considered till the Sr. No.220 in the extended zone. The second DPC for Recruitment Year 2007-08 was held on 07.11.2007 wherein 25 vacancies including 13 carried forward vacancies were determined out of which 20 vacancies were allotted to Ministerial cadre and 5 to stenographer cadre. The current vacancy for the DPC was only 12. Accordingly, 3% of 12 vacancies being less than 0.5 no vacancy were earmarked to PH candidates. As per DoP&T's OM dated 30.01.2015, the total vacancy of regular and supplementary DPC had to be summed up. The OM relied upon by the complainant had effect only from the date of issue of OM and

44

could not be implemented retrospectively. Besides this, the complainant had claimed that 3% of total vacancies including carried forward vacancies had to be earmarked every year. That could not be entertained as 3% vacancies were already earmarked from the vacancies of previous years which were carried forward to subsequent years.

5. The respondent vide letter No.Pr.CC/GUJ/DC(HQ-Pers)/KGK/Misc./179-2/2015-16 dated 29.01.2016 further submitted that feeder cadre for promotion to the post of Inspector of Income-Tax comprised of Office Superintendent, Sr. Tax Assistant and Tax Assistant/UDC from the ministerial cadre and Stenographer Gr.I, Stenographer Gr.II and Stenographer Gr.III from the Stenographer's cadre. As per the recruitment rules, the promotion to the post of Inspector had to be made from the ministerial cadre and Stenographer's cadre in the ratio of 3:1. Therefore, separate list had to be prepared for ministerial cadre and stenographer's cadre and provision for reservation (including horizontal reservation for PH) had to be considered in both the ministerial and stenographer cadre. When sufficient number of candidates belonging to reserved category was not available either in ministerial cadre or stenographer's cadre then the eligibility list of respective cadre was to be extended upto 5 times as per the vacancy determined for their cadre. This was done to maintain the ratio 3:1 between ministerial and stenographer's cadre. Accordingly, the complainant was not considered for promotion in the DPC held on 12.07.2007 as his name did not appear even in the extended zone as per the vacancy for Ministerial staff. Even the OM dated 30.01.2015 did not state that the zone of consideration for the original DPC had to be considered taking into account the future vacancy that might likely arise for unforeseen circumstances. The contention of the complainant that he should be considered for promotion in the original DPC held on 12.07.2007 was found to be untenable as the official was neither within the extended zone of consideration of the original DPC dated 12.07.2007 nor the O.M. dated 30.01.2015 referred by him supported his claim. The O.M. was issued on account of references made on various issues related to supplementary DPC, including the issue of zone of consideration. The respondent further submitted that the contention of the complainant that the O.M. dated 30.01.2015 is clarificatory in nature and is effective retrospectively is wrong and misinterpreted. The respondent intimated that clarification was being sought from DoP&T through CBDT regarding the effective date of the O.M. dated 30.01.2015 and whether it would also apply in case where DPC was conducted in the year 2007. The respondent further requested that the petition of the complainant be kept on hold till clarification was received from CBDT/DoP&T.

6. The complainant vide rejoinder dated 16.09.2015 submitted that he was promoted in the Recruitment Year 2008-09 in reserved PH quota. But the respondent had not maintained proper Reservation Roster since 1996 to earmarked 3% reservation for persons with disabilities as per para 15(a) of the DoP&T's O.M. dated 29.12.2005. During Recruitment Year 2007, the department stopped giving reservation benefit to

persons with disabilities in the cadre of Inspector. This Court vide order dated 30.05.2008 in case No.5108/2008 advised the respondent that the post of Income Tax Inspector be treated as Group 'C' post and separate DPC be held to consider complainant's promotion if he was eligible. The Income Tax Department had informed that since the complainant did not fall within the extended zone of previous two DPCs his promotion was not due. His colleague Shri Parag R. Shah was promoted on 01.08.2008 and complainant's seniority was fixed from 12.07.2007. Thereafter, with effect from 03.06.2014 the complainant was promoted as Income Tax Officer. Further, on 29.04.2004 both Shri Parag Shah and the complainant was promoted to Senior Tax Assistant and their seniority were No.706 and 708 respectively. The complainant again filed complaints dated 11.08.2008, 15.10.2008 and 14.11.2008 [Case No.20/1021/08-09]. After direction dated 27.01.2010 of this Court, DoP&T vide O.M. No.22011/2/2014-Estt. dated 30.01.2015 clarified as under:

"(a) Zone of consideration (Normal as well as Extended) shall be decided taking into account total number of vacancies in the relevant vacancy year; and (b) all the officers already assessed in the original DPC are not to be included in the fresh zone of consideration in respect of the S-DPC."

The complainant submitted that since he was coming from ministerial staff quota, the zone of consideration in original and supplementary DPC in his case, according to the clarification of DoP&T was as under:

Original DPC dated 12.07.2007

No.0 of vacancies	-	45 (After reducing 16 posts of stenographers)
Normal zone	-	$45 \times 2 + 4 = 94$
Extended zone	-	$45 \times 5 = 225$

Supplementary DPC dated 07.11.2007

No. of vacancies	-	20 (After reducing 5 posts of stenographers)
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Zone of consideration was to decide taking into account the total number of vacancies in the vacancy year, i.e. 65 (vacancies at the time of original DPC + unanticipated vacancies for the same year i.e. 45+20)

For 65 vacancies, normal zone was : $65 \times 2 + 4 = 134$

Extended Zone : $65 \times 5 = 325$

Accordingly, the complainant submitted that his seniority No. was 245 within the extended zone and he was eligible for promotion for the post of Income Tax Officer w.e.f. 16.07.2007. The complainant further requested that the DPC already held on 22.12.2014 be reviewed and consider his case for promotion to the post of Income-Tax Officer.

7. The complainant in his rejoinder vide email dated 21.12.2015 submitted that DPC meeting for Recruitment Year 2009-10, was held on 29.06.2009 to consider promotion to the cadre of Income-Tax Inspector, in which 05 posts were already vacant for Recruitment year 2007-08 for PH employees out of which only 01 post was filled up by the Department though eligible candidates were available.

8. Upon considering the replies received from the respondent and rejoinders received from the complainant, this Court vide Notice of Hearing dated 21.09.2016 scheduled the case for personal hearing on 22.11.2016 and summoned the parties to appear before the court.

9. In the meanwhile, the complainant vide representation dated 18.11.2016 intimated to this Court that the Income Tax Department Gujarat vide order No.50(NG) of 2016-17 dated 18.11.2016 had promoted him to the cadre of Inspector with effect from 16.07.2007. The complainant also desired to withdraw the case filed by him.

10. The respondent vide letter No.Pr.CC/GUJ/CD (HQ-Pers)/KGK/Misc./179-2/2016-17/5153 dated 18.11.2016 intimated that the case of the complainant was considered and a Review DPC was conducted on 18.11.2016, whereby the complainant was given promotion to the cadre of ITI in Recruitment Year 2007-08 w.e.f. 16.07.2007 and accordingly an order No.50 (NG) of 2016-17 dated 18.11.2016 was issued. The respondent also intimated that the complainant vide letter dated 18.11.2016 also withdrawn his case filed before this Court.

11. In view of the above, since the grievance of the complainant has been redressed, no further action is required in the matter and the case is accordingly closed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities



Extra

न्यायालय मुख्य आयुक्त विकलांगजन

COURT OF CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES

विकलांगजन सशक्तिकरण विभाग / Department of Empowerment of Persons with Disabilities

सामाजिक न्याय और अधिकारिता मंत्रालय / Ministry of Social Justice and Empowerment

भारत सरकार / Government of India

Case No.4450/10/2015

Dated 18.04.2017

In the matter of:

Shri K.G. Kachhadiya,
Income Tax Inspector,
Income Tax Office, ITO-Ward-1(1)(5),
5th Floor, Aayakar Bhavan,
Race Course Ring Road, Rajkot, Gujarat
Email – kkg5566@gmail.com

.... Complainant

Versus

O/o the Principal Chief Commissioner of Income Tax (Gujarat),
Through: Principal Chief Commissioner of Income Tax,
2nd Floor, Aayakar Bhavan, Ashram Road,
Ahmedabad, Gujarat-380014

.... Respondent

Date of Hearing – 22.11.2016

Present:

None of the parties appeared

ORDER

KL
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2. The complainant submitted that he was working as Income Tax Inspector in Rajkot. After passing the Departmental Examination for Inspector in the year 2001, he was promoted as Income tax Inspector on 22.12.2008. He passed the Departmental Examination for Income tax Officer in the year 2009. He was expecting to be promoted as Income Tax Officer in PH quota in respective Departmental Promotion Committee selection. He made a representation on 15.05.2015 to the Principal Chief Commissioner of Income Tax, Ahmedabad to verify his eligibility and pre-pone him in Re-casted Seniority list of Inspectors of Income-Tax. He was told that his case was pending for disposal. He further submitted that PH quota of reservation was either not maintained properly or was altogether not maintained at all by his establishment. In the Recruitment

Year 2007, two DPCs were held in which, no PH persons were promoted. His seniority number was at 245, which was within the extended zone. The reservation of PH category being horizontal, the extended zone had to be considered on the total number of posts (i.e. five times of 61 which come 305). He requested to consider his promotion to the post of Income-Tax Inspector in the first DPC held on 16.07.2007 of 61 candidates pre-poning his seniority from 16.07.2007.

3. The matter was taken up with the respondent under Section 59 of the Act vide this Court's letter dated 16.06.2015.

4. The respondent vide letter No.Pr.CC/ABD/HQ-Personnel/KGK/2015-16 dated 09.09.2015 submitted that the complaint regarding non-implementation of reservation in promotion for persons with disabilities was wrong as in every DPC conducted for promotion in Group 'C' cadre, 3% of the vacancy was earmarked for persons with disabilities and the same was filled up by extending the zone by 5 times the number of vacancy for the recruitment years. The complainant was promoted as Inspector in Recruitment Year 2008-09 in the reserved quota for PH candidate. The respondent intimated that unified vacancies were carried forward till three subsequent recruitment years. Regarding the claim of the complainant that he should have been promoted in Recruitment Year 2007-08, the DPC for Recruitment Year 2007-08 examined and found that two DPCs were conducted in Recruitment Year 2007-08. First DPC was conducted on 12.07.2007 which was again reviewed on 01.08.2008. A total of 60 vacancies were determined including carried forward 17 vacancy (13 ministerial and 4 stenographer cadre), out of which 44 vacancies were allotted to Ministerial cadre and 16 for stenographer cadre. 3% quota of the vacancy was earmarked for PH quota in both categories. Accordingly, 3% of 31 current years ministerial vacancy i.e. 1 vacancy was allotted to ministerial cadre. As the complainant belonged to ministerial cadre, the zone of consideration was extended to 44 and the eligibility list of 220 candidates was prepared for consideration. As the complainant did not appear with the list of 220 candidates, he was not considered for promotion. On account of Ahmedabad CATs decision that Shri Parag R. Shah belonged to PH quota and senior to the complainant was promoted against the reserved quota for PH candidate in the Recruitment Year 2007-08. In the Eligibility list of officials for Recruitment Year 2007-08, complainant name appeared at Sr. No.274 and the promotion was considered till the Sr. No.220 in the extended zone. The second DPC for Recruitment Year 2007-08 was held on 07.11.2007 wherein 25 vacancies including 13 carried forward vacancies were determined out of which 20 vacancies were allotted to Ministerial cadre and 5 to stenographer cadre. The current vacancy for the DPC was only 12. Accordingly, 3% of 12 vacancies being less than 0.5 no vacancy were earmarked to PH candidates. As per DoP&T's OM dated 30.01.2015, the total vacancy of regular and supplementary DPC had to be summed up. The OM relied upon by the complainant had effect only from the date of issue of OM and

44

could not be implemented retrospectively. Besides this, the complainant had claimed that 3% of total vacancies including carried forward vacancies had to be earmarked every year. That could not be entertained as 3% vacancies were already earmarked from the vacancies of previous years which were carried forward to subsequent years.

5. The respondent vide letter No.Pr.CC/GUJ/DC(HQ-Pers)/KGK/Misc./179-2/2015-16 dated 29.01.2016 further submitted that feeder cadre for promotion to the post of Inspector of Income-Tax comprised of Office Superintendent, Sr. Tax Assistant and Tax Assistant/UDC from the ministerial cadre and Stenographer Gr.I, Stenographer Gr.II and Stenographer Gr.III from the Stenographer's cadre. As per the recruitment rules, the promotion to the post of Inspector had to be made from the ministerial cadre and Stenographer's cadre in the ratio of 3:1. Therefore, separate list had to be prepared for ministerial cadre and stenographer's cadre and provision for reservation (including horizontal reservation for PH) had to be considered in both the ministerial and stenographer cadre. When sufficient number of candidates belonging to reserved category was not available either in ministerial cadre or stenographer's cadre then the eligibility list of respective cadre was to be extended upto 5 times as per the vacancy determined for their cadre. This was done to maintain the ratio 3:1 between ministerial and stenographer's cadre. Accordingly, the complainant was not considered for promotion in the DPC held on 12.07.2007 as his name did not appear even in the extended zone as per the vacancy for Ministerial staff. Even the OM dated 30.01.2015 did not state that the zone of consideration for the original DPC had to be considered taking into account the future vacancy that might likely arise for unforeseen circumstances. The contention of the complainant that he should be considered for promotion in the original DPC held on 12.07.2007 was found to be untenable as the official was neither within the extended zone of consideration of the original DPC dated 12.07.2007 nor the O.M. dated 30.01.2015 referred by him supported his claim. The O.M. was issued on account of references made on various issues related to supplementary DPC, including the issue of zone of consideration. The respondent further submitted that the contention of the complainant that the O.M. dated 30.01.2015 is clarificatory in nature and is effective retrospectively is wrong and misinterpreted. The respondent intimated that clarification was being sought from DoP&T through CBDT regarding the effective date of the O.M. dated 30.01.2015 and whether it would also apply in case where DPC was conducted in the year 2007. The respondent further requested that the petition of the complainant be kept on hold till clarification was received from CBDT/DoP&T.

6. The complainant vide rejoinder dated 16.09.2015 submitted that he was promoted in the Recruitment Year 2008-09 in reserved PH quota. But the respondent had not maintained proper Reservation Roster since 1996 to earmarked 3% reservation for persons with disabilities as per para 15(a) of the DoP&T's O.M. dated 29.12.2005. During Recruitment Year 2007, the department stopped giving reservation benefit to

persons with disabilities in the cadre of Inspector. This Court vide order dated 30.05.2008 in case No.5108/2008 advised the respondent that the post of Income Tax Inspector be treated as Group 'C' post and separate DPC be held to consider complainant's promotion if he was eligible. The Income Tax Department had informed that since the complainant did not fall within the extended zone of previous two DPCs his promotion was not due. His colleague Shri Parag R. Shah was promoted on 01.08.2008 and complainant's seniority was fixed from 12.07.2007. Thereafter, with effect from 03.06.2014 the complainant was promoted as Income Tax Officer. Further, on 29.04.2004 both Shri Parag Shah and the complainant was promoted to Senior Tax Assistant and their seniority were No.706 and 708 respectively. The complainant again filed complaints dated 11.08.2008, 15.10.2008 and 14.11.2008 [Case No.20/1021/08-09]. After direction dated 27.01.2010 of this Court, DoP&T vide O.M. No.22011/2/2014-Estt. dated 30.01.2015 clarified as under:

"(a) Zone of consideration (Normal as well as Extended) shall be decided taking into account total number of vacancies in the relevant vacancy year; and (b) all the officers already assessed in the original DPC are not to be included in the fresh zone of consideration in respect of the S-DPC."

The complainant submitted that since he was coming from ministerial staff quota, the zone of consideration in original and supplementary DPC in his case, according to the clarification of DoP&T was as under:

Original DPC dated 12.07.2007

No.0 of vacancies	-	45 (After reducing 16 posts of stenographers)
Normal zone	-	$45 \times 2 + 4 = 94$
Extended zone	-	$45 \times 5 = 225$

Supplementary DPC dated 07.11.2007

No. of vacancies	-	20 (After reducing 5 posts of stenographers)
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Zone of consideration was to decide taking into account the total number of vacancies in the vacancy year, i.e. 65 (vacancies at the time of original DPC + unanticipated vacancies for the same year i.e. 45+20)

For 65 vacancies, normal zone was : $65 \times 2 + 4 = 134$

Extended Zone : $65 \times 5 = 325$

Accordingly, the complainant submitted that his seniority No. was 245 within the extended zone and he was eligible for promotion for the post of Income Tax Officer w.e.f. 16.07.2007. The complainant further requested that the DPC already held on 22.12.2014 be reviewed and consider his case for promotion to the post of Income-Tax Officer.

7. The complainant in his rejoinder vide email dated 21.12.2015 submitted that DPC meeting for Recruitment Year 2009-10, was held on 29.06.2009 to consider promotion to the cadre of Income-Tax Inspector, in which 05 posts were already vacant for Recruitment year 2007-08 for PH employees out of which only 01 post was filled up by the Department though eligible candidates were available.

8. Upon considering the replies received from the respondent and rejoinders received from the complainant, this Court vide Notice of Hearing dated 21.09.2016 scheduled the case for personal hearing on 22.11.2016 and summoned the parties to appear before the court.

9. In the meanwhile, the complainant vide representation dated 18.11.2016 intimated to this Court that the Income Tax Department Gujarat vide order No.50(NG) of 2016-17 dated 18.11.2016 had promoted him to the cadre of Inspector with effect from 16.07.2007. The complainant also desired to withdraw the case filed by him.

10. The respondent vide letter No.Pr.CC/GUJ/CD (HQ-Pers)/KGK/Misc./179-2/2016-17/5153 dated 18.11.2016 intimated that the case of the complainant was considered and a Review DPC was conducted on 18.11.2016, whereby the complainant was given promotion to the cadre of ITI in Recruitment Year 2007-08 w.e.f. 16.07.2007 and accordingly an order No.50 (NG) of 2016-17 dated 18.11.2016 was issued. The respondent also intimated that the complainant vide letter dated 18.11.2016 also withdrawn his case filed before this Court.

11. In view of the above, since the grievance of the complainant has been redressed, no further action is required in the matter and the case is accordingly closed.



(Dr. Kamlesh Kumar Pandey)
Chief Commissioner for
Persons with Disabilities

No. 22011/2/2002 -Estt (D)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

New Delhi-1100 01
January 6, 2006

Office Memorandum

Subject: DPC Guidelines- Review of size of zone of consideration.

The size of zone of consideration for promotion by 'selection' as prescribed vide DoPT O.M. No. 22011/1/90-Estt.D dated 12th October 1990 read with O.M. No 22011/1/90-Estt- (D) dated 22nd April 1992 is as under

No. of vacancies.	Normal size of zone of consideration.	Extended zone of consideration for SC/ST.
1	5	5
2	8	10
3	10	15
4	12	20
5 and above	Twice the number of vacancies + 4	5 times the number of vacancies.

2. In view of the earlier policy of empanelling officers in accordance with the overall grading assigned to them by the DPC, thereby involving supersessions, a wider size of zone of consideration was necessary to provide the required choice for selection on merit. However, vide DoPT O.M. No. 35034/7/97-Estt-D dated 8th February, 2002, it has been decided by the Government that there shall be no supersession in the matter of 'selection' promotion and the officers are to be graded by the DPC as 'fit' or 'unfit' with reference to the prescribed bench mark and those found 'fit' are to be included in the panel as per the seniority in the feeder grade. Accordingly, a need has arisen for review of the size of zone of consideration. Having a size of zone of consideration larger than is necessary in the revised context would lead to unnecessary paper work, which may also lead to delay in convening DPCs. However, the zone of consideration has still to be wide enough to cater to the needs of the Department/cadre authorities for giving an extended panel against empanelled officers who are on deputation or are expected to proceed shortly; who have retired or will be retiring in the course of the vacancy year or who have refused promotion and are under debarment. The size should also be sufficient to take care of officers in the feeder grade whose cases are to be placed in 'sealed

cover' and also of those who do not meet the prescribed benchmark. Thus, there is a need for optimizing the size of zone of consideration.

3. The matter has been considered carefully. Keeping in view the considerations in para-2 above, it has been decided to modify the existing provisions relating to size of zone of consideration as under:

- i) For vacancies upto [and including] 10, existing provisions relating to normal size of zone of consideration will continue to be applicable;
- ii) For vacancies exceeding 10, the normal size of zone of consideration will now be one and a half times the number of vacancies, rounded off to next higher integer, plus three but shall not be less than the size of zone of consideration for ten vacancies;
- iii) The existing size of extended zone of consideration for SC/ST officers, viz. five times the total number of vacancies, will continue to be applicable.

4. A statement indicating the revised size of zone of consideration based on the above decision is annexed. It is, however, reiterated, that while the size of zone of consideration would, hereafter, be as now prescribed, the DPC, as per the extant instructions, need not assess and grade all the officers in the eligibility list. Assessment of suitability of eligible employees in the zone of consideration (in the descending order of seniority in the feeder grade) for inclusion in the panel for promotion may be considered only upto a number, which is considered sufficient for preparing the normal panel with reference to the number of vacancies as also for preparing the extended panel for promotion in terms of Department of Personnel and Training Office Memorandum No. 22011/18/87-Estt- (D) dated April 9, 1996. In respect of the remaining employees in the zone of consideration, as now prescribed, the DPC may put a note in the minutes that the assessment of the remaining employees in the zone of consideration is not considered necessary, as sufficient number of employees with prescribed benchmark have become available.

5. These instructions take effect from the date of issue of this Office Memorandum.


(Vidhu Kashyap)
Director

To

All Ministries/Departments of the Government of India.

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Prime Minister's Office, New Delhi
3. Cabinet Secretariat, New Delhi.
4. Rajya Sabha Secretariat/ Lok Sabha Secretariat, New Delhi.
5. The Registrar General, Supreme Court of India.
6. The Registrar, Central Administrative Tribunal, Principal Bench, New Delhi.
7. The Comptroller and Auditor General of India, New Delhi.
8. Union Public Service Commission, New Delhi with reference to UPSC letter no. F.10/6/2002-AU-C dated 12th September, 2002. (20 copies)
9. Staff Selection Commission, New Delhi.
10. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
11. National Commission for SCs, New Delhi.
12. National Commission for STs, New Delhi.
13. Secretary, National Council(JCM), 13, Ferozeshah Road, New Delhi
14. Establishment Officer & A.S.
15. National Commission for OBCs, New Delhi.
16. All Officers and Sections in the Department of Personnel and Training.
17. Facilitation Center, DoP&T(**20 copies**).
18. NIC (DoP&T) for placing this Office Memorandum on the *Website* of DoP&T
19. Establishment (D) Section (**50 copies**).

ANNEXURE

No. of vacancies.	Normal size of Zone of consideration.	Extended Zone of consideration for SC/ST.
1	5	5
2	8	10
3	10	15
4	12	20
5	14	25
6	16	30
7	18	35
8	20	40
9	22	45
10	24	50
11	24	55
12	24	60
13	24	65
14	24	70
15	26	75
16	27	80
17	29	85
18	30	90
19	32	95
20	33	100
30	48	150
40	63	200
50	78	250
60	93	300
70	108	350
80	123	400
90	138	450
100	153	500

संख्या-22011/2/2002-स्थापना (घ)

भारत सरकार

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, दिनांक: 06 जनवरी, 2006

कार्यालय छापन

विषय: विभागीय पदोन्नति समिति संबंधी दिशा-निर्देश- विचारण क्षेत्र के आकार की समीक्षा।

‘चयन’ द्वारा पदोन्नति के लिए विचारण क्षेत्र का, कार्मिक और प्रशिक्षण विभाग के दिनांक 22 अप्रैल, 1992 के कार्यालय छापन संख्या-22011/1/90-स्थापना (घ) के साथ पठित दिनांक 12 अक्टूबर, 1990 के कार्यालय छापन संख्या-22011/1/90-स्थापना (घ) में निर्धारित किए अनुसार, आकार निम्नानुसार है :-

<u>रिक्तियों की संख्या</u>	<u>विचारण क्षेत्र का</u> <u>सामान्य आकार</u>	<u>अनुसूचित जाति/अनुसूचित</u> <u>जानजाति के लिए विचारण का</u> <u>बड़ा हुआ क्षेत्र</u>
1	5	5
2	8	10
3	10	15
4	12	20
5 और इससे अधिक	रिक्तियों की संख्या से दोगुण + 4	रिक्तियों की संख्या से पाँच गुण

2. विभागीय पदोन्नति समिति द्वारा अधिकारियों को दी गई समय थोड़िंग के अनुरूप उनके नाम पैनल में शामिल किए जाने की पूर्व की नीति, जिसमें अधिक्रमण हो जाता था, के महेनजर, योग्यता क्रम के आधार पर चयन किए जाने के क्रम में अपेक्षित मांग पूरी करने के लिए विचारण के एक व्यापक क्षेत्र की आवश्यकता होती थी तथापि, कार्मिक और प्रशिक्षण विभाग के दिनांक 8 फरवरी, 2002 के कार्यालय छापन संख्या-35034/7/97-स्थापना (घ) के अन्तर्भूत, भारत सरकार द्वारा यह निर्णय लिया गया था कि ‘पदोन्नति द्वारा चयन’ के मामले में कोई अधिक्रमण नहीं ठोगा और निर्धारित बैन्च मार्क के संदर्भ में

अधिकारियों को, विभागीय पदोन्नति समिति द्वारा उपर्युक्त अथवा अनुपर्युक्त के रूपमें घोड़िंग की जानी है और जो अधिकारी उपर्युक्त पाए जाएं उन्हें फीडर घोड़ की वरिष्ठता के अनुसार पैनल में शामिल किया जाना है। तदनुसार विचारण क्षेत्र आकार की समीक्षा किए जाने की आवश्यकता हुई है। संशोधित संवर्ध में विचारण क्षेत्र का आकार, आवश्यकता से अधिक रखने से अनावश्यक कागजी कार्रवाई बढ़ेगी जिससे विभागीय पदोन्नति समितियों की बैठकें आयोजित करने में देर होगी। तथापि विचारण क्षेत्र के आकार को अभी और अधिक व्यापक बनाना है ताकि पैनल में शामिल किए गए उन अधिकारियों के संबंध में बढ़ा हुआ विचारण का क्षेत्र देने की, विभाग/संवर्ध प्राधिकारियों की आवश्यकता को पूरा किया जा सके जो प्रतिनियुक्ति पर गए हुए हैं अथवा जिनकी अल्पावधि के पश्चात् प्रतिनियुक्ति पर जाने की उम्मीद है, जो सेवानिवृत्त हो गए हैं अथवा रिक्ति वर्ष में सेवानिवृत्त हो जाएंगे अथवा जिन्हें पदोन्नति लेने से इन्कार कर दिया है और विवरित कर दिए गए हैं। इसका आकार इतना पर्याप्त होना चाहिए कि यह फीडर घोड़ के उन अधिकारियों के मामलों का ध्यान रख सके जिनके मामले बंद लिफाफे में रखे जाने हैं और ऐसे अधिकारियों के भी मामले, जो निर्धारित बैन्च मार्क को पूरा नहीं करते। अतः विचारण क्षेत्र के आकार को छप्टम बनाने की आवश्यकता है।

3. इस मामले पर ध्यानपूर्वक विचार किया गया है। उपर्युक्त पैरा 2 में दिए गए विचारों के मद्देनजर, विचारण क्षेत्र के आकार से सम्बद्ध मौजूदा प्रावधानों को निम्नानुसार संशोधित किए जाने का निर्णय लिया गया है :-

- (i) जिन मामलों में रिक्तियों की संख्या 10 तक होगी (दसवीं सहित) वहां विचारण क्षेत्र के सामान्य आकार से सम्बद्ध मौजूदा प्रावधान लागू होते रहेंगे;
- (ii) जहां रिक्तियों की संख्या 10 से अधिक होगी वहां विचारण क्षेत्र का सामान्य आकार, रिक्तियों की संख्या का डेढ़ गुणा होगा जिसे अगले उच्चतर पूर्ण अंक में मिला दिया जाएगा और इसमें तीन और उम्मीदवारों के नाम शामिल किए जाएंगे अपितु यह 10 रिक्तियों के विचारण क्षेत्र के आकार से कम नहीं हो;
- (iii) अनुसूचित जाति/अनुसूचित जनजाति के अधिकारियों के विचारण क्षेत्र का मौजूदा आकार, अर्थात् रिक्तियों की कुल संख्या का पाँच गुणा, लागू होना जारी रहेगा।

4. उपर्युक्त निर्णय पर आधारित, विचारण क्षेत्र के संशोधित आकार को दर्शाने वाला एक विवरण संलग्न है। तथापि यह बात पुनः दोहराई जाती है कि चूंकि विचारण क्षेत्र का इसके पश्चात् आकार, अब निर्धारित किए अनुसार होगा, अतः मौजूदा अनुदेशों के अनुसार, विभागीय पदोन्नति समिति को पात्रता सूची वाले सभी अधिकारियों का मूल्यांकन करने और उन्हें घोड़ प्रदान करने की आवश्यकता नहीं है। पदोन्नति के लिए पैनल में शामिल किए जाने के आशय से विचारण क्षेत्र में पात्र कर्मचारियों की उपर्युक्तता के मूल्यांकन (फीडर घोड़ में

वरिष्ठता के अवरोही क्रम में), पर विचार केवल उस संख्या तक किया जाए जिसे, रिक्तियों के संदर्भ में सामान्य पैनल तैयार करने के लिए और कार्मिक और प्रशिक्षण विभाग के दिनांक 9 अप्रैल, 1996 के कार्यालय छापन संख्या-22011/18/87-स्थापना (घ) की शर्तों के अनुसार, पदोन्नति के लिए बढ़ा हुआ पैनल तैयार करने हेतु, पर्याप्त समझा जाता है। अब निर्धारित किए गए विचारण क्षेत्र, में आए शेष कर्मचारियों के संबंध में विभागीय पदोन्नति समिति, कार्यवृत में यह टिप्पणी रख सकती है कि विचारण क्षेत्र के शेष कर्मचारियों का मूल्यांकन किया जाना आवश्यक नहीं समझा जाता क्योंकि निर्धारित बैंच मार्क वाले पर्याप्त कर्मचारी उपलब्ध हो गए हैं।

5. ये अनुदेश, इस कार्यालय छापन के जारी होने की तारीख से लागू होंगे।


विधु कश्यप
निदेशक

सेवा में,

भारत सरकार के सभी मंत्रालय/विभाग।

प्रतिलिपि निम्नलिखित को प्रेषित:-

1. राष्ट्रपति सचिवालय, नई दिल्ली ।
2. प्रधान मंत्री कार्यालय, नई दिल्ली ।
3. मंत्रिमण्डल सचिवालय नई दिल्ली ।
4. राज्य सभा सचिवालय/लोक सभा सचिवालय नई दिल्ली ।
5. महापंजीयक, भारत का उच्चतम न्यायालय।
6. पंजीयक, केन्द्रीय प्रशासनिक अधिकरण, प्रधान न्यायीठ, नई दिल्ली ।
7. भारत के नियंत्रक और महालेखापरीक्षक, नई दिल्ली ।
8. संघ लोक सेवा आयोग को उनके दिनांक 12 सितम्बर, 2002 के पत्र सं. एफ.10/6/2002-ए.यू.सी. के संदर्भ में (20 प्रतियां)।
9. कर्मचारी चयन आयोग, नई दिल्ली ।
10. कार्मिक, लोक-शिकायत तथा पेंशन-मंत्रालय के अन्तर्गत सभी संबद्ध कार्यालय ।
11. राष्ट्रीय अनुसूचित जाति आयोग, नई दिल्ली ।
12. राष्ट्रीय अनुसूचित जनजाति आयोग, नई दिल्ली।
13. सचिव, राष्ट्रीय परिषद, संयुक्त परामर्शदायी तंत्र, 13, फीरोजशाह मार्ग, नई दिल्ली।
14. स्थापना अधिकारी और अपर सचिव।
15. राष्ट्रीय अन्य पिछड़ा वर्ग आयोग, नई दिल्ली ।
16. कार्मिक और प्रशिक्षण-विभाग के सभी अधिकारी और अनुभाग ।
17. सूचना सुविधा काउंटर, कार्मिक और प्रशिक्षण-विभाग (20 प्रतियाँ) ।
18. राष्ट्रीय सूचना विज्ञान केन्द्र, (कार्मिक और प्रशिक्षण-विभाग) को यह कार्यालय छापन, कार्मिक और प्रशिक्षण-विभाग की वेबसाईट पर सुलभ करवाने हेतु ।
19. स्थापना (घ) अनुभाग (50 प्रतियाँ) ।

<u>रिक्तियों की संख्या</u>	<u>विचारण क्षेत्र की सामान्य आकार</u>	<u>अनुसूचित जाति/अनुसूचित जनजाति के लिए विचारण का बढ़ा हुआ क्षेत्र</u>
1	5	5
2	8	10
3	10	15
4	12	20
5	14	25
6	16	30
7	18	35
8	20	40
9	22	45
10	24	50
11	24	55
12	24	60
13	24	65
14	24	70
15	26	75
16	27	80
17	29	85
18	30	90
19	32	95
20	33	100
30	48	150
40	63	200
50	78	250
60	93	300
70	108	350
80	123	400
90	138	450
100	153	500

No. 22011/2/2014- Estt.D
Government of India
Ministry of Personnel, P.G. & Pensions
Department of Personnel & Training

North Block, New Delhi,
Dated the 30th January, 2015.

Office Memorandum

Subject:- Procedure for conduct of supplementary DPC

This Department instructions issued vide OM No. 22011/5/86-Estt (D) dated 10.4.89 [para 6.4.2 (i)] provide that vacancies occurring due to death, voluntary retirement, new creations etc. could not be foreseen at the time of placing facts and material before the DPC, therefore, another meeting of DPC (commonly referred to supplementary DPC) should be held for drawing up a panel for these vacancies.

2. References have been received with regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year.

3. These issues have been examined in consultation with UPSC and following is decided:-

(i) The zone of consideration, in case of holding supplementary DPC, shall be fixed as per the provisions in this Department OM No. 22011/2/2002-Estt(D) dated 6.1.2006 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year.

(ii) The eligibility list for supplementary DPC shall be prepared by removing the names of all such officers who have already been assessed by earlier DPC as fit, unfit or placed in the sealed cover by the original DPC before placing the same for consideration by the supplementary DPC.

(iii) The officers who have already been empanelled or placed in the extended panel but could not be promoted due to these vacancies not actually becoming available; need not be re-assessed by the supplementary DPC as the assessment matrix remains the same. They may be appointed against the additional vacancies of the same vacancy year as per

recommendations of the earlier DPC. In such situation the number of vacancies for supplementary DPC shall be accordingly adjusted.

4. While calculating the regular vacancies for a DPC, it is incumbent upon administrative department to ensure that there is no arbitrariness in calculation of anticipated vacancies.

5. To provide clarity in implementation of these instructions some situation specific illustrations are enclosed as Annexure to this OM.



(Mukta Goel)
Director (E.I)

All Ministries/Departments of the Government of India

Copy to:-

1. The President's Secretariat, New Delhi.
2. The Vice-president's Sectt, New Delhi
3. The Prime Minister's Office, New Delhi.
4. The Cabinet Secretariat, New Delhi.
5. The Lok Sabha /Rajya Sabha Secretariat, New Delhi.
6. The Comptroller and Audit General of India, New Delhi.
7. The Secretary, Union Public Service Commission, New Delhi
8. The Staff Selection Commission, New Delhi.
9. All attached offices under the Ministry of Personnel, Public Grievances and Pensions.
10. All Officers and Sections in the Department of Personnel and Training.
11. Establishment (D) Section, DoP&T (20 copies)
12. NIC for updation on the website

Illustration

Original DPC

No. of vacancies	-	5
Normal zone	-	$5 \times 2 + 4 = 14$
Extended zone	-	$5 \times 5 = 25$

Supplementary DPC

No. of vacancies - 2

Zone of consideration will be decided taking into account total number of vacancies in the vacancy year, i.e. 7 (Vacancies at the time of original DPC + unanticipated vacancies for the same year i.e. 5+2) in this case.

For 7 vacancies, normal zone is $7 \times 2 + 4 = 18$

Extended Zone $7 \times 5 = 35$

Situation 1 - In the original DPC, first 5 officers are assessed as 'Fit' and no officer is assessed for extended panel or assessed as 'Unfit' and/or kept in 'Sealed Cover'

Zone of consideration for Supplementary DPC will now be 13 (Normal Zone of consideration for total number of vacancies for that year – number of officers assessed by earlier DPC i.e 18-5).

As such, in the eligibility list of Supplementary DPC in the above illustration, 13 officers (9 left over officers from the original DPC and 4 additional officers) shall be included.

Situation 2 - In the original DPC, first 5 officers are assessed as 'Fit' and next 3 officers are assessed for extended panel and no officer is assessed as 'Unfit' and /or kept in 'Sealed Cover'

Zone of consideration for Supplementary DPC will now be 10 (Normal Zone of consideration for total number of vacancies for that year – number of officers assessed by earlier DPC i.e 18-8).

As such, in the eligibility list of Supplementary DPC in the above illustration, 10 officers (6 left over officers from the original DPC and 4 additional officers) shall be included.

Situation 3 - In the original DPC, 5 officers are assessed as 'Fit', 2 officers are assessed for extended panel and 4 officers are assessed as 'Unfit' and/or kept in 'Sealed Cover'

Zone of consideration for Supplementary DPC will now be 7 (Normal Zone of consideration for total number of vacancies for that year – number of officers assessed by earlier DPC i.e 18-11)

As such, in the eligibility of Supplementary DPC in the above illustration, 7 officers (3 left over officer not assessed in the original DPC and 4 additional officers) shall be included in the normal zone.

Extended Zone in situation 1,2 & 3 above:

Extended zone in the Supplementary DPC, wherever resorted to, may be operated accordingly leaving out the SC/ST officers assessed by the original DPC.

Important- In the Supplementary DPC, (a) Zone of consideration (Normal as well as Extended) shall be decided taking into account total number of vacancies in the relevant vacancy year; and (b) all the officers already assessed in the original DPC are not to be included in the fresh zone of consideration in respect of the S-DPC.

North Block, New Delhi 110001

April 13, 1998

OFFICE MEMORANDUM

Subject:- Procedure to be observed by the Departmental Promotion Committee(DPC) – Holding of Review DPC –

The undersigned is directed to invite reference to the Department of Personnel and Training(DOP&T) Office Memorandum No.22011/5/86-Estt(D) dated April 10, 1989 containing the consolidated instructions on DPC. The provisions made in para 6.4.2 and para 18.1 of the aforesaid Office Memorandum enumerate some of the situations in which Review DPC is required to be held. These situations are:-

- (a) Non-reporting of vacancies due to error or omission (i.e. though the vacancies were available at the time of holding of DPC meeting, these were not reported to the DPC). This leads to injustice to the officers concerned by artificially restricting the zone of consideration; or
- (b) Where eligible persons were omitted to be considered; or
- (c) Where ineligible persons were considered by mistake; or
- (d) Where the seniority of a person was revised with retrospective effect resulting in a variance of seniority list placed before the DPC; or
- (e) Where some procedural irregularity was committed by a DPC; or
- (f) Where adverse remarks in the CEs were toned down or expunged after the DPC had considered the case of the officer.

These instances are illustrative and not exhaustive.

2. The Union Public Service Commission has expressed a doubt as to whether it is necessary to hold review DPC in cases where excess number of vacancies were reported to DPC which resulted in an inflated zone of consideration leading to consideration/empanelment of employees who would not have been covered by the zone of consideration, if the vacancies had been reported accurately. The basis of doubt is that the situation has not been specifically enumerated in para 6.4.2 or para 18.1 of the Office Memorandum dated April 10, 1989.

3. In this connection, it is clarified that the situations enumerated in the aforesaid paras (6.4.2 and 18.1) are only illustrative and not exhaustive. As already mentioned in para 18.1 of the said Office Memorandum, the primary objective of holding a review DPC is to rectify any mistake that took place at the time of holding of the original DPC. Over-reporting of vacancies is also one of the mistakes which needs to be rectified by holding a review DPC. Therefore, the provision made in para 18.1 was/is required to be read to cover this situation also. However, it is directed that in the case of over-reporting of vacancies, a review DPC may be held only if the change in the number of vacancies would result in exclusion of any person(s) empanelled by the original DPC, on account of over-reporting of vacancies which led to inflated zone of consideration. As such, no review DPC need be convened where it may prove to be an infructuous exercise.


(K.K. JHA)
Director(Establishment)

To

No.DOPT-1721625311004
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel and Training
ESTT.(Estt. D)

Dated 22 July, 2024

OFFICE MEMORANDUM

Subject:- Guidelines on Departmental Promotion Committees

Note : While due care has been taken to compile this document, however, if any omissions or correction are noticed, the same may be brought to the notice of the Department of Personnel & Training.

1. FUNCTIONS AND COMPOSITION OF DEPARTMENTAL PROMOTION COMMITTEES (DPCs)

1.1 A post is filled on promotion basis where the Recruitment Rules so provide as a method of recruitment. In making promotions, it should be ensured that suitability of the candidates for promotion is considered in an objective and impartial manner. For this purpose, Departmental Promotion Committee [DPC] (for considering Promotion) should be formed in each Ministry/ Department/ Organisation. In addition, for considering cases of confirmation Departmental Confirmation Committee [DCC] needs to be constituted. Thus, whenever an occasion arises for making promotions/ confirmation etc., the DPCs/DCCs so constituted shall judge the suitability of officers for :

(a) 'Promotion' to 'Selection' as well as 'Non-Selection' posts.

(b) Appointment of existing incumbent(s) to post(s) which has(have) been upgraded, in the event of upgradation of post(s) held by the officer(s), in accordance with provisions of DoPT O.M. No. 22011/10/ 84-Estt (D) dated 04.02.1992 and O.M. No. AB-14017/66/2008-Estt.(RR) dated 09.03.2009.

(c) Confirmation of direct recruits in their respective entry grades/posts, confirmation of those promoted in case of change of Group on Promotion or confirmation for officers re-employed before the age of superannuation (by the Departmental Confirmation Committee).

(d) Assessment of work and conduct of the probationers for the purpose of determining their suitability for retention in service or their discharge from it or extending their probation.

[O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989,

O.M. No. 22011/10/ 84-Estt (D) dated 04.02.1992,

O.M. No. AB-14017/66/2008-Estt.(RR) dated 09.03.2009 and

O.M. No. 28020/3/2018-Estt.(C) dated 11.03.2019]

1.2 Composition of DPC for Group 'A' and Group 'B' posts

1.2.1 Members included in DPCs for Group 'A' and Group 'B' posts should be officers who are at least one level above the posts in which promotion/ confirmation is to be made. A nominee of Department of Personnel & Training (DoPT) shall also be associated with the DPCs in respect of posts covered by the Appointments Committee of the Cabinet (ACC) delegation, as prescribed vide DoPT O.M. No. 22012/5/97-Estt (D) dated 12.01.1998.

[[O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989](#) and

[O.M. No. 22012/5/97-Estt.\(D\) dated 12.01.1998](#)]

1.3 Association of UPSC with DPCs/DCCs

1.3.1 Cases of promotion:

In cases of promotion by Selection, it shall not be necessary to associate the Union Public Service Commission while making a promotion to any Group 'A' Service or post the maximum of the scale of pay of which is less than Rs.16500 (less than Pay Level 12), of an officer holding any Group 'A' service or post. Consultation with UPSC shall continue to be necessary while considering promotion from Group 'B' to any level in Group 'A'.

Whenever the UPSC is associated with a DPC, the Chairman or a Member of the Commission will preside at the meeting of the DPC.

[[Notification No. 39018/1/98-Estt.\(B\) dated 21.05.1999](#),

[Notification No. 39018/01/98-Estt.\(B\) dated 04.12.2003](#) and

[Para 2.4 of O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989](#)]

1.3.2 Cases of confirmation:

It shall not be necessary to consult the UPSC while making substantive appointment or confirmation to any Group 'A' or Group 'B' Service or post, of any person recruited directly through the UPSC to such Group 'A' or Group 'B' Service or post.

[[Notification No. 39018/1/98-Estt.\(B\) dated 21.05.1999](#)]

1.3.3 Composition of DPC for Group 'C' posts

In respect of a DPC for Group C posts the Chairman of the DPC should be an officer of a sufficiently high level and one of the members of the DPC should be an officer from a Department not connected with the one in which promotions are considered. The other member(s) should be an officer of the Department familiar with the work of the persons whose suitability is to be assessed. The officer of another Department appointed as a member of the DPC should also be of an appropriate level keeping in view the level of the other members of the DPC and the post to which promotion is to be made. In the case of a DPC constituted for promotions to a technical post it may also be ensured that the officer nominated by another Department has also the requisite technical competence to advise on the suitability of the candidates under consideration.

[\[Para 2.5 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

1.3.4 Co-option of SC/ST officers as Members of DPC

- (a) Endeavour should also be made to nominate an SC/ST officer on the DPC constituted for various posts/services particularly where a DPC has to make bulk selection for a large number of vacancies, say 30 or more at a time. Where an outside member has to be associated with the DPC for Group C posts, there would be no objection to nominate on such a DPC, a SC/ST officer from such other Ministry/Department in the event of such officer not being available in the Ministry/Department itself.
- (b) In Group A and Group B Services/posts if none of the officers included in the DPC as per the composition given in the recruitment rules is a SC or ST officer, it would be in order to co-opt a member belonging to the SC or ST if available within the Ministry/Department. If no such officer is available within the Ministry/Department, he may be taken from another Ministry/Department.

[\[O.M. No. F.16/1/74-Estt.\(SCT\) dated 23.05.1975,](#)

[O.M. No. 41013/16/80-Estt.\(SCT\) dated 10.08.1981,](#)

[O.M. No. 36011/22/82-Estt.\(SCT\) dated 18.08.1983](#) and

[Para 2.6 and 2.7 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

2. FREQUENCY OF DEPARTMENTAL PROMOTIONAL COMMITTEE MEETINGS

2.1 Frequency at which DPC should meet and suggested model calendar for holding of DPCs

2.1.1 The DPCs should be convened at regular annual intervals to draw panels, which could be utilized for making promotions against the vacancies occurring during the course of the vacancy year. From the year 2018 onwards, Vacancy Year stands shifted to Calendar Year. Accordingly from 2019 onwards, the crucial date for determining eligibility shall be the 1st of January of the Vacancy Year.

2.1.2 For timely convening of DPC it is essential for the concerned Ministry/ Department/Office/cadre authorities to take timely action for collecting all relevant documents, convening the DPC and seeking approval of the appointing authority. Ideally an officer should be identified as the nodal officer for ensuring timely convening of the DPC. For Gr. A Services/posts, Joint Secretary (Admn) of the administrative Department/ or Joint Secretary in-charge of the cadre concerned may be designated as the nodal officer. For other services/posts, Administrative Ministry may similarly identify nodal officers of equivalent level for the purpose.

2.1.3 A model Calendar as prescribed below may be followed so that it could be ensured that the select panel is ready before the commencement of the vacancy year. For practical reasons, a separate time-schedule for cases requiring approval of the Appointments Committee of Cabinet and cases, which do not require such approval, has been suggested.

MODEL CALENDAR FOR CONDUCTING DEPARTMENTAL PROMOTION COMMITTEES(DPCs)

A. ACC Cases

Sl.No.	Events	Timeline
1.	Crucial date for determining eligibility	1 st January of the Vacancy Year
2.	Compilation of ACRs (APARs)/ Vigilance Clearance/ Seniority List/ Penalty and Vacancy position etc., and forwarding DPC proposal to UPSC	January – to 15 th April of the year preceding the vacancy year
3.	Last date for sending complete proposal along with relevant Recruitment / Service Rules to the UPSC. (Efforts should be made to send the proposal to the UPSC as soon as possible without waiting for the last date)	15 th April of the year preceding the vacancy year
4.	DPC to be held	15 th April – August of the year preceding the vacancy year
5.	On receipt of DPC minutes from the UPSC, post-DPC follow-up action by the administrative Ministry/ Department	September of the year preceding the vacancy year
6.	Approval of the ACC including communication of its approval to the administrative Ministry/ Department	October – December of the year preceding the vacancy year
7.	Last date for getting ready the approved select panel by the administrative Ministry / Department	31 st December of the year preceding the vacancy year

Note : Dates/periods suggested in the Model Calendar for DPCs put no bar on earlier completion of various pre-post DPC related actions. Every effort may, as such, be made for taking speedy action in the matter without waiting for the last date or completion of the period as suggested by the Model Calendar for DPCs.

B. Non-ACC Cases

Sl.No.	Events	Timeline
1.	Crucial date for determining eligibility	1 st January of the Vacancy Year

2.	Compilation of ACRs (APARs) / Vigilance Clearance/ Seniority List/Penalty and Vacancy position etc., and forwarding DPC proposal	January – April of the year preceding the vacancy year
3.	Last date for sending complete proposal along with relevant Recruitment / Service Rules to the DPC. (Efforts should be made to send the proposal to the UPSC as soon as possible without waiting for the last date)	30 th April of the year preceding the vacancy year
4.	DPC to be held	May – October of the year preceding the vacancy year
5.	On receipt of DPC minutes, post-DPC follow-up action (including approval of the Competent Authority) by the administrative Ministry/ Department	November – December the year preceding the vacancy year
6.	Last date for getting ready the approved select panel by the administrative Ministry / Department	31 st December of the year preceding the vacancy year

Note: Dates/periods suggested in the Model Calendar for DPCs put no bar on earlier completion of various pre-post DPC related actions. Every effort may, as such, be made for taking speedy action in the matter without waiting for the last date or completion of the period as suggested by the Model Calendar for DPCs.

[\[Para 3.1 of O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

[O.M. No. 22011/3/2011-Estt.\(D\) dated 24.03.2011](#) and

[O.M. No. 22011/4/2013-Estt.\(D\) dated 08.05.2017\]](#)

2.2 Recruitment Rules at the time of occurrence of vacancy to be adopted

2.2.1 Holding of DPC meetings need not be delayed or postponed merely on the ground that recruitment rules for a post are being reviewed/amended. A vacancy shall be filled in accordance with the recruitment rules in force as on the date of vacancy, unless rules made subsequently have been given retrospective effect. Since amendments to recruitment rules normally have only prospective application, the existing vacancies should be filled as per the recruitment rules in force.

[\[Para 3.1 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

2.3 Non-holding of the regular DPC for valid reasons

2.3.1 The requirement of convening annual meetings of the DPC/DCC should be dispensed with only after a certificate has been issued by the appointing authority that there are no vacancies to be filled by promotion or no officers are due for confirmation during the year in question.

[\[Para 3.2 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

3. **PREPARATORY ACTION FOR HOLDING DPCs**

3.1 **Determination of regular vacancies and size of the select panel.**

3.1.1 It is essential that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose since action is to be initiated in advance, the vacancies to be taken into account should be clear vacancies arising in a post/grade/service in the relevant vacancy year due to retirement, regular long term promotion and deputation. As regards vacancies arising out of deputation, only those cases of deputation for periods exceeding one year should be taken into account, due note, however, being kept also of the number of the deputationists likely to return to the cadre and who have to be provided for. Purely short term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated year- wise separately.

[Para 4.1 of O.M. NO. 22011/5/86-Estt.(D) dated 10.04.1989]

3.1.2 DPC for a grade may take into account all clear expected vacancies by retirement etc. in the concerned grade as well as chain vacancies on account of retirement etc. in the higher grades which can be clearly anticipated in the same vacancy year.

[Para 7 of O.M. No. 22011/9/98-Estt.(D) dated 08.09.1998]

3.1.3 Chain Vacancies on account of retirement, etc. in the higher grades in a vacancy (panel) year shall include :

The vacancies which can be clearly anticipated as likely to become available in the concerned grade by promotion of officers of the service to higher grades during that vacancy (panel) year. (Expected promotion to the higher grades under the Model Calendar for DPCs would normally be against vacancies arising by retirement in all the higher grades/hierarchy - as per paragraph 7 of the Office Memorandum dated September 8, 1998).

[Para 2 of O.M. No. 22011/9/98-Estt.(D) dated 06.10.1999]

[For vacancies that arise subsequently during the vacancy year due to death, resignation, creation of new posts, a supplementary DPC needs to be convened.]

3.2 **Papers to be put up for consideration by the DPCs**

The proposals for promotion / confirmation to be submitted to the DPC/ DCC/ UPSC should be complete in all respects and should be sent in good time before the meeting.

[Para 4.2.1 and 4.2.2 of O.M. NO. 22011/5/86-Estt.(D) dated 10.04.1989]

3.2.1 Annual Performance Appraisal Reports (APARs)

(i) No proposal for holding meeting of the DPC or Selection Committee should be sent to the Committee or UPSC until and unless all the APARs complete and upto-date are available. In certain case involving collection of a large number of APARs, the proposal can be sent only if at least 90% of the APARs reckonable for the vacancy year concerned are available. Every effort should be made to keep the APARs dossiers upto date, lest this aspect is advanced as the reason for not holding the DPCs in time.

[\[Para 4.2.3 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

(ii) If the APAR for a particular year/period is not available and for valid/ justifiable reasons it cannot be made available, a certificate (No Report Certificate) should be recorded to that effect and placed in the respective APAR dossier.

[\[Para 4.2.4 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

(iii) Where the UPSC is associated with the DPC, the certificate will be recorded by an officer not below the rank of a Deputy Secretary to the Government. Where UPSC is not associated, the officer in-charge of the Administration Section in the Ministry / Department / Office concerned, who processes and submits names and particulars of eligible officers to the DPC should himself record the certificate.

[\[Para 4.2.6 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

(iv) It should be ensured that the information furnished to the UPSC/DPC is factually correct and complete in all respects. Cases where incorrect information have been furnished should be investigated and suitable action taken against the person responsible for it.

[\[Para 4.2.7 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

3.2.2 Statement of penalties imposed on the officer

All Ministries/Departments should attach a statement indicating the penalties imposed on the officers included in the zone of consideration during a period of ten years preceding the year in which DPC is held, including till the date of DPC. Copies of orders imposing the penalties and decisions taken on appeals, if any, should be kept in the respective CR dossiers.

[\[O.M. No. 22011/5/86-Estt.\(D\) dated 27.03.1990\]](#)

3.2.3 Consideration of some special cases

(i) Consideration of officers on deputation to an ex-cadre post

The names of the officers who are on deputation to an ex-cadre post either on their own volition or in public interest (including foreign service), should also be included in the list submitted to the DPC for consideration for promotion in case they come within the field of choice for promotion and fulfill the prescribed eligibility conditions. Similarly, the names of the officers on deputation should also be included in the list of names to be considered by the DCC for confirmation, in case they are eligible for confirmation and come within the range of seniority.

[Para 4.3.1 of O.M. NO. 22011/5/86-Estt.(D) dated 10.04.1989]

(ii) Eligibility service- Counting of service rendered on deputation/foreign service

A certain number of years of service in the lower grade is prescribed as a condition for becoming eligible for consideration for promotion to a higher post/grade. In such cases, the period of service rendered by an officer on deputation/foreign service, should be treated as comparable service in his parent Department for purposes of promotion as well as confirmation. This is subject to the condition that the deputation/foreign service is with the approval of the competent authority and it is certified by the competent authority that but for the deputation/foreign service, the officer would have continued to hold the relevant post in his parent department. Such a certificate would not be necessary if he was holding the departmental post in a substantive capacity.

[Para 4.3.2 of O.M. NO. 22011/5/86-Estt.(D) dated 10.04.1989]

On technical resignation, seniority in the post held by the Government servant on substantive basis continues to be protected. However, in case of a Government servant deciding to rejoin his substantive post, the period spent in another department which he had joined after submitting his technical resignation will not count for minimum qualifying service for promotion in the higher post.

[Para 2.6 of O.M. No. 28020/1/2010-Estt.(C) dated 17.08.2016]

(iii) Consideration of officers on Study Leave/ Special Leave for Training

An officer proceeding on study leave should be treated on the same basis as an officer proceeding on deputation if the study leave was duly sanctioned by the competent authority and the competent authority certifies that he would have continued to officiate but for his proceeding on study leave. Such a certificate would not be necessary if he was holding the said departmental post substantively. These instructions would also apply in the cases of Government Servants who are granted special leave for training abroad under the various training schemes.

[Para 4.4 of O.M. NO. 22011/5/86-Estt.(D) dated 10.04.1989]

(iv) Consideration of officer already recommended for Direct Recruitment

It may happen that a Government servant who is recommended for appointment to a post as a direct recruit may also be among those eligible for consideration for promotion to the same post. An officer does not lose his right of consideration for such promotion merely because he has been recommended for appointment against the direct recruitment quota. Therefore, such officers, if they are within the field of eligibility, should be included in the list of officers for consideration by the DPC, except where an officer was holding the lower post in a temporary capacity and has been appointed to the higher post as a direct recruit before the date of the meeting of the DPC.

[Para 4.5 of O.M. NO. 22011/5/86-Estt.(D) dated 10.04.1989]

(v) Reservation for SCs/ STs

(a) Instructions have been issued from time to time by the Department of Personnel and Training regarding reservations and concessions to SCs and STs in the matter of promotions and confirmations. These instructions should be duly taken into account by the appointing authorities while formulating proposals for promotion/confirmation for consideration of the DPC.

[Para 4.6 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

(b) Consequent upon the implementation of the Supreme Court Judgement in the case of R.K. Sabharwal vs. State of Punjab, provision of vacancy based roster has been replaced with that of post based roster. All the Ministries / Departments are required to prepare the respective rosters based on the principles elaborated in the O.M. No. 36012/2/96-Estt.(Res) dated 02.07.1997.

[O.M. No. 36012/2/96-Estt.(Res) dated 02.07.1997]

(c) In terms of the judgement dated 28.01.2022 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 other connected matters, the Supreme Court has set out the following conditions that are to be satisfied by the Government for the purpose of implementing the policy of reservation in promotions :

(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.

(d) 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. For this purpose, they are required to ensure the following:

(i) In terms of DoPT's O.M. No.43011/153/2010-Estt (Res) dated 04.01.2013, 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 02.07.1997.

(ii) In order to ensure maintenance of efficiency of administration, the DPC shall carefully assess the suitability of the officers, being considered for promotion.

(iii) The Appointing Authority shall issue the appointment/ promotion orders only after satisfying itself that the conditions mentioned in Sub-paras (d), (f)(i) & (f)(ii) above have been fully complied with.

[**\[O.M. No. 36012/16/2019-Estt.\(Res\) dated 12.04.2022\]**](#)

Note : Since the Jarnail Singh batch of cases is still 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.

4. PROCEDURE TO BE OBSERVED BY DEPARTMENTAL PROMOTION COMMITTEES

4.1 Furnishing of the certificate by the Chairperson/Members

While sending the Agenda Papers of the DPC to the Chairperson and to the Members of the DPC, each one of them may specifically be asked to furnish the information to the Appointing Authority sufficiently in advance stating that none of his/her close relative is being considered by the DPC and that he/she (Chairperson/Members) is otherwise also not interested in any particular candidate. Members of the DPC may also endorse sufficiently in advance, a copy of such information to the Chairperson of the DPC. In the event of the Chairperson/Members not being in a position to participate in the meeting, this would facilitate making alternate arrangement (as the case may be) in time by nominating officers of the equivalent ranks to function as the Chairperson/members of the DPC, if permissible according to the provisions of the relevant Recruitment Rules.

[**\[O.M. No. 22012/1/97-Estt.\(D\) dated 23.05.2001\]**](#)

4.2 Interviews in promotions

No interviews should be held unless it has been specifically provided for in the recruitment rules for the post/service. Whenever promotions are to be made by the method of 'Selection' by DPC and the administrative Ministry desires that an interview should form part of the selection process, necessary provision should be made in the recruitment rules. However, interviews in junior level posts upto Group 'B' (Non-Gazetted) in the Government have been discontinued irrespective of mode of appointment i.e. promotion, deputation, direct recruitment etc.

[**\[O.M. No. 39020/01/2013-Estt.\(B\) dated 09.10.2015\]**](#)

SELECTION METHOD

4.3 Zone of Consideration for promotion by Selection

For promotion by Selection method, the size of zone of consideration would be as under :-

No. of vacancies	No. of officers to be considered	Extended Zone of consideration for SC/ST
1	5	5
2	8	10
3	10	15
4	12	20
5 to 10	Twice the number of vacancies + 4	5 times the number of vacancies
Exceeding 10	One & half times the number of vacancies (rounded off to next higher integer) + 3 but not less than the size of zone of consideration for 10 vacancies.	5 times the number of vacancies

[\[Para 3 of O.M. No. 22011/2/2002-Estt\(D\) dated 06.01.2006\]](#)

4.3.1 If adequate number of SC/ST candidates are not available within the normal field of choice as above to fill up the vacancies reserved for them, the field of choice shall be extended to five times the total number of vacancies and the SC/ST candidates (and not any other) coming within the extended field of choice be considered against the vacancies reserved for them.

[\[Para 1 of O.M. No. 22011/1/90-Estt\(D\) dated 12.10.1990\]](#)

4.3.2 Where there are a number of feeder grades with a fixed quota, the zone of consideration will be applicable separately with reference to the number of posts going to the quota of a particular feeder grade. Where no fixed quota is prescribed, a common eligibility list shall be prepared limited to the zone of consideration as above.

[\[Paras 2.2.1 and 2.2.2 of O.M. No. 20011/1/2008-Estt.\(D\) dated 11.11.2010\]](#)

4.4 Guidelines for conducting the proceedings of the DPCs

4.4.1 Each Departmental Promotion Committee should decide its own method and procedure for objective assessment of the suitability of the candidates.

[\[Para 5 of O.M. NO. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

4.4.2 DPCs enjoy full discretion to devise their own methods and procedures for objective assessment of the suitability of candidates who are to be considered by them. In order to ensure greater selectivity in matters of promotions and for having uniform procedures for assessment by DPCs, the following guidelines are laid down to regulate the assessment of suitability of candidates by DPCs.

4.4.3 While merit has to be recognized and rewarded, advancement in an officer's career would not be regarded as a matter of course, but should be earned by dint of hard work, and good conduct and result oriented performance as reflected in the Annual Performance Appraisal Reports and based on strict and rigorous selection process.

[Paras 6.1.2 to 6.1.3 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

4.4.4 Consideration of Annual Performance Appraisal Reports (APARs)

Annual Performance Appraisal Reports (APARs) are the basic inputs on the basis of which assessment is to be made by each DPC. The evaluation of APARs should be fair, just and non-discriminatory.

(a) The DPC should consider APARs for equal number of years in respect of all officers considered for promotion subject to (c) below.

(b) The DPC should assess the suitability of the officers for promotion on the basis of their service record and with particular reference to the APARs for five years preceding T-2nd year as reckoning APARs. It is also clarified that if more than one APAR have been written for a particular year, all the APARs for the relevant years shall be considered together as the APAR for one year.

(c) Where one or more APARs have not been written for any reason during the relevant period, the DPC should consider the APARs of the years preceding the period in question and if in any case even these are not available the DPC should take the APARs of the lower grade into account to complete the number of APARs required to be considered as per (b) above. If this is also not possible, all the available APARs should be taken into account.

(d) Where an officer is officiating in the next higher grade and has earned APARs in that grade, his APARs in that grade may be considered by the DPC in order to assess his work, conduct and performance, but no extra weightage may be given merely on the ground that he has been officiating in the higher grade.

(e) The DPC should not be guided merely by the overall grading, if any, that may be recorded in the APARs but should make its own assessment on the basis of the entries in the APARs, because it has been noticed that sometimes the overall grading in a APAR may be inconsistent with the grading under various parameters or attributes.

[Paras 6.2.1 (a) to (e) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 and

(f) Government also desires to clear the misconception about “Average” performance. While “Average” may not be taken as adverse remark in respect of an officer, at the same time, it cannot be regarded as complimentary to the officer, as ‘Average’ performance should be regarded as routine and undistinguished. It is only performance that is above average and performance that is really noteworthy, which should entitle an officer to recognition and suitable rewards in the matter of promotion.

[\[Para 6.1.3 of O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

(g) If the Reviewing authority or the Accepting authority as the case may be has over-ruled the Reporting Officer or the Reviewing authority as the case may be, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment, provided it is apparent from the relevant entries that the higher authority has come to a different assessment consciously after due application of mind. If the remarks of the Reporting Officer, Reviewing authority and Accepting authority are complementary to each other and one does not have the effect of over-ruling the other, then the remarks should be read together and the final assessment made by the DPC.

[\[Para 6.2.1 \(f\) of O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

(h) In cases where the assessment by DPCs are apparently not in line with the grades in the APARs, the DPC should appropriately substantiate its assessment by giving reasons, so that the appointing authority could factor these while taking a view on the suitability of officer for promotion.

[\[O.M. No. 22011/3/2007-Estt.\(D\) dated 18.02.2008\]](#)

(i) The DPC need not assess and grade all the officers in the eligibility list. Assessment of suitability of eligible employees in the zone of consideration (in the descending order of seniority in the feeder grade) for inclusion in the panel for promotion may be considered only upto a number, which is considered sufficient for preparing the normal panel with reference to the number of vacancies as also for preparing the extended panel for promotion in terms of Department of Personnel and Training Office Memorandum No. 22011/18/87-Estt-(D) dated 09.04.1996. In respect of the remaining employees in the zone of consideration, as now prescribed, the DPC may put a note in the minutes that the assessment of the remaining employees in the zone of consideration is not considered necessary, as sufficient number of employees with prescribed benchmark have become available.

[\[O.M. No. 22011/2/2002-Estt.\(D\) dated 06.01.2006\]](#)

4.4.5 Overall Assessment by DPC

(a) In the case of each officer an overall grading should be given. The grading shall be one among the gradings prescribed in the APAR.

(b) Before making the overall grading after considering the APARs for the relevant years, the DPC is also required to take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any superior officer or authority has been conveyed to him, as reflected in the APARs.

[Para 6.2.2 and 6.2.3 of O.M. No. NO. 22011/5/86-Estt.(D) dated 10.04.1989]

(b) In assessing the suitability of the officer on whom a penalty has been imposed, the DPC will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of the general service record of the officer and the fact of the imposition of the penalty, the officer should be considered for promotion. The DPC, after due consideration, has the authority to assess the officer as 'unfit' for promotion. However, where the DPC considers that despite the penalty, the officer is suitable for promotion, the officer will be actually promoted only after the currency of the penalty is over.

[Para 7(g) of O.M. No. 22011/4/2007-Estt.(D) dated 28.04.2014]

4.4.6 Preparation of panel

The list of candidates considered by the DPCs and the overall assessment of each candidate would form the basis for preparation of the panel for promotion by the DPC. The following principles should be observed in the preparation of the panel :

(a) There should be no supersession in matter of selection (merit) promotion at any level. In the case of 'selection' (merit) promotion, the distinction in the nomenclature ('selection by merit' and 'selection-cum-seniority') has been dispensed with and the mode of promotion in all cases shall be 'selection' only. The element of selectivity (higher or lower) shall be determined with reference to the relevant benchmark ('Very Good' or 'Good') prescribed for promotion.

(b) **Bench-mark**

Having regard to the levels of the posts to which promotions are to be made, the nature and importance of duties attached to the posts, bench mark grades have been prescribed for each category of posts for which promotions are to be made by selection method.

(i) Promotion to the revised pay scale of post in Pay Level -12 and above :

The mode of promotion shall be 'selection'. The benchmark for promotion shall continue to be 'very good'. This will ensure element of higher selectivity in comparison to selection promotions to the grades lower than the aforesaid level where the benchmark, as indicated in the following paragraphs, shall be 'good' only. The DPC shall, for promotions to the said pay level and above, grade officers as 'fit' or 'unfit' with reference to the benchmark of 'very good' and overall assessment. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. There shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed benchmark of 'very good'.

In order to ensure greater selectivity at higher level of administration, the DPC may ensure that for the promotion to Level 14 and above, the prescribed benchmark of 'Very Good' is invariably met in all APARs of five years under consideration.

[O.M. No. 22011/2/2007-Estt.(D) dated 18.02.2008]

(ii) Promotion to grades below the revised pay-scale of post in Pay Level 12 (including promotions from lower Groups to Group 'A' posts/grades/services)

The mode of promotion shall be 'selection'. The bench-mark for promotion, shall continue to be 'Good'. The DPC shall for promotion to posts/grades/services in the aforesaid categories, grade officers as 'fit' or 'unfit' only with reference to the benchmark of 'Good'. Only those who are graded as 'fit' shall be included in the select panel prepared by the DPC in order of their inter-se seniority in the feeder grade. There shall be no supersession in promotion among those who are found 'fit' by the DPC in terms of the aforesaid prescribed benchmark of 'Good'.

[O.M. No. 35034/7/97-Estt.(D) dated 08.02.2002]

(c) Appointments from the panel shall be made in the order of names appearing in the panel for promotion.

(d) Where sufficient number of officers with the required benchmark grade are not available within the zone of consideration, officers with the required bench mark will be placed on the panel and for the unfilled vacancies, the appointing authority should hold a fresh DPC by considering the required number of officers beyond the original zone of consideration.

4.4.7 Consideration of SC/ST Officers

(a) In promotion to posts/services in all Groups upto the lowest rung in Group 'A', selection against vacancies reserved for SCs and STs will be made only from those SC/ST officers, who are within normal zone of consideration. Where adequate number of SC/ST candidates is not available within the normal zone of consideration, it shall be extended to five times the total number of vacancies for which select panel is to be prepared and the SC/ST candidates coming within the extended field of choice should also be considered against the vacancies reserved for them. If candidates from SC/ST obtain on the basis of merit (normal bench mark score applicable for the grade) 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/extended zone of consideration, irrespective of merit and 'bench mark' but who are considered fit for promotion.

[Para 6.3.2(ii) and (iii) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

(b) In promotions by Selection to posts within Group 'A' (Class-I) carrying Grade Pay of Rs. 8700/- (Pay Level-13) or less, the Scheduled Caste and Scheduled Tribe Officers, who are senior enough in the zone of consideration for promotions, so as to be within the number of vacancies for which the select list has been drawn up, would be included in that list, provided they are not considered unfit for promotion.

[\[O.M. No. 36028/8/2009-Estt.\(Res\) dated 07.06.2013\]](#)

4.4.8 Preparation of Year wise panels by DPC where they have not met for a number of years

Where for reasons beyond control, the DPC could not be held in a year (s), even though the vacancies arose during that year (or years), the first DPC that meets thereafter should follow the following procedures :-

- (i) Determine the actual number of regular vacancies that arose in each of the previous year (s) immediately preceding and the, actual number of regular vacancies proposed to be filled in the current year separately.
- (ii) Consider in respect of each of the years those officers only who would be within the field choice with reference to the vacancies of each year starting with the earliest year onwards.
- (iii) Prepare a 'Select List' by placing the select list of the earlier year above the one for the next year and so on.

[\[Para 6.4.1 of O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

(iv) With respect to point (ii) above, it is clarified that it is necessary to include those persons who were in position during the relevant vacancy year but have retired before holding the DPC. This is considered imperative to identify the correct zone of consideration for the relevant year(s). Such retired officials would, however, have no right for actual promotion. The DPC(s) may, if need be, prepare extended panel(s) as per principles prescribed in O.M. dated April, 9, 1996.

[\[O.M. No. 22011/4/98-Estt.\(D\) dated 12.10.1998 and O.M. No. 22011/1/2014-Estt.\(D\) dated 14.11.2014\]](#)

4.4.9 Cases of occurrence of additional vacancies in a year

Where a DPC has already been held in a year and further vacancies arise during the same year due to death, resignation, voluntary retirement etc. or because the vacancies were not intimated to the DPC due to error or omission on the part of the Department concerned, the following procedure should be followed :

- (i) Vacancies due to death, voluntary retirement, new creations, etc., clearly belong to the category, which could not be foreseen at the time of placing facts and material before the DPC. In such cases, another meeting of the DPC should be held for drawing up a panel for these vacancies as these vacancies could not be anticipated at the time of holding the earlier DPC. If, for any reason, the DPC cannot meet for the second time, the procedure of drawing up of year wise panels may be followed when it meets next for preparing panels in respect of vacancies that arise in subsequent year(s).

(a) With regard to the zone of consideration, the eligibility list for the supplementary DPC and whether officers who are included in the panel by the original DPC or in the extended panel but could not be promoted as these anticipated vacancies do not actually become available could be appointed against the additional vacancies later becoming available for the same vacancy year. These issues have been examined in consultation with UPSC and the following is decided.

(b) The zone of consideration, in case of holding supplementary DPC, shall be fixed as indicated in para 4.3 keeping in view total number of vacancies arising in a particular vacancy year i.e. vacancies accounted in Original DPC + additional vacancies becoming available subsequently during the same year.

(c) The eligibility list for supplementary DPC shall be prepared by removing the names of all such officers who have already been assessed by earlier DPC as fit, unfit or placed in the sealed cover by the original DPC before placing the same for consideration by the supplementary DPC.

(d) The officers who have already been empanelled or placed in the extended panel but could not be promoted due to these vacancies not actually becoming available; need not be re-assessed by the supplementary DPC as the assessment matrix remains the same. They may be appointed against the additional vacancies of the same vacancy year as per recommendations of the earlier DPC. In such situation the number of vacancies for supplementary DPC shall be accordingly adjusted.

(e) While calculating the regular vacancies for a DPC, it is incumbent upon administrative department to ensure that there is no arbitrariness in calculation of anticipated vacancies

[O.M. No. 6.4.2(i) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 and

O.M. No. 22011/2/2014-Estt.(D) dated 30.01.2015]

(ii) The second type of cases of non-reporting of vacancies due to error or omission (i.e. though the vacancies were there at the time of holding of DPC meeting but they were not reported to it) results in injustice to the officers concerned by artificially restricting the zone of consideration. The wrong done cannot be rectified by holding a second DPC or preparing a year wise panel. In all such cases, a review DPC should be held keeping in mind the total vacancies of the year.

[O.M. No. 6.4.2(ii) of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

(iii) For the purpose of evaluating the merit of the officers while preparing year-wise panels, the scrutiny of the record of service of the officers should be limited to the records that would have been available had the DPC met at the appropriate time. However, if on the date of the meeting of the DPC, departmental proceedings are in progress and under the existing instructions sealed cover procedure is to be followed, such procedure should be observed even if departmental proceedings were not in existence in the year to which the vacancy related. The officer's name should be kept in the sealed cover till the proceedings are finalised.

[O.M. No. 6.4.3 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

(iv) While promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies relate to earlier year(s).

[\[O.M. No. 6.4.4 of O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

4.4.10 Extended panel

Normally the number of persons recommended in the panel should be equal to the number of vacancies reported. However, the DPCs may recommend an extended panel only in following 3 situations and not for filling up vacancies which have arisen subsequent to the DPC or during currency of panel :

- (a) when persons included in the panel are already on deputation or whose orders of deputation have been issued and will be proceeding on deputation shortly for more than a year; or
- (b) when persons included in the panel have refused promotion on earlier occasions and are under debarment for promotions; or
- (c) when officers included in the panel are retiring within the same year provided there is no change in the zone of consideration by the expected date of their retirement.

While giving the extended panel, the DPC should stipulate a condition against the additional names to the effect that they will be promoted only in the event of the officers in regular panel not being available for promotion /appointment for the reasons given by the Ministry/Department.

[\[O.M. No. 22011/18/87-Estt.\(D\) dated 09.04.1996\]](#)

5. **NON-SELECTION METHOD**

Where the promotions are to be made on ‘non- selection’ basis according to Recruitment Rules, the DPC need not make a comparative assessment of the records of officers and it should categorise the officers as ‘fit’ or ‘not yet fit’ for promotion on the basis of assessment of their record of service. While considering an officer ‘fit’, guidelines in para 6.1.4 of the O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 (as mentioned in sub-para 4.4.4(f) of this compilation) should be borne in mind. The officers categorised as ‘fit’ should be included in the panel in the order of their seniority made from which promotions are to be made.

[\[Para 7 of O.M. No. 22011/5/86-Estt.\(D\) dated 10.04.1989\]](#)

6. **Confirmation**

In the case of confirmation, the DCC should not determine the relative merit of officers but it should assess the officers as ‘Fit’ or ‘Not yet fit’ for confirmation in their turn on the basis of their performance in the post as

assessed with reference to their record of service (Performance Appraisal Reports for the period of probation/extended period of probation).

[Para 8 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

7. Probation

In the case of probation, the DCC should not determine the relative grading of officers but only decide whether they should be declared to have completed the probation satisfactorily. If the performance of any probationer is not satisfactory, the DPC may advise whether the period of probation should be extended or whether he should be discharged from service.

[Para 9 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

8. Procedure to be followed by the DPC in respect of Government servants under cloud

At the time of consideration of the cases of Government servants for promotion, details of Government servants in the consideration zone for promotion falling under the following categories should be specifically brought to the notice of the Departmental Promotion Committee: -

- (i) Government servants under suspension;
- (ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and
- (iii) Government servants in respect of whom prosecution for a criminal charge is pending.

For the purpose of pendency of prosecution for a criminal charge, the definition of pendency of judicial proceedings in criminal cases given in Rule 9 (6)(b)(i) of CCS (Pension) Rules, 1972 [Now *Explanation 1(b)(i) under Rule 8 of CCS (Pension) Rules, 2021*] is adopted. The Rule 9 (6)(b)(i) of CCS (Pension) Rules, 1972 [Now *Explanation 1(b)(i) under Rule 8 of CCS (Pension) Rules, 2021*] provides as under:-

"(b) judicial proceedings shall be deemed to be instituted – (i) in the case of criminal proceedings, on the date on which the complaint or report of a Police Officer, of which the Magistrate takes cognizance, is made"

[Para 2 of O.M. No. 22011/4/91-Estt.(A) dated 14.09.1992; and

[Para 8 of O.M. No. 22034/4/2012-Estt.(D) dated 02.11.2012]

(For detailed procedure and other related aspects relating to those covered by any of the above three conditions, the [Information Document on 'Sealed Cover Procedure'](#), already available on the website of this Department may be referred)

9. Adverse remarks in APAR

9.1 Before placing the APARs for the reckonable period for consideration of the DPC, it should be ensured that all the relevant APARs have been disclosed to the officers concerned and the representations received, if any, against adverse remarks or below Benchmark Gradings, have also been disposed of in terms of OM No.

21011/1/2005-Estt.(A)(Pt-II) dated 14.05.2009, OM No. 21011/1/2010-Estt.(A) dated 13.04.2010 and OM No. 43012/1/2015-Estt.(A-II) dated 21.04.2020.

[\[OM No. 21011/1/2005-Estt.\(A\)\(Pt-II\) dated 14.05.2009,](#)
[OM No. 21011/1/2010-Estt.\(A\) dated 13.04.2010 and](#)
[OM No. 43012/1/2015-Estt.\(A-II\) dated 21.04.2020\]](#)

9.2 DPCs are required to determine the merits of those being considered for promotion with reference to the prescribed bench-mark, by making its own assessment, on the basis of the entries and gradings contained in the APARs and other relevant material facts placed before it, and accordingly grade the officers as 'fit' or 'unfit'. Relevant material would inter alia include the orders of the competent authority on the representation of the Government servant on the entries/ grading in APAR. In the event of the DPC deciding not to take cognisance of such an order, on the ground that the same is not a speaking order, the DPC shall make its assessment based on the entries in APAR and other material including the representation of the Government servant. The DPCs should substantiate its assessment by giving justifiable and sustainable reasons including the cases where the assessment of the DPC is different from the grading in APAR (original or amended after representation by the Government servant).

[\[O.M. No. 22011/5/2013-Estt\(D\) dated 09.05.2014\]](#)

10. Treatment of Effect of penalties on promotion – Role of DPC

It is a settled position that the DPC, within its power to make its own assessment, has to assess every proposal for promotion, on case to case basis. In assessing the suitability, the DPC is to take into account the circumstances leading to the imposition of the penalty and decide, whether in the light of general service record of the officer and the effect of imposition of penalty, he/ she should be considered suitable for promotion and therefore, downgradation of APARs by one level in all such cases may not be legally sustainable. Following broad guidelines are laid down in respect of DPC :

- (a) DPCs enjoy full discretion to devise their own methods and procedures for objective assessment of the suitability of candidates who are to be considered by them, including those officers on whom penalty has been imposed.
- (b) The DPC should not be guided merely by the overall grading, if any, that may be recorded in the ACRs/APARs but should make its own assessment on the basis of the entries in the ACRs/APARs as it has been noticed that sometimes the overall grading in a ACR/APAR may be inconsistent with the grading under various parameters or attributes. Before making the overall recommendation after considering the APARs (earlier ACRs) for the relevant years, the DPC should take into account whether the officer has been awarded any major or minor penalty.
- (c) In case, the disciplinary/criminal prosecution is in the preliminary stage and the officer is not yet covered under any of the three conditions as under, the DPC will assess the suitability of the officer and if found fit, the officer will be promoted along with other officers :

(i) Government servants under suspension;

(ii) Government servants in respect of whom a charge sheet has been issued and the disciplinary proceedings are pending; and

(iii) Government servants in respect of whom prosecution for a criminal charge is pending;

The onus to ensure that only person with unblemished records are considered for promotion and disciplinary proceedings, if any, against any person coming in the zone of consideration are expedited, is that of the administrative Ministry/Department.

(d) If the official under consideration is covered under any of the three condition mentioned in (c) above, the DPC will assess the suitability of Government servant along with other eligible candidates without taking into consideration the disciplinary case/criminal prosecution pending. The assessment of the DPC including 'unfit for promotion' and the grading awarded are kept in a sealed cover. (Para 2.1 of DoPT O.M. dated 14.9.92).

(e) A Government servant, who is recommended for promotion by the Departmental Promotion Committee but in whose case any of the circumstances mentioned in para (c) above arises after the recommendations of the DPC are received but before he is actually promoted, the recommendations of DPC will be considered as if his case had been placed in a sealed cover by the DPC. He shall not be promoted until he is completely exonerated of the charges against him.

(f) If any penalty is imposed on the Government servant as a result of the disciplinary proceedings or if he/she is found guilty in the criminal prosecution against him/her, the findings of the sealed cover/covers shall not be acted upon. His/her case for promotion may be considered by the next DPC in the normal course and having regard to the penalty imposed on him/her (para 3.1 of DoPT O.M. dated 14.09.1992).

(g) In assessing the suitability of the officer on whom a penalty has been imposed, the DPC will take into account the circumstances leading to the imposition of the penalty and decide whether in the light of general service record of the officer and the fact of imposition of penalty, the officer should be considered for promotion. The DPC, after due consideration, has authority to assess the officer as 'unfit' for promotion. However, where the DPC considers that despite the penalty the officer is suitable for promotion, the officer will be actually promoted only after the currency of the penalty is over (para 13 of DoPT O.M. dated 10.04.1989).

(h) Any proposal for promotion has to be assessed by the DPC, on case to case basis, and the practice of downgradation of APARs (earlier ACRs) by one level in all cases for one time, where a penalty has been imposed in a year included in the assessment matrix or till the date of DPC should be discontinued immediately, being legally non-sustainable.

(i) While there is no illegality in denying promotion during the currency of the penalty, denying promotion in such cases after the period of penalty is over would be in violation of the provisions of Article 20 of the Constitution of India.

(j) The appointing authorities concerned should review comprehensively the cases of Government servants, whose suitability for promotion to a higher grade has been kept in a sealed cover on the expiry of 6 months from the date of convening the first Departmental Promotion Committee which had adjudged his suitability and kept its findings in the sealed cover. Such a review should be done subsequently also every six months. The review should, inter alia, cover the progress made in the disciplinary proceedings/criminal prosecution and the further measures to be taken to expedite the completion. (Para 4 of O.M. dated 14.09.1992)

(k) In cases where the disciplinary case/criminal prosecution against the Government servant is not concluded even after the expiry of two years from the date of the meeting of the first DPC which kept its findings in respect of the Government servant in a sealed cover then subject to condition mentioned in Para 5 of this Department's O.M. dated 14.09.1992, the appointing authority may consider desirability of giving him ad-hoc promotion (Para 5 of this Department's O.M. dated 14.09.1992).

[\[O.M. No. 22011/4/2007-Estt.\(D\) dated 28.04.2014\]](#)

(l) The seniority of such officer who have been found fit by the DPC in terms of provisions in sub-para (g) above, would be fixed according to the position of the officer in the panel on the basis of which he is promoted on expiry of the period of currency of the penalty. Since the promotion is to take effect only from a date subsequent to the expiry of the currency of the penalty, the officer would be entitled to pay fixation in the promotional grade with effect from the date of actual promotion only. Even if a person junior to him in the panel is promoted earlier, it will have no bearing on the pay to be allowed on promotion to the officer on whom a penalty was imposed, and there shall be no stepping up of his pay. Similarly, as the officer undergoing penalty is not to be promoted during the currency of the penalty, the eligibility service in the promotional grade for further promotion shall commence only from the date of actual promotion and in no case, it may be related, even notionally, to the date of promotion of the junior in the panel.

[\[O.M. No. 22011/2/92-Estt.\(D\) dated 03.11.1995 and\]](#)

[\[O.M. No. 22034/5/2004-Estt.\(D\) dated 15.12.2004\]](#)

(m) Currency period of Censure for the purpose of promotion

Sub-paragraphs (d), (f) and (g) cited above are applicable in all the recognized penalties under CCS (CCA) Rules including the minor penalty of Censure as well for which no currency has been prescribed, it would mean that as per sub-para (g), if the DPC considers the officer fit for promotion notwithstanding the award of censure, he / she can be promoted without referring to the currency of penalty.

[\[O.M. No. 22011/4/2007-Estt.\(D\) dated 21.11.2016\]](#)

11. Validity of the proceedings of the DPCs when one member is absent

The proceedings of the Departmental Promotion Committee shall be legally valid and can be acted upon notwithstanding the absence of any of its members other than the Chairman provided that the member was duly invited but he absented himself for one reason or the other and there was no deliberate attempt to exclude him

from the deliberation of the DPC and provided further that the majority of the members constituting the Departmental Promotion Committee were present in the meeting.

[Para 15 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

12. PROCESSING AND IMPLEMENTATION OF THE RECOMMENDATIONS OF DEPARTMENTAL PROMOTION COMMITTEES

12.1 Processing of recommendations of DPC

The recommendations of the DPC are advisory in nature and should be duly approved by the appointing authority. Before the recommendations are so approved the appointing authority shall consult all concerned as indicated below, without undue delay.

(a) Consultation with UPSC

The recommendations of the DPC whether it included a Member of the UPSC or not should be referred to the Commission for approval, if -

- (i) Consultation with the Commission is mandatory under Article 320(3) of the Constitution, read with UPSC (Exemption from Consultation) Regulations, 1958. However, a reference may be made to the Regulations, as and when necessary.
- (ii) The Member of the Commission who presides over the DPC specifically desires that the Commission should be consulted.

(b) Approval of ACC

Where the posts fall within the purview of the Appointments Committee of the Cabinet, the approval of ACC should also be obtained.

[Paras 16.1 to 16.3 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

12.1.1 Procedure to be followed when the Appointing Authority does not agree with Recommendations of DPC.

- (a) There may be certain occasions when the appointing authority may find it necessary to disagree with the recommendations of the DPC. The procedure to be followed in such cases is indicated below.

(b) Where UPSC is associated with the DPC the recommendations of the DPC should be treated as recommendations of UPSC. If it is so considered necessary by the appointing authority to vary or disagree with the recommendations of the DPC the prescribed procedure for over-ruling the recommendations of UPSC (not incorporated herein) should be followed.

(c) The recommendations of the DPC on which UPSC is not represented should be dealt with as under :

(i) Where the appointing authority, being lower than the President of India, does not agree with the recommendations of the DPC, such appointing authority should indicate the reasons for disagreeing and refer the entire matter to the DPC for reconsideration of its earlier recommendations. In case the DPC reiterates its earlier recommendations, giving also reasons in support thereof, the appointing authority may accept the recommendations, if the reasons adduced by the DPC are convincing; if that authority does not accept the recommendations of the DPC it shall submit the papers to the next higher authority with its own recommendations. The decision of the next higher authority shall be final.

(ii) Where the appointing authority is the President of India, the recommendations of the DPC should be submitted to the Minister-in-Charge of the Department concerned for acceptance or otherwise of the recommendations. In case the circumstances do necessitate, the Minister may refer the matter again to the DPC for reconsideration of its earlier recommendations. If the DPC reiterates its earlier recommendations giving also reasons in support thereof, the matter should be placed before the Minister for his decision. The decision taken by the Minister either to accept or to vary the recommendations of the DPC shall be final.

[Paras 16.4.1 to 16.4.3 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

12.2 Time limit for Appointing Authority to take decision on the recommendations of DPC

12.2.1 In cases excepting those which require the approval of the Appointments Committee of the Cabinet the appointing authority should take a decision either to accept or disagree with the recommendations of the DPC within a time-limit of three months (from the date of the DPC meeting or the date of communication of the UPSC's approval to the panel, where such approval is required). Where the appointing authority proposes to disagree with the recommendations, the relevant papers should be submitted by the appointing authority to the next higher authority with its own recommendations by the expiry of the period of three months. In those cases in which the UPSC is associated with the DPC and the appointing authority proposes to disagree with the recommendations of the DPC, the case should be forwarded to the Establishment Officer in the Department of Personnel and Training for placing the matter before the Appointments Committee of the Cabinet as soon as possible and, in any case, not later than three months from the date on which the validity of the panel commences.

12.2.2 In cases where the panel prepared by the DPC requires the approval of the ACC, proposals therefor along with the recommendations of the Minister-in-charge should be sent to the Establishment Officer before expiry of the same time-limit of three months.

[Paras 16.5.1 and 16.5.2 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

12.3 Fresh Vigilance clearance before actual promotion/confirmation

A clearance from the Vigilance Section of the Office/ Department should also be obtained before making actual promotion or confirmation of officer approved by DPC to ensure that no disciplinary proceedings are pending against the officer concerned.

[Para 17.1 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

13. Order in which promotions to be made

13.1 Promotion of whatever duration should as far as possible be made in the order in which the names of the officers appear in the panel. Exception to this rule may be necessary where a large number of vacancies are to be within a comparatively short period or it is convenient / and desirable to make postings with due regard to the location and experience of the officers concerned or where short term vacancies have to be filled on local and ad-hoc basis.

[Para 17.2 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

13.2 If a person's name is included in the panel for promotion to the higher post (to which appointment can be made by promotion as well as by direct recruitment) and also in the panel for direct recruitment to the said higher post, he should be appointed as a direct recruit or as a promotee, having regard to the fact whether his turn for appointment comes earlier from the direct recruitment list or from the promotion list, as the case may be.

[Para 17.3 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

14. Promotion of officers on deputation/foreign service/study leave

14.1 If the panel contains the name of a person who has gone on deputation or on foreign Service in the public interest including a person who has gone on study leave, provision should be made for his regaining the temporarily lost seniority in the higher grade on his return to the cadre. Therefore, such an officer need not be reconsidered by a fresh DPC, if any, subsequently held, while he continues to be on deputation/foreign service/study leave so long as any officer junior to him in the panel is not required to be so considered by a fresh DPC irrespective of the fact whether he might or might not have got the benefit of proforma promotion under the NBR, The same treatment will be given to an officer included in the panel who could have been promoted within the currency of the panel but for his being away on deputation.

14.2 In case the officer is serving on an ex-cadre post on his own volition by applying in response to an advertisement, he should be required to revert to his parent cadre immediately when due for promotion, failing which his name shall be removed from the panel. On his reverting to the parent cadre after a period of two years he will have no claim for promotion to the higher grade on the basis of that panel. He should be considered in the normal course along with other eligible officers when the next panel is prepared and he should be promoted to the higher grade according to his position in the fresh panel. His seniority, in that event, shall be determined on

the basis of the position assigned to him in the fresh panel with reference to which he is promoted to the higher grade. (If the panel contains the name of an officer on study leave, he should be promoted to the higher post on return from the study leave. He should also be given seniority according to his position in the panel and not on the basis of the date of promotion).

[Paras 17.4.1 - 17.4.2 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

15. Validity of Panel in case of those who are on long leave

If on the basis of empanelment for promotion against vacancies arising in a vacancy year, a promotion order contains name of a person who is on a sanctioned leave, a copy of the same is to be endorsed to the officer at his leave address by registered/speed post etc. along with necessary advice about the authority to whom he is to report for assuming charge of the higher post. If the Officer assumes charge of the higher promotional post by curtailing leave, if necessary, within the currency of the vacancy year for which the panel is prepared, or within six months from the date of the promotion order, or before the last person borne on the panel is offered promotion without being required to be reassessed by a fresh DPC, whichever is later, the officer will not be required to be considered afresh by the next DPC and he will retain his seniority as per the position in the panel on the basis of which he has been promoted. If, however, he does not join to assume charge of the higher post within the period as specified above and continues to remain on long leave or seeks further extension of leave, the order of promotion, insofar as the said officer is concerned, will become invalid and the officer will be required to be considered afresh by the next DPC held in the normal course after he joins his duty on expiry of the leave. His seniority on subsequent promotion will be as per the position in the fresh panel. This will equally apply to cases of promotion by mode of selection as well as non-selection. While referring the order of promotion to the officer on leave, it would be necessary to bring to his/her notice the above position.

[O.M. No. 22034/5/2002-Estt.(D) dated 04.08.2004]

16. Date from which promotions are to be treated as Regular

16.1 The general principle is that promotion of officers included in the panel would be regular from the date of validity of the panel or the date of their actual promotion whichever is later.

16.2 In cases where the recommendations for promotion are made by the DPC presided over by a Member of the UPSC and such recommendations do not require to be approved by the Commission, the date of Commission's letter forwarding fair copies of the minutes duly signed by the Chairman of the DPC or the date of the actual promotion of the officers, whichever is later, should be reckoned as the date of regular promotion of the officer. In cases where the Commission's approval is also required the date of UPSC's letter communicating its approval or the date of actual promotion of the officer whichever is later will be the relevant date. In all other cases the date on which promotion will be effective will be the date on which the officer was actually promoted or the date of the meeting of the DPC whichever is later. Where the meeting of the DPC extends over more than one day the last date on which the DPC met shall be recorded as the date of meeting of the DPC.

16.3 Appointments to posts falling within the purview of ACC can, however, be treated as regular only from the date of approval of ACC or actual promotion whichever is later except in particular cases where the ACC

approves appointments from some other date.

[Paras 17.10 and 17.11 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

17. Refusal of Promotion

When a Government employee does not want to accept a promotion which is offered to him he may make a written request that he may not be promoted and the request will be considered by the appointing authority, taking relevant aspects into consideration. If the reasons adduced for refusal of promotion are acceptable to the appointing authority, the next person in the select list may be promoted. However, since it may not be administratively possible or desirable to offer appointment to the persons who initially refused promotion, on every occasion on which a vacancy arises, during the period of validity of the panel, no fresh offer of appointment on promotion shall be made in such cases for a period of one year from the date of refusal of first promotion or till a next vacancy arises whichever is later. On the eventual promotion to the higher grade, such Government servant will lose seniority vis-a-vis his juniors promoted to the higher grade earlier irrespective of the fact whether the posts in question are filled by selection or otherwise. The above mentioned policy will not apply where ad-hoc promotions against short term vacancies are refused.

[Para 17.12 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

18. Validity period of the panel

18.1 The panel for promotion drawn up by DPC for 'selection' posts would normally be valid for one year. It should cease to be in force on the expiry of a period of one year and six months or when a fresh panel is prepared, whichever is earlier.

18.2 The date of commencement of the validity of panel will be the date on which the DPC meets. In case the DPC meets on more than one day, the last date of the meeting would be the date of commencement of the validity of the panel. In case the panel requires, partially or wholly, the approval of the Commission, the date of validity of panel would be the date (of Commission's letter) communicating their approval to the panel. It is important to ensure that the - Commission's approval to the panel is obtained, where necessary, with the least possible delay.

[Paras 17.13.1 and 17.13.2 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

19. Review of Panels

The 'select list' should be periodically reviewed. The names of those officers who have already been promoted (otherwise than on a local or purely temporary basis) and continue to officiate should be removed from the list and rest of the names, if they are still within the consideration zone, along with others who may now be included in the field of choice should be considered for the 'select list' for the subsequent period.

[Para 17.14 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

20. REVIEW DPCs

20.1 The proceedings of any DPC may be reviewed only if the DPC has not taken all material facts into consideration or if material facts have not been brought to the notice of the DPC or if there have been grave errors in the procedure followed by the DPC. Thus, it may be necessary to convene Review DPCs to rectify certain unintentional mistakes, e.g.

- (a) Non-reporting of vacancies due to error or omission (i.e. though the vacancies were available at the time of holding of DPC meeting, these were not reported to the DPC. This leads to injustice to the officers concerned by artificially restricting the zone of consideration); or
- (b) where eligible persons were omitted to be considered; or
- (c) where ineligible persons were considered by mistake; or
- (d) where the seniority of a person is revised with retrospective effect resulting in a variance of the seniority list placed before the DPC; or
- (e) Where some procedural irregularity was committed by a DPC; or
- (f) Where adverse remarks in the CRs were toned down or expunged after the DPC had considered the case of the officer.

These instances are not exhaustive but only illustrative.

[Para 18.1 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989 and

O.M. No. 220131/1/97-Estt.(D) dated 13.04.1998]

20.2 Over reporting of vacancies is also one of the mistakes which needs to be rectified by holding a Review DPC. Therefore, the above provision is required to be read to cover this situation also however, in the case of over reporting of vacancies, a Review DPC may be held only if the change in the number of vacancies would result in exclusion of any person(s) empanelled by the original DPC on account of over-reporting of vacancies which led to inflated zone of consideration. As such, no Review DPC need be convened where it may prove to be infructuous exercise.

[O.M. No. 220131/1/97-Estt.(D) dated 13.04.1998]

20.3 Scope and procedure of Review

20.3.1 A Review DPC should consider only those persons who were eligible as on the date of meeting of original DPC. That is, persons who became eligible on a subsequent date should not be considered. Such cases will, of

course, come up for consideration by a subsequent regular DPC. Further the review DPC should restrict its scrutiny to the APARs for the period relevant to the first DPC. The APARs written for subsequent periods should not be considered. If any adverse remarks relating to the relevant period, were toned down or expunged, the modified APATs should be considered as if the original adverse remarks did not exist at all.

[Para 18.2 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

20.3.2 A Review DPC is required to consider the case again only with reference to the technical or factual mistakes that took place earlier and it should neither change the grading of an officer without any valid reason (which should be recorded) nor change the zone of consideration nor take into account any increase in the number of vacancies which might have occurred subsequently.

[Para 18.3 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

20.3.3 In cases where the adverse remarks were toned down or expunged subsequent to consideration by the DPC, the procedure set out herein may be followed. The appointing authority should scrutinise the case with a view to decide whether or not a review by the DPC is justified, taking into account the nature of the adverse remarks toned down or expunged. In cases where the UPSC have been associated with the DPC, approval of the Commission would be necessary for a review of the case by the DPC.

[Para 18.4.1 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

20.3.4 While considering a deferred case, or review of the case of a superseded officer, if the DPC finds the officer fit for promotion/confirmation, it would place him at the appropriate place in the relevant select list/list of officers considered fit for confirmation or promotion after taking into account the toned down remarks or expunged remarks and his promotion and confirmation will be regulated in the manner indicated below.

[Para 18.4.2 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

20.4 Consequential benefits in case of retrospective promotion

20.4.1 If the officer placed junior to the officer concerned have been promoted, he should be promoted immediately and if there is no vacancy the junior most person officiating in the higher grade should be reverted to accommodate him. On promotion, his pay should be fixed under F.R. 27 at the stage it would have reached, had he been promoted from the date the officer immediately below him was promoted but no arrears would be admissible. The seniority of the officer would be determined in the order in which his name, on review, has been placed in the select list by DPC. If in any such case a minimum period of qualifying service is prescribed for promotion to higher grade, the period from which an officer placed below the officer concerned in the select list was promoted to the higher grade, should be reckoned towards the qualifying period of service for the purpose of determining his eligibility for promotion to the next higher grade.

[Para 18.4.3 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

20.4.2 In the case of confirmation, if the officer concerned is recommended for confirmation on the basis of review by the DCC, he should be confirmed and the seniority already allotted to him on the basis of review should not be disturbed by the delay in confirmation.

[Para 18.4.4 of O.M. No. 22011/5/86-Estt.(D) dated 10.04.1989]

20.4.3 A Government servant who is not recommended in the panel by the original / supplementary DPC but later on is recommended in the panel by a review DPC but has since retired may be given the benefit of notional promotion w.e.f. the date of promotion of his immediate junior in the reviewed panel and fixation of notional pay subject to the fulfilment of the following conditions:

(i) That the officer who is immediate junior to the retired Government servant assumed charge of the higher post on or before the date of superannuation of the retired Government servant.

(ii) That the said retired Government servant was clear from vigilance angle on the date of promotion of his immediate junior.

(iii) A retired Government servant who is considered for notional promotion from the date of promotion of his immediate junior on the recommendation of a review DPC would also be entitled to fixation of pension on the basis of such notional pay.

(iv) The notional promotion, notional pay fixation and revision of pension shall be further subject to extant rules on promotion, pay fixation and CCS (Pension) Rules, 1972. Actual increase in pension shall be given only from the date of approval of reviewed panel by the competent authority. No arrears shall be paid.

[Para 2 of O.M. No. 22011/3/2013-Estt.(D) dated 15.11.2018]

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## **APPENDIX**

### **References (in chronological order)**

| Sl. No. | Office Memorandum/ Notification No. and date                           | Brief Subject                                                                                                              |
|---------|------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------|
| 1.      | <a href="#">F.16/1/74-Estt.(SCT) dated 23.05.1975</a>                  |                                                                                                                            |
| 2.      | <a href="#">41013/16/80-Estt.(SCT) dated 10.08.1981</a>                | Instructions regarding nomination of SC/ST Members in the DPCs/ Selection Boards                                           |
| 3.      | <a href="#">36011/22/82-Estt.(SCT) dated 18.08.1983</a>                |                                                                                                                            |
| 4.      | <a href="#">22011/5/86-Estt.(D) dated 10.04.1989</a>                   | Departmental Promotion Committees and related matters- consolidated instructions                                           |
| 5.      | <a href="#">22011/5/86-Estt.(D) dated 27.03.1990</a>                   | Procedure to be observed by DPC-Revised Guidelines                                                                         |
| 6.      | <a href="#">22011/1/90-Estt.(D) dated 12.10.1990</a>                   | Zone of consideration for promotion by selection- Revised instructions                                                     |
| 7.      | <a href="#">22011/10/84-Estt.(D) dated 04.02.1992</a>                  | Revision of pay scale/upgradation of the posts-Date of regular appointment of the incumbents to the upgraded post          |
| 8.      | <a href="#">22011/4/91-Estt.(A) dated 14.09.1992</a>                   | Promotion of Government servants against whom disciplinary proceedings are pending or whose conduct is under investigation |
| 9.      | <a href="#">20011/2/92-Estt.(D) dated 03.11.1995</a>                   | Fixation of seniority in the case of delayed promotion due to penalty                                                      |
| 10.     | <a href="#">22011/18/87-Estt.(D) dated 09.04.1996</a>                  | Guidelines for preparing extended panel in the case of promotion                                                           |
| 11.     | <a href="#">22012/5/97-Estt.(D) dated 12.01.1998</a>                   | Constitution of DPCs in respect of certain categories of cases which required ACC approval-revised instructions            |
| 12.     | <a href="#">22013/1/97-Estt.(D) dated 13.04.1998</a>                   | Procedure to be observed by DPC-Holding of Review DPC                                                                      |
| 13.     | <a href="#">22011/9/98-Estt.(D) dated 08.09.1998</a>                   | Procedure to be observed by the DPCs-Model Calendar for DPCs and related matter                                            |
| 14.     | <a href="#">22011/4/98-Estt.(D) dated 12.10.1998</a>                   | Procedure to be followed by DPC in regard to retired employees                                                             |
| 15.     | <a href="#">Notification No. 39018/01/98-Estt.(B) dated 21.05.1999</a> | Consultation with UPSC while making recruitment/promotion/ confirmation                                                    |
| 16.     | <a href="#">22011/9/98-Estt.(D) dated 06.10.1999</a>                   | Procedure to be observed by DPCs-Model Calendar for DPCs-Chain vacancies-clarification                                     |
| 17.     | <a href="#">22012/1/97-Estt.(D) dated 23.05.2001</a>                   | Meeting of DPCs-furnishing of certificates by the Chairperson/Members                                                      |

|     |                                                                      |                                                                                                                                                                                                                               |
|-----|----------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 18. | <a href="#">35034/7/97-Estt.(D)<br/>dated 08.02.2002</a>             | Procedure to be observed by DPCs- No supersession in 'selection' promotion-Revised Guidelines                                                                                                                                 |
| 19. | Notification No. 39018/01/98-Estt.(B)<br>dated 04.12.2003            | Amendment to the earlier Notification No. 39018/01/98-Estt.(B) dated 21.05.1999 on Consultation with UPSC while making recruitment/promotion/ confirmation                                                                    |
| 20. | <a href="#">20034/5/2002-Estt.(D)<br/>dated 04.08.2004</a>           | Promotion – validity of panel in the case of those who are on long leave                                                                                                                                                      |
| 21. | <a href="#">22034/5/2004-Estt.(D)<br/>dated 15.12.2004</a>           | Promotion of persons undergoing a penalty                                                                                                                                                                                     |
| 22. | <a href="#">22011/2/2002-Estt.(D)<br/>dated 06.01.2006</a>           | DPC Guidelines-Review of size of zone of consideration                                                                                                                                                                        |
| 23. | <a href="#">22011/3/2007-Esttd.(D)<br/>dated 18.02.2008</a>          | DPC Guidelines-Benchmark prescription for promotion at the level of JS and above                                                                                                                                              |
| 24. | <a href="#">AB-14017/66/2008-Estt.<br/>(RR)<br/>dated 09.03.2009</a> | Criteria for assessing suitability of officers where there is revision/upgradation/merger of pay scales                                                                                                                       |
| 25. | <a href="#">21011/1/2005-Estt.(A)(Pt-II)<br/>dated 14.05.2009</a>    | Maintenance and preparation of Annual Performance Appraisal Reports-communication of all entries for fairness and transparency in public administration                                                                       |
| 26. | <a href="#">21011/1/2010-Estt.(A)<br/>dated 13.04.2010</a>           | Below Benchmark grading in ACRs (APARs) prior to the reporting period of 2008-09 and objective consideration of representation by the competent authority against remarks in the APAR or for upgradation of the final grading |
| 27. | <a href="#">20011/1/2008-Estt.(D)<br/>dated 11.11.2010</a>           | Seniority-consolidated orders                                                                                                                                                                                                 |
| 28. | <a href="#">22011/3/2011-Est.(D)<br/>dated 24.03.2011</a>            | Receipt of incomplete/deficient DPC proposals from the Ministries/Departments                                                                                                                                                 |
| 29. | <a href="#">22034/4/2012-Estt.(D)<br/>dated 02.11.2012</a>           | Comprehensive review of instructions pertaining to vigilance clearance for promotion                                                                                                                                          |
| 30. | <a href="#">36028/8/2009-Estt.(Res)<br/>dated 07.06.2013</a>         | Concession to Scheduled Castes and Scheduled Tribes in posts filled by promotion by Selection-posts within Group 'A' (Class-I)                                                                                                |
| 31. | <a href="#">22011/4/2007-Estt.(D)<br/>dated 28.04.2014</a>           | Guidelines on treatment of effect of penalties on promotion-role of departmental Promotion Committee                                                                                                                          |
| 32. | <a href="#">22011/5/2013-Estt.(D)<br/>dated 09.05.2014</a>           | Procedure to be observed by DPCs – Assessment of entries and gradings in ACRs/APARs                                                                                                                                           |
| 33. | <a href="#">22011/1/2014-Estt.(D)<br/>dated 14.11.2014</a>           | Inclusion of eligible officers who are due to retire before the likely date of vacancies, in the panel for promotion                                                                                                          |
| 34. | <a href="#">22011/2/2014-Estt.(D)</a>                                | Procedure for conduct of supplementary DPC                                                                                                                                                                                    |

|     |                                                                                                       |                                                                                                                                                             |
|-----|-------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <a href="#"><u>dated 30.01.2015</u></a>                                                               |                                                                                                                                                             |
| 35. | <a href="#"><u>39020/01/2013-Estt.(B)-Part</u></a><br><br><a href="#"><u>dated 09.10.2015</u></a>     | Discontinuation of interview at Junior Level Posts in the Government of India                                                                               |
| 36. | <a href="#"><u>28020/1/2010-Estt.(C)</u></a><br><br><a href="#"><u>dated 17.08.2016</u></a>           | Technical Resignation & Lien-Consolidated instructions                                                                                                      |
| 37. | <a href="#"><u>22011/4/2007-Estt.(D)</u></a><br><br><a href="#"><u>dated 21.11.2016</u></a>           | Guidelines on treatment of effect of penalties on promotion-role of DPC                                                                                     |
| 38. | <a href="#"><u>22011/4/2013-Estt.(D)</u></a><br><br><a href="#"><u>dated 08.05.2017</u></a>           | Procedure to be observed by the DPCs-Model Calendar for DPCs-Relevant year up to which APARs are to be considered and Model Calendar for conducting DPCs    |
| 39. | <a href="#"><u>22011/3/2013-Estt.(D)</u></a><br><br><a href="#"><u>dated 15.11.2018</u></a>           | Promotion of Government servants found fit by review DPC after retirement – procedure and guidelines to be followed                                         |
| 40. | <a href="#"><u>O.M. No. 28020/3/2018-Estt.(C)</u></a><br><a href="#"><u>dated 11.03.2019</u></a>      | Master circular on Probation/confirmation in Central Services                                                                                               |
| 41. | <a href="#"><u>OM No. 43012/1/2015-Estt.(A-II)</u></a><br><br><a href="#"><u>dated 21.04.2020</u></a> | Disclosure of below benchmark grading in ACRs(APARs) prior to reporting period 2008-09                                                                      |
| 42. | <a href="#"><u>36012/16/2019-Estt.(Res.)</u></a><br><br><a href="#"><u>dated 12.04.2022</u></a>       | Reservation in promotions-procedure to be followed prior to effecting reservations in the matter of promotions by all departments of the Central Government |

**(Sign of Authority)**  
**Amit Choubey**  
**Under Secretary**  
**23040340**

\*\*\*\*\*

No.18011/2/88-Estt(D)  
Government of India  
Ministry of Personnel, Public Grievances  
and Pensions  
Department of Personnel & Training

New Delhi, the 9 August, 1988.

OFFICE MEMORANDUM

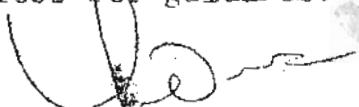
Subject:-Erroneous confirmation of Government servants-  
Revision of instructions.on.

OM No. Attention of the Ministries/Departments is invited to the  
12/2/67 marginally noted instructions laying down the procedure for  
Estt. cancellation of orders relating to confirmation of Government  
(D)dt. servants, which are later on found to be erroneous.

21.3.68

2. According to the instructions contained in this Department's  
OM No. OM dated 21.3.1968, if the order of confirmation was made in  
12/3/69- contravention of executive or administrative instructions, it  
Estt(D) cannot be set aside as cancellation of confirmation in such  
dt. cases would amount to reduction in rank without any fault on  
18.7.70 the part of the officer confirmed. The position in this respect  
has been reexamined in the light of the recent decisions of the  
courts and it has been decided that there is no objection to the competent authority passing an order rectifying the earlier  
erroneous confirmation order of the official, which was passed  
in contravention of the existing Rules/ instructions whether  
statutory or administrative/executive, as otherwise it would  
amount to perpetuation of the mistake and would be detrimental  
to the larger interests of Government. However, in these cases, the  
principles of natural justice should be complied with by  
giving the Government servant a show-cause notice and opportunity to be heard before passing any order affecting him.

3. All the Ministries/Departments are requested to bring  
the above position to the notice of all concerned, including  
those in the attached and subordinate Offices for guidance.

  
(M.V.KESAVAN)  
Director

To

All the Ministries/Departments of the Government of India.

No.18011/p/88-Estt(D)  
Copy to:

New Delhi, dated the 9 August, 88.

1. The Comptroller and Auditor General of India.
2. President's Secretariat/Vice-President's Secretariat.
3. Lok Sabha/Rajya Sabha Secretariat.
4. Central Vigilance Commission/Election Commission.
5. All Union Territory Administration.
6. Secretary, National Council (Staff Side).
7. All Members of Staff Side of the National Council.
8. All Attached and Subordinate Offices of the Department of Personnel & Training.
9. All officers and Sections in the Department of Personnel and Training.



(M.V. KESAVAN)

Director

\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ WP(C) No.665/2011

% **Judgment reserved on: 4<sup>th</sup> August, 2011**  
**Judgment pronounced on: 14<sup>th</sup> September, 2011**

Union of India & Anr. .... Petitioners

Through: Mr.Saqib, Advocate.

versus

R.K. Trivedi & Anr. .... Respondents

Through: Mr.Piyush Sharma, Advocate for R-1.  
Mr.Naresh Kaushik and Ms. Aditi,  
Advocates for R-2.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE SANJIV KHANNA**

|                                                                          |     |
|--------------------------------------------------------------------------|-----|
| 1. Whether reporters of the local papers be allowed to see the judgment? | Yes |
| 2. To be referred to the Reporter or not?                                | Yes |
| 3. Whether the judgment should be reported in the Digest?                | Yes |

**DIPAK MISRA, CJ**

The respondent No.1, being grieved by the action of the Departmental Promotion Committee (DPC), which considered 7 retired persons for promotion to the post of Assistant Director(Grade-I) as per the instructions of the Department of Personnel and Training(DOPT) for preparation of an extended panel for only three persons whereas it was incumbent on the DPC

to prepare an extended panel of 4 retired persons as per the DOPT office memorandum No.22011/8/87 – Estt.(D) dated 9.4.1996, approached the Central Administrative Tribunal, Principal Bench (for short, ‘the tribunal’) in OA No.2156/2009 for issuance of direction to the respondents to convene a review DPC for the post of Assistant Director(Grade-I) and include his name in the extended panel. It was contended before the tribunal that 4 persons retired in the vacancy year 2004-05 out of which one D.R. Chakravarty retired on 31.3.2005 but the authorities did not count the said vacancy to have occurred in the vacancy year 2004-05 as a consequence of which serious prejudice has been caused to the petitioner.

2. The undisputed fact is that the vacancy year is from 1.4.2004 to 31.3.2005. The DPC met on 27.12.2005 to consider the promotion in respect of 17 posts (14 unreserved, 2 scheduled castes and 1 scheduled tribes category) in the grade of Assistant Director (Grade-I) in the Directorate General of Supply and Disposal. The DPC recommended 15 names and in the extended panel kept 3 names. As on 27.12.2005, 7 officers had already retired and, therefore, it necessitated preparation of the extended panel, as per the DOPT office memorandum dated 9.4.1996. Relying on the

said office memorandum, it was contended before the tribunal that the language employed in the said office memorandum stipulates that the extended panel is to be prepared keeping in view the vacancies arising in a particular vacancy year. As D.R. Chakravarty was retiring on 31.3.2005, his vacancy should have been treated to be vacancy for the vacancy year 2004-05 not 2005-06.

3. The aforesaid stand put forth by the respondent was rebutted by the present petitioners contending, *inter alia*, that the vacancy arose on 1.4.2005 and, therefore, the DPC had appositely prepared the extended panel of three persons. The tribunal referred to the DOPT office memorandum dated 9.4.1996 and the earlier office memorandums dated 10.4.1989, 17.10.1994, 20.4.1998 and came to hold that the vacancy occurred within the year, that is, 31<sup>st</sup> March, 2005. The tribunal interpreted that the term 'within the year' has to be read in the context of the year mentioned all through in the instructions and the 'year' mentioned is 'the vacancy year' and nowhere is it even remotely hinted that 31<sup>st</sup> March would be excluded from the 'vacancy year' or any vacancy occurring on the 31<sup>st</sup> March would not be taken into account for calculating the vacancy for the 'vacancy year'. Being of this

view, the tribunal directed the present petitioners to convene a meeting of the review DPC for the post of Assistant Director (Grade-I) and include the name of the applicant respondent herein in the extended panel and if he is found fit by the DPC, promote him from the date his immediate junior was promoted.

4. We have heard Mr. Saquib, learned counsel for the petitioners, Mr. Piyush Sharma, learned counsel for the respondent No.1, and Mr. Naresh Kaushik, learned counsel for respondent No.2.

5. The seminal question that arises for consideration is whether the vacancy in question would be treated to have arisen in the vacancy year, that is, 1.4.2004 to 31.3.2005. In the DOPT office memorandum dated 10.4.1989, clause 4.1, which has been referred to by the tribunal in the impugned order, reads as follows:

“4.1 It is essential that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, the vacancies to be taken into account should be the clear vacancies arising in a post/grade/service due to death, retirement, resignation, regular long term promotion and deputation or from creation of additional posts on a long term. As regards vacancies arising out of

deputation, only those cases of deputation for periods exceeding one year should be taken into account, due note, however, being kept also of the number of the deputationists likely to return to the cadre and who have to be provided for. Purely short-term vacancies created as a result of officers proceeding on leave, or on deputation for a shorter period, training, etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated yearwise separately.”

6. The clarification that was issued on 17.10.1994 reads as follows:

“It has been decided that for preparation of a select panel, Ministries/Departments may calculate the vacancies for reporting to DPC on financial yearwise where ACRs are written financial yearwise and calendar yearwise where ACRs are written on calendar yearwise.”

7. The office memorandum dated 9.4.1996, which has been brought on record as Annexure P-2, is as follows:

“Sub : Guidelines for preparing extended panel in the case of promotion – Regarding.

The undersigned is directed to refer to Department of Personnel & Training O.M. No.22011/5/86-Estt. (D), dated 10.4.1989 laying down guidelines on Departmental Promotion Committees. Normally in the case of promotion, the number of persons recommended in the panel is equal to the number of vacancies reported. However, sometimes DPCs recommended additional vacancies (extended panel) to tide over situations where officers on the select panel are not available for

appointment by reason of being on deputation, etc. There are at present no clear instructions regarding the guidelines to be followed for preparation of such extended panel. It has been noticed that such extended panels have sometimes been utilized for filling vacancies which have arisen subsequent to the DPC or during currency of the panel. This is an incorrect use of the extended panel.

2. The matter has been examined in consultation with the UPSC and it has been decided that DPCs shall prepare an extended panel only in the following contingencies:

(i) when persons included in the panel are already on deputation or whose orders of deputation have been issued and will be proceeding on deputation shortly for more than a year, OR

(ii) when persons included in the panel have refused promotion on earlier occasions and are under debarment for promotion, OR

(iii) when officers included in the panel are retiring within the same year, provided there is no change in the zone of consideration by the expected date of their retirement.

3. It has also been decided that while giving the extended panel, the DPC should stipulate a condition against the additional names to the effect that they will be promoted only in the event of the officer(s) in regular panel not being available for promotion / appointment for the reason given by the Ministry / Department.

4. Ministries/Departments are requested to bring these instructions to the notice of all concerned including

their Attached and Subordinate Offices for guidance and strict compliance.”

8. The same has been clarified again on 12.10.1998. We may profitably reproduce the same:

“Promotion to be followed by the Departmental Promotion Committee in regard to retired employees:

2. Doubts have been expressed in this regard as to the consideration of employees who have since retired but would also have been considered for promotion, if the DPC(s) for the relevant year(s) had been held in time.

3. The matter has been examined in consultation with the Ministry of Law(Department of Legal Affairs). It may be pointed out in this regard that there is no specific bar in the aforesaid Office Memorandum, dated April 10, 1989 or any other related instructions of the Department of Personnel and Training for consideration of retired employees, while preparing year wise panel(s), who were within the zone of consideration in the relevant year(s). According to legal opinion also, it would not be in order, if eligible employees, who were within the zone of consideration for the relevant year(s) but are not actually in service when the DPC is being held, are not considered while preparing year wise zone of consideration / panel and, consequently, their juniors are considered (in their places) who would not have been in the zone of consideration, if the DPC(s) had been held in time. The considered imperative to identify the correct zone of consideration for relevant year(s). Such retired officials would, however, have no right for actual promotion. The DPC(s), may, if need be, prepare extended panel(s) following the principles prescribed in the Department of

Personnel & Training, O.M. No.22011/8/87-Estt. (D), dated 9.4.1996. (Copy enclosed)

4. Ministries / Departments are requested to bring these instructions to the notice of all concerned including their Attached and Subordinate Offices.”

9. In the impugned order, the office memorandum dated 20.4.1998 has been placed reliance upon. It reads as follows:

“In reiteration of the aforesaid provision (Para.4.1) of the DPC guidelines, dated 10.4.1989, it is hereby clarified that **such vacancies arising in a particular vacancy year**, as noted in the aforesaid Para 4.1, would be considered together by the DPC. These vacancies should also include newly-created posts in the same vacancy year. Hence, the DPC for a particular vacancy year held subsequent to the creation of such new posts in the same vacancy year would be required to take into consideration such newly-created posts also along with other already existing / anticipated vacancies arising in the same vacancy year. As a sequel to it, the zone of consideration would also get enlarged in a corresponding manner in terms of the Dept. of Per. & Trg., O.M. No.22011/1/90-Estt.(D), dated 12.10.1990 and 22.4.1992.” (emphasis added).

10. When interpreting the said office memoranda, the tribunal has opined that vacancy is from 1<sup>st</sup> April of an year to the 31<sup>st</sup> March of the following year and the reference is to the vacancies arising in a particular vacancy year and, therefore, as the last date of retirement of D.R. Chakravarty is

31.3.2005, that should have been computed as having occurred in the vacancy year 2004-05.

11. We are of the considered opinion that an incumbent, who works till 31.12.2005, remains in office on that day and, therefore, the post / vacancy becomes available only on the next day, that is, 1.4.2005. Once the post / vacancy becomes available on 1.4.2005, it would become a vacancy for the subsequent year, that is, 2005-06. The words used in the memorandum are ‘vacancies arising in a particular vacancy year’ and this would come within the concept of anticipated vacancy as the vacancy would arise due to retirement. The clarificatory office memorandum dated 20.4.1998 clearly stipulates that vacancies must arise in a particular vacancy year. It does not seem to be logical that the vacancy would arise on 31.3.2005 when the incumbent was still holding the post and it is not undisputed that the incumbent was holding the post till 31.3.2005. In such a case, he holds the post till the end of the day. In ***R.K. Sabharwal & Ors. v. State of Punjab & Ors.***, AIR 1995 SC 1371, while making a distinction between “posts” and “vacancies”, their Lordships opined that “post” means an appointment, job, office or employment, a position to which a person is appointed, whereas

“vacancy” means an unoccupied post or office. The plain meaning of the two expressions makes it clear that there must be a ‘post’ in existence to enable the ‘vacancy’ to occur. We have referred to the said decision only to indicate that a vacancy can arise only when the post is unoccupied. Thus, the vacancy really arose only on 1.4.2005. Therefore, it is to be calculated in the next vacancy year, that is, 2005-2006.

12. In view of the aforesaid analysis, we are disposed to think that the order passed by the tribunal is unsustainable and, accordingly, it is quashed. In the result, the writ petition is allowed leaving the parties to bear their respective costs.

**CHIEF JUSTICE**

**SANJIV KHANNA, J.**

SEPTEMBER 14, 2011  
dk

PETITIONER:  
R. K. SABHARWAL AND ORS.

Vs.

RESPONDENT:  
STATE OF PUNJAB AND ORS.

DATE OF JUDGMENT 10/02/1995

BENCH:

KULDIP SINGH (J)

BENCH:

KULDIP SINGH (J)

MOHAN, S. (J)

MUKHERJEE M.K. (J)

HANSARIA B.L. (J)

MAJMUDAR S.B. (J)

CITATION:

1995 AIR 1371  
JT 1995 (2) 351

1995 SCC (2) 745  
1995 SCALE (1) 685

ACT:

HEADNOTE:

JUDGMENT:

1. The petitioners and respondents 4, 5 and 6 are members of the Punjab Service of Engineers (Class 1) (the Service) in the Irrigation Department of the State of Punjab. The respondents are members of the Scheduled Castes whereas the petitioners belong to the general category. The conditions of service of the members of the Service are governed by the Rules called The Punjab Service of Engineers Class I P.W.D. (I.B.) Rules, 1964 (the Rules). The Punjab Government by the instructions dated May 4, 1974 provided reservations for the Scheduled Castes and Backward Classes in promotions to and within Class I and II services under the State Government. It was laid down under the said instructions that 16 per cent of the posts to be filled by promotion were to be reserved for members of the Scheduled Castes and Backward Classes (14 per cent for the Scheduled Castes and 2 per cent for the Backward Classes) subject to the conditions that the persons to be considered must possess the minimum necessary qualifications and they should have, satisfactory record of service. The instructions further provided as under:

"(i) In a lot of 100 vacancies occurring from time to time, those falling at serial numbers mentioned below should be treated as reserved for the members of Scheduled Castes;

1, 7, 15, 22, 30, 37, 44, 51, 58, 65, 72, 80, 87, 91 and so on. Vacancies falling at serial numbers 26 and 76 should be treated as reserved for the members of Backward Classes.

(ii) The reservation prescribed shall be given effect to in accordance with a roster to be maintained in each Department. The roster will be implemented in the form of a running

account from year to year."

Rule 9 of the Rules which provides for promotion within the service reads as under

"Promotion within service:-

354

(1) Subject to the provisions of sub-rules 2 and 3 members of the Service shall be eligible for promotion to any of the posts in the Service, namely, Executive Engineers, Superintending Engineers and Chief Engineers:

Provided that a Member of the Service in whose case the qualifications mentioned in clause (a) of Rule 6 have been waived, shall not be eligible for promotion to the post of Superintending Engineer or above till he has acquired the necessary qualification.

Explanation:- Once an officer has been appointed a member of the Service, his promotion within it from one rank to another shall be regarded as promotion within the same cadre.

(2) Promotions shall be made by selection on the basis of merit and suitability in all respects and no member of the Service shall have any claim to such promotion as a matter of right or mere seniority.

(3) A member of the Service shall not be eligible for promotion to the rank of---

(a) Executive Engineer unless he has rendered five years service as an Assistant Executive Engineer;

Provided that an officer who has rendered six years or more service as an Assistant Executive Engineer shall unless he is considered unsuitable for promotion, be given preference for such promotion over an eligible Class II Officer;

(b) Superintending Engineer, unless he has rendered seven years service as an Executive Engineer;

(c) Chief Engineer, unless he has rendered three years service as Superintending Engineer;

Provided that, if it appears to be necessary to promote an officer in public interest, the Government may, for reasons to be recorded in writing, either generally for a specified period or in any individual case reduce the period specified in clauses (a), (b) and (c) to such extent as it may deem proper.

It is stated in the writ petition that the petitioners are at serial Nos. 19, 23, 26, 29, 30, 31, 34 and 38 of the seniority list of the Service whereas the respondents are at serial Nos. 46, 140 and 152. Respondent Rattan Singh was promoted to the rank of Chief Engineer against the post reserved for the Scheduled Castes by superseding 36 senior colleagues including the petitioners. Similarly, respondents Surjit Singh and Om Prakash were promoted as Superintending Engineers against the reserve vacancies by superseding 82 and 87 senior colleagues respectively. According to the petitioners at the time of promotion of these respondents the petitioners were already working as Superintending Engineers for several years. It is further averred in the petition that respondents 4, 5 and 6 were in fact working as Executive Engineers when the petitioners were holding the posts of Superintending Engineers.

2. On the above facts the petitioners have challenged the reservation-policy on several grounds but Mr. Harish Salve, learned counsel for the petitioners, has confined the arguments to the following two points:

(1) The object of reservation is to provide adequate representation to the Scheduled Castes/Tribes and Backward classes in services and as such any mechanism provided to achieve that end must have nexus to the object sought to be

355

achieved. The precise argument is that for working out the

percentage of reservation the promotees/appointees belonging to the Scheduled Castes and Backward Classes whether appointed against the general category posts or against the reserve posts are to be counted. In other words if more than 14% of the Scheduled Castes candidates are appointed/promoted in a cadre on their own merit/seniority by competing with the general category candidates then the purpose of reservation in the said cadre having been achieved the Government instructions providing reservations would become inoperative.

3. Once the posts earmarked for the Scheduled Castes/Tribes and Backward Classes on the roster are filled the reservation is complete. Roster cannot operate any further and it should be stopped. Any post falling vacant, in a cadre thereafter, is to be filled from the category - reserve or general - due to retirement etc. of whose member of the post fell vacant.

4. Adverting to the first point Mr. Harish Salve and Mr. Rajiv Dhawan, learned counsel representing the petitioners, have contended that the total number of promotees/appointees belonging to the reserve categories in a cadre are to be counted to work-out the prescribed percentage of reservation. According to the learned counsel the reserve categories can take advantage of the reservation made in their favour till their representation in the Service -- including those appointed against general category posts -- reaches the prescribed percentage. For working out the percentage the promotees/appointees belonging to reserve categories in the Service, whether on the reserve posts or general category posts, are to be counted.

Support is sought from the judgment of the Punjab and Haryana High Court in Joginder Singh Sethi and others v. Punjab Government and others 1982 (2) SLR 307. In the said case 22% reservation was provided for the members of Scheduled Castes/Tribes and Backward Classes. In the cadre strength of 202 posts the Scheduled Castes candidates were entitled to 42 posts. There were already 47 members of the said category in the cadre but out of them 10 were promoted on the basis of seniority-cum-merit against the general category posts. There being only 37 persons who had been promoted against the reserved posts 4 more Scheduled Castes were sought to be promoted against the reserve vacancies. The High Court quashed the promotion on the ground that the cadre was already having more than 22% persons from the reserve categories. We are of the view that the High Court in Joginder Singh Sethi's case fell into a patent error. The said case was subsequently considered by a Full Bench of Punjab & Haryana High Court in Jaswant Singh v. Secretary to Government of Punjab, Education Department [ 1989 (4) Services Law Reporter 257]. The Full Bench did not agree with the ratio in Joginder Singh Sethi's case and reversed the same.

5. When a percentage of reservation is fixed in respect of a particular cadre and the roster indicates the reserve points, it has to be taken that the posts shown at the reserve points are to be filled from amongst the members of reserve categories and the candidates belonging to the general category are not entitled to be considered for the reserve posts. On the other hand the reserve category candidates can compete for the non-reserve posts and in the event of their appointment to the said

Article 16(4) of the Constitution of India permits the State Government to make any provision for the reservation of appointments or posts in favour of any backward class of citizen which, in the opinion of the State is not adequately represented in the Services under the State. It is, therefore, incumbent on the State Government to reach a conclusion that the backward class/classes for which the reservation is made is not adequately represented in the State Services. While doing so the State Government may take the total population of a particular backward class and its representation in the State Services. When the State Government after doing the necessary exercise makes the reservation and provides the extent of percentage of posts to be reserved for the said backward class then the percentage has to be followed strictly. The prescribed percentage cannot be varied or changed simply because some of the members of the backward class have already been appointed/promoted against the general seats. As mentioned above the roster point which is reserved for a backward class has to be filled by way of appointment/promotion of the member of the said class. No general category candidate can be appointed against a slot in the roster which is reserved for the backward class. The fact that considerable number of members of a backward class have been appointed/promoted against general seats in the State Services may be a relevant factor for the State Government to review the question of continuing reservation for the said class but so long as the instructions/ Rules providing certain percentage of reservations for the backward classes are operative the same have to be followed. Despite any number of appointment/promotees belonging to the backward classes against the general category posts the given percentage has to be provided in addition. We, therefore, see no force in the first contention raised by the learned counsel and reject the same.

6. We see considered force in the second contention raised by the learned counsel for the petitioners. The reservations provided under the impugned Government instructions are to be operated in accordance with the roster to be maintained in each Department. The roster is implemented in the form of running account from year to year. The purpose of "running account" is to make sure that the Scheduled Castes/Schedule Tribes and Backward Classes get their percentage of reserved posts. The concept of "running account" in the impugned instructions has to be so interpreted that it does not result in excessive reservation. "16% of the posts.....are reserved for members of the Scheduled Caste and Backward Classes. In a lot of 100 posts those falling at serial numbers 1, 7, 15, 22, 30, 37, 44, 51, 58, 65, 72, 80, 87 and 91 have been reserved and earmarked in the roster for the Scheduled Castes. Roster points 26 and 76 are reserved for the members of Backward Classes. It is thus obvious that when recruitment to a cadre starts then 14 posts earmarked in the roster are to be filled from amongst the members of the Scheduled Caste. To illustrate, first post in a cadre must go to the Scheduled Caste and thereafter the said class is entitled to 7th, 15th, 22nd and onwards upto 91st post. When the total number of posts in a cadre are filled by the operation of the roster then the result envisaged by the impugned instructions is achieved. In other words, in

357

a cadre of 100 posts when the posts earmarked in the roster for the Scheduled Castes and the Backward Classes are filled the percentage of reservation provided for the reserved

categories is achieved. We see no justification to operate the roster thereafter. The "running account" is to operate only till the quota provided under the impugned instructions is reached and not thereafter. Once the prescribed percentage of posts is filled the numerical test of adequacy is satisfied and thereafter the roster does not survive. The percentage of reservation is the desired representation of the Backward Classes in the State services and is consistent with the demographic estimate based on the proportion worked out in relation to their populations. The numerical quota of posts is not shifting boundary but represents a figure with due application of mind. Therefore, the only way to assure equality of opportunity to the Backward Classes and the general category is to permit the roster to operate till the time the respective appointees/ promotees occupy the posts meant for them in the roster. The operation of the roster and the "running account" must come to an end thereafter. The vacancies arising in the cadre, after the initial posts are filled, will pose no difficulty. As and when there is a vacancy whether permanent or temporary in a particular post the same has to be filled from amongst the category to which the post belonged in the roster. For example the Scheduled Caste persons holding the posts at Roster - points 1, 7, 15 retire then these slots are to be filled from amongst the persons belonging to the Scheduled Castes. Similarly, if the persons holding the post at points 8 to 14 or 23 to 29 retire then these slots are to be filled from among the general category. By following this procedure there shall neither be short-fall nor excess in the percentage of reservation.

7. The expressions "posts" and "vacancies", often used in the executive instructions providing for reservations, are rather problematical. The word "post" means an appointment, job, office or employment. A position to which a person is appointed. "Vacancy" means an unoccupied post or office. The plain meaning of the two expressions make it clear that there must be a 'post' in existence to enable the 'vacancy' to occur. The cadre - strength is always measured by the number of posts comprising the cadre. Right to be considered for appointment can only be claimed in respect of a post in a cadre. As a consequence the percentage of reservation has to be worked out in relation to the number of posts which form the cadre-strength. The concept of 'vacancy' has no relevance in operating the percentage of reservation.

8. When all the roster-points in a cadre are filled the required percentage of reservation is achieved. Once the total cadre has full representation of the Scheduled Castes/Tribes and Backward Classes in accordance with the reservation policy then the vacancies arising thereafter in the cadre are to be filled from amongst the category of persons to whom the respective vacancies belong. Jeevan Reddy, J. speaking for the majority in *Indra Sawhney vs. Union of India* (AIR 1993 SC 477) observed as under:-

"Take a unit/service/cadre comprising 1000 posts. The reservation in favour of scheduled Tribes Scheduled Casts and other Backward Classes is 50% which means that out of the 1000 posts 500 must be held by the members of these classes i.e. 270 by Other Backward

358

Classes, 150 by Scheduled Casts and 80 by Scheduled Tribes. At a given point of time, let us say the number of members of OBC in the

unit/ service/ category is only 50, a shortfall of 220. Similarly the number of members of scheduled Casts and Scheduled Tribes is only 20 and 5 respectively, shortfall of 130 and 75. If the entire service/cadre is taken as as unit and the backlog is sought to be made up, then the open competition channel has to be chocked altogether for a number of years until the number of members of all backward classes reaches 500 i.e., till the quota meant for each of them is filled up. This may take quite a number of vacancies arising each year are not many. Meanwhile, the members of open competition category would become age barred and ineligible. Equality of opportunity in their case would become a mere mirage. It must be remembered that the equality of opportunity guaranteed by clause (1) is to each individual citizen of the country while clause (4) contemplates special provision being made in favour of socially disadvantaged classes. Both must be balanced against each other. Neither should be allowed to eclipse the other. For the above reason, we hold that for the purpose of applying the rule of 50% a year should be taken as the unit and not the entire of the cadre, service or the unit as the case may be"

9. The quoted observations clearly illustrate that the rule of 50 % a year as unit and not entire strength of the cadre has been adopted to protect the rights of the general category under clause (1) of Article 16 of the Constitution of India. These observations in Indra Sawhney's case, are only in relation to posts which are filled initially in a cadre. 'The operation of a roster, for filling the cadre strength, by itself ensures that the reservation remains within the 50 % limit. Indra Sawhney's case- is not the authority for the point that the roster survives after the cadre-strength is full and the percentage of reservation is achieved.

10. A Division Bench of the Allahabad High Court in J.C. Malik and others v. Union of India and others (1978)SLR 844) interpreted Railway Board's circular dated April 20, 1970 providing 15% reservations for the Scheduled Casts. The High Court held that the percentage of reservation is in respect of the appointment to the posts in a cadre. On the basis of the material placed before the High Court it reached the conclusion that if the reservation is permitted in the vacancies after all the posts in cadre are filled then serious consequences would ensure and the general category is likely to suffer considerably. We see no infirmity in the view taken by the High Court.

11. We may examine the likely result if the roster is permitted to operate in respect of the vacancies arising after the total posts in a cadre are filled. In a 100 point roster, 14 posts at various roster points are filled from amongst the scheduled Casts/ Scheduled Tribes candidates, 2 posts are filled from amongst the Backward Classes and the remaining 84 posts are filled from amongst the general category. Suppose all the posts in a cadre consisting of 100 posts are filled in accordance with the roster by December 31, 1994. Thereafter in the year 1995, 25 general category persons (out of the 84) retire. Again in the 1996, 25 more persons belonging to the general category persons (out of

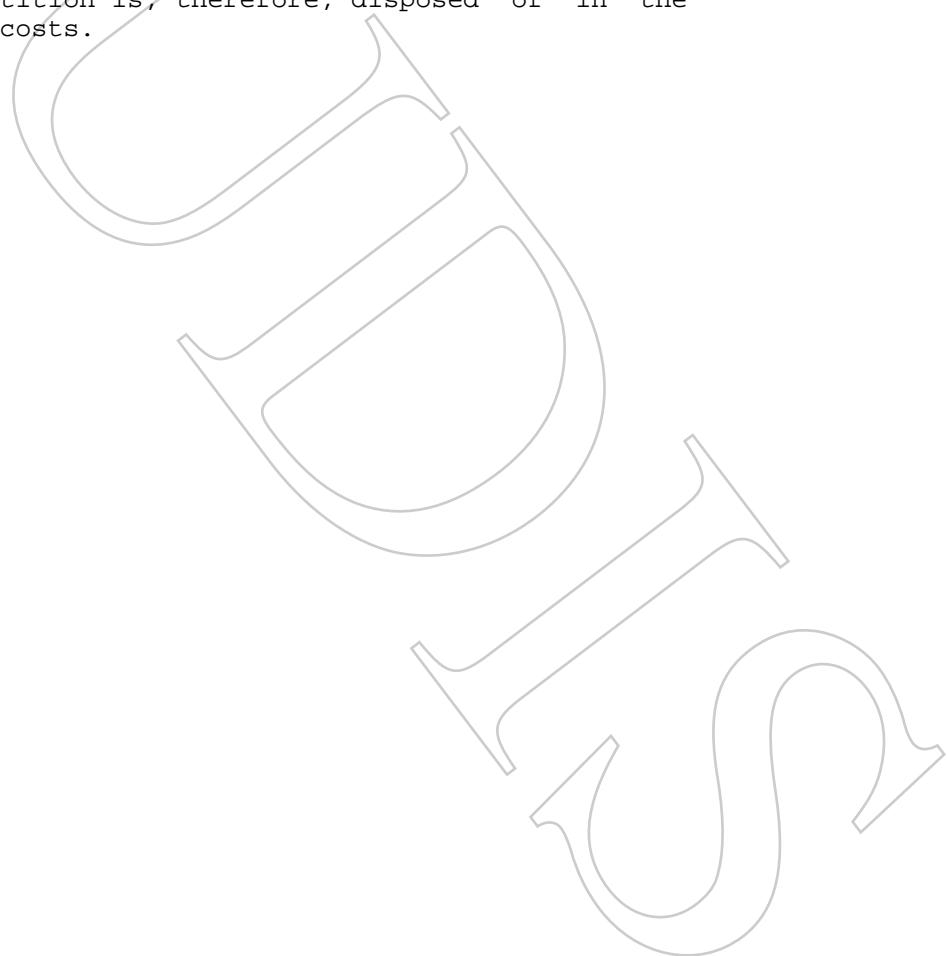
the 84) retire. Again in the year 1996, 25 more persons belonging to the general category retire. The position which would emerge would be that the Sched- 359

uled Casts and Backward Classes would claim 16% share out of the 50 vacancies. If 8 vacancies are given to them then in the cadre of 100 posts the reserve categories would be holding 24 posts thereby increasing the reservation from 16% to 24%. On the contrary if the roster is permitted to operate till the total posts in a cadre are filled by the same category of persons whose retirement etc. caused the vacancies then the balance between the reserve category and the general category shall always be maintained. We make it clear that in the event of non-availability of a reserve candidate at the roster-point it would be open to the State Government to carry forward the point in a just and fair manner.

12. We, therefore, find considerable force in the second point raised by the learned counsel for the petitioners. We, however, direct that the interpretation given by us to the working of the roster and our findings on this point shall be operative prospectively.

13. The writ petition is, therefore, disposed of in the above terms. No costs.

360



IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(S). 12/2013

R.K. TRIVEDI

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

O R D E R

1. Heard learned counsel for the parties.
2. The High Court in the impugned order passed in the writ petition filed against the decision of the Central Administrative Tribunal (for short, 'the CAT') has given cogent reasons for interfering with the decision of the CAT.
3. We are satisfied with the reasoning given by the High Court and found no ground to interfere with the same.
4. In this view of the matter, the appeal is dismissed.
5. Pending application(s), if any, shall stand disposed of.

.....J  
( PAMIDIGHANTAM SRI NARASIMHA )

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Narendra Purohit  
Date: 2023.08.10  
16:48:23 IST  
Reason:

.....J  
( MANOJ MISRA )

NEW DELHI;  
AUGUST 09, 2023

ITEM NO.115

COURT NO.16

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(S). 12/2013

R.K. TRIVEDI

APPELLANT(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

Date : 09-08-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA  
HON'BLE MR. JUSTICE MANOJ MISRA

For Appellant(s) Mr. Ranbir Singh Yadav, AOR  
Mr. Prateek Yadav, Adv.  
Ms. Pratima Yadav, Adv.  
Mr. Puran Mal Saini, Adv.  
Mr. Ritesh Patil, Adv.  
Mr. Mohammed Shahrukh, Adv.  
Ms. Anzu K. Varkey, Adv.  
Mr. Yohesh Yadav, Adv.

For Respondent(s) Mr. N Venkatraman, A.S.G.  
Mr. Raj Bahadur Yadav, AOR  
Mr. V C Bharathi, Adv.  
Mr. Rupesh Kumar, Adv.  
Mr. Praneet Pranab, Adv.  
Mr. A K Kaul, Adv.  
Mrs. Shweta Singh Verma, Adv.

Mr. Arvind Kumar Sharma, AOR

Ms. Binu Tamta, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The appeal is dismissed, in terms of the signed order.

(NARENDRA PRASAD)  
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)  
COURT MASTER (NSH)

(Signed order is placed on the file)

**REPORTABLE**

**IN THE SUPREME COURT OF INDIA**

**CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NO. 4807 OF 2022  
(ARISING OUT OF SLP (CIVIL) NO. 19886 OF 2019)**

UNION OF INDIA & ORS.

.....APPELLANT(S)

VERSUS

MAHENDRA SINGH

.....RESPONDENT(S)

**JUDGMENT**

**HEMANT GUPTA, J.**

1. The challenge in the present appeal is to an order passed by the Division Bench of the High Court of Allahabad whereby appeal filed by the appellants was dismissed. Such appeal was directed against an order passed by the learned Single Bench of the High Court, wherein, an order dated 27.1.2017 passed by the appellants was quashed and thus, consequently, the candidature of the respondent<sup>1</sup> was to be considered and accepted by the appellants.
2. The Employment Notice No. 1/2011 was published to fill up 11952 posts of Constables in the Railway Protection Force<sup>2</sup>. The process of selection comprised of written examination consisting of 120 multiple choice objection type questions of one mark each and of 90 minutes duration. The candidates had to obtain at least 35% marks

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Reason:

<sup>1</sup> For short, the 'writ petitioner'

<sup>2</sup> For short, the 'RPF'

(30% in the case of Scheduled Caste and Scheduled Tribe candidates) in the written examination for being considered for other Test such as Physical Efficiency Test<sup>3</sup>. Para 8 Clause B of the Advertisement gives the requirement of an application form and also that the said application should be filled up by the candidates in their own handwriting, in Hindi or English only. The applications were required to be accompanied by a self-attested matriculation certificate as proof of educational qualification and age. The relevant conditions read as under:

“8. xxx xxx

B. Application form' a) The format of the application form is given in Annexure 'A'. Application forms can be downloaded from the official website of Indian Railways ([www.indianrailways.gov.in](http://www.indianrailways.gov.in)) or taken from the Employment News or from this advertisement and submitted on A-4 size bond paper, using one side only and sent to the Nodal Chief Security Commissioner corresponding to the language chosen for the Question Paper. Only one application need be sent. The addresses of the Nodal Chief Security Commissioners, the details of the person in whose favour the Draft/IPO shall be drawn and the place where payable are given below. The languages for the question paper are also shown against each Nodal Chief Security Commissioner for the convenience of the applicants.

| Group No. | Address of the Nodal Chief Security Commissioner                                                                      | Draft/IPO drawn in favour of                                             | Place where Payable | Languages for question paper             |
|-----------|-----------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|---------------------|------------------------------------------|
| 1         | The Chief Security Commissioner, North Eastern Railway, Post Box Number-2 Head Post Office, Gorakhpur, Uttar Pradesh. | The Financial Advisor and Chief Accounts Officer, North Eastern Railway, | Gorakhpur , UP      | Hindi, English, Urdu, Punjabi, Gujarati. |

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### 3 For short, the 'PET'

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(e) Applications should be filled by the candidates in their own handwriting, in Hindi or English only. Left Hand thumb impression in the case of Male applicants and Right-Hand thumb impression in case of Female applicants shall be affixed in the box given at the bottom of the application. Applications signed in capital letters/spaced-out letters will be treated as invalid. Applications with correction or overwriting or smudged thumb impression may be rejected.

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9 (e) Impersonation, if any, detected at any stage of the recruitment, may result in initiating criminal cases against the applicant and the impersonator as well as canceling the candidature of the applicant."

3. The writ petitioner belongs to Other Backward Class category and has filled up his application form along with Indian Postal Order dated 5.3.2011 in English. His signatures are in English consisting of two letters "M" and "S". Such application form is accompanied with a self-attested marksheet of high school examination and other certificates. All such documents are self-attested and signed in Hindi.
4. The writ petitioner appeared for the written test on 23.6.2013 where he wrote the paragraph in Hindi on the OMR sheet, though in the application form, he had written it in English. He signed in Hindi then. Subsequently, when the writ petitioner appeared for the PET on 7.3.2014, he again signed as "M S".
5. The appellants obtained the opinion of the Government Examiner of Questioned Documents<sup>4</sup> on 2.9.2014. The expert's opinion was that

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<sup>4</sup> For short, the 'GEQD'

the signatures on the OMR sheet and on the xerox copies of the certificates are by one and the same person. It was also opined that it is not possible to express any opinion in respect of para written in Hindi in the OMR sheet and in English in the application form.

6. Since the writ petitioner was not appointed, though he had obtained 73.32 marks against the cut-off of 58.5 marks in the OBC category, he filed a writ petition before the High Court of Allahabad. An order was passed by the High Court on 19.10.2016 wherein the matter was remitted to the appellants to reconsider the entire issue, including thumb impression and finger prints that have taken place at various stages of the examination. An opportunity was given to the writ petitioner to make a fresh application which shall be heard by the Chief Security Commissioner. The candidature of the writ petitioner was rejected on 27.1.2017 by the Competent Authority, *inter alia*, on the following grounds:

“In compliance to the order of the Hon’ble High Court, the dossier concerned to the petitioner, was scanned and the petitioner was also shown the same. The record signature and handwriting of the petitioner on the following documents have been examined by the Government Examiner of Questioned Documents: -

|    |             |   |                                                     |
|----|-------------|---|-----------------------------------------------------|
| 1. | Q-1 & Q-1/1 | = | Signature and Hand writing made on OMR              |
| 2. | Q-2         | = | Signature made on PET proforma                      |
| 3. | Q-3 & Q-3/1 | = | Signature and Hand writing made on Application form |
| 4. | S-1 to S-7  | = | Signature made at the time of viva-voce             |

As per the expert opinion signature/handwriting made on the documents marked as Q-1 and 5-1 to 5-7 are same, but

signature/handwriting made on the documents marked as Q-2 & Q-3 are different from the signature/handwriting made on the documents marked as Q-1 and S-1 to S-7. So far as signature/hand writing made on the record marked Q-1/1 and Q-3/1 are concerned, the signature/hand writing made on these documents were checked intensively and on comparing the above mark with signature/handwriting made on the records, it was found that the petitioner has filled in his application in English version and on the OMR sheet he has used Hindi version to record his writing which is violation of the instruction, given in para-3 of OMR sheet. In para-3 of the OMR sheet it had been instructed that the same language should be used to write on OMR sheet in own writing, which had been adopted to filled in the application form. The matching of writing of the petitioner failed due to mistake of the petitioner himself since he used two languages. Similarly, the matching of the signatures failed, since the petitioner did his signature on the application form in English whereas on the OMR Sheet in Hindi, which is fault of the petitioner. The petitioner was clarified by showing this difference. As such, the petitioner could not produce any solid base to disagree with the opinion of the expert."

7. The writ petitioner again filed a writ petition challenging the decision of the Competent Authority. Said decision was set aside by the learned Single Bench of the High Court on 20.2.2019. The said order was affirmed by the Division Bench of the High Court vide the order impugned in the present appeal.
8. The requirement to write a paragraph in the application form was to compare the handwriting of the candidate in the event of any dispute of identity which may arise as to whether the same person has appeared for the written examination who had filled up the application form. The High Court has basically relied upon the fact that from the opinion of the handwriting expert, there is no proof of charge of impersonation. However, it was held that the application

form had been filled up in the year 2011 whereas the examination took place in the year 2013, therefore, the writ petitioner had filled up Column No. 3 of the OMR sheet in Hindi inadvertently on account of time gap between the filling up of the application form and the examination.

9. The question required to be examined herein is to the effect of violation of the condition provided in the advertisement that the application has to be in the language for which the candidates want to attempt the question paper, and what is the effect of using different language in the application form than the OMR sheet.
10. Ms. Madhavi Divan, learned ASG has argued that the use of different language in the application form than what is used in the OMR sheet by itself entails rejection of the candidature. Ms. Divan has referred to a judgment reported as ***State of Tamil Nadu & Ors. v. G. Hemalathaa & Anr.***<sup>5</sup>. On the other hand, Mr. Prashant Bhushan, learned counsel for the writ petitioner argued that use of a different language is only an irregularity, though it is admitted that the purpose of using the same language is to avoid impersonation and to ascertain the genuineness of the candidate. Mr. Bhushan has referred to judgments in ***Ajay Kumar Mishra v. Union of India & Ors.***<sup>6</sup>, ***Ram Kumar Gijroya v. Delhi Subordinate Services Selection Board & Anr.***<sup>7</sup> and ***Avtar Singh v. Union of India & Ors.***<sup>8</sup>.

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5 (2020) 19 SCC 430

6 2016 SCC OnLine Del 6553

7 (2016) 4 SCC 754

8 (2016) 8 SCC 471

11. We have heard learned counsel for the parties and find the judgments referred to by Ms. Divan and Mr. Bhushan are not applicable to the facts of the present case. In ***G. Hemalathaa***, the condition that usage of whitener, sketch pens, pencil, colour pencils, multi-colour pens would lead to invalidation of the answer book. In these circumstances, it was held that violation of such mandatory conditions by the candidate disentitles for declaration of her result for appointment to the post of Civil Judge. The judgment in ***Ajay Kumar Mishra*** of the Delhi High Court arises out of the fact of cancellation of the candidature on account of furnishing incorrect information about the actual date of birth of the writ petitioner. In ***Ram Kumar Gijroya***, the candidate had submitted his certificate of being belonging to Other Backward Class after the last date of submission of the application. ***Avtar Singh*** is a case where there was suppression of material information regarding the criminal cases in which the candidate may be involved. Thus, all these cases are on their own facts, not involving similar issue as arising in the present appeal.
12. In the present case, more than 11,000 posts were advertised for filling up of the posts of Constables in the RPF. Though the number of candidates who appeared in response to such advertisement is not available, but generally, it is a matter of common experience that candidates much more than the posts advertised are the aspirants for such posts. The condition that language in the application form shall be used for the purposes of OMR examination

is for the reason that in case any dispute arises in respect of identity of the candidate, the same can be verified from the two handwritings. Still further, the question papers are required to be set up in the languages other than Hindi and English as well. The applications in different languages were to be sent to different Nodal Officers in Gorakhpur, Kolkata, Bhubaneshwar and Chennai. Still further, the OMR answer sheet is bilingual, in Hindi and English, but it would be in some other language if a candidate has chosen a language other than English or Hindi.

13. The sole reasoning given by the Division Bench of the High Court of time gap between the filling up of the application form and the examination, and hence inadvertent filling up of OMR sheet in Hindi by the writ petitioner is based on surmises and conjectures. Once the writ petitioner has filled the application form in English, having also signed in English, it cannot be said to be an inadvertent mistake when he has written the para in Hindi. Such writing in different language violates the instruction clearly mentioned in the advertisement.
14. The argument of Mr. Bhushan that use of different language is not followed by any consequence and, therefore, cannot be said to be mandatory is not tenable. The language chosen is relevant to ensure that the candidate who has filled up the application form alone appears in the written examination to maintain probity. The answer sheets have to be in the language chosen by the candidate

in the application form. It is well settled that if a particular procedure in filling up the application form is prescribed, the application form should be filled up following that procedure alone. This was enunciated by Privy Council in the ***Nazir Ahmad v. King-Emperor***<sup>9</sup>, wherein it was held that “that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden.”

15. A three Judge Bench of this Court in a judgment reported as ***Chandra Kishore Jha v. Mahavir Prasad & Ors.***<sup>10</sup>, held as under:

“17.....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. (See with advantage: *Nazir Ahmad v. King Emperor* [(1935-36) 63 IA 372 : AIR 1936 PC 253 (II)] , *Rao Shiv Bahadur Singh v. State of V.P.* [AIR 1954 SC 322 : 1954 SCR 1098] , *State of U.P. v. Singhara Singh* [AIR 1964 SC 358 : (1964) 1 SCWR 57] .) An election petition under the rules could only have been presented in the open court up to 16-5-1995 till 4.15 p.m. (working hours of the Court) in the manner prescribed by Rule 6 (supra) either to the Judge or the Bench as the case may be to save the period of limitation. That, however, was not done.....”

16. The said principle has been followed by this Court in ***Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors.***<sup>11</sup> wherein this Court held as under:

“14. Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure.....”

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9 1936 SCC OnLine PC 41

10 (1999) 8 SCC 266

11 (2015) 13 SCC 722

17. Similarly, this Court in ***Municipal Corporation of Greater Mumbai (MCGM) v. Abhilash Lal & Ors.***<sup>12</sup> and ***OPTO Circuit India Limited v. Axis Bank & Ors.***<sup>13</sup> has followed the said principle. Since the advertisement contemplated the manner of filling up of the application form and also the attempting of the answer sheets, it has to be done in the manner so prescribed. Therefore, the reasoning given by the Division Bench of the High Court that on account of lapse of time, the writ petitioner might have attempted the answer sheet in a different language is not justified as the use of different language itself disentitles the writ petitioner from any indulgence in exercise of the power of judicial review.

18. Since the writ petitioner has used different language for filling up of the application form and the OMR answer book, therefore, his candidature was rightly rejected by the appellants.

19. Therefore, the order passed by the High Court cannot be sustained in law, the same is set aside. The writ petition is dismissed. Consequently, the appeal is allowed.

.....J.  
**(HEMANT GUPTA)**

.....J.  
**(VIKRAM NATH)**

**NEW DELHI;**  
**JULY 25, 2022.**

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12 (2020) 13 SCC 234  
13 (2021) 6 SCC 707

**REPORTABLE**

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPEAL NO.1133 OF 2014**  
**ARISING OUT OF**  
**SPECIAL LEAVE PETITION (CRL) NO. 2531 OF 2014**

CHERUKURI MANI ... APPELLANT  
W/O NARENDRA CHOWDARI

VERSUS

THE CHIEF SECRETARY, GOVERNMENT OF ... RESPONDENTS  
ANDHRA PRADESH & ORS.

**JUDGMENT**

**N.V. RAMANA, J.**

Leave granted.

2. The appellant, who is the wife of one Cherukuri Narendra Chowdari—detenu, filed a writ petition under Article 226 of the Constitution before the High Court of Andhra Pradesh alleging that her husband has been unauthorisedly detained and the detention order passed was illegal and sought his release. The writ petition was dismissed by the High Court by the impugned order dated 28<sup>th</sup> October, 2013 stating that until and unless the competent Court of law decides the order of detention as illegal and invalid, it cannot be

said that it is unauthorized detention. Aggrieved by the said order, the appellant has filed this appeal by special leave.

3. The facts which are necessary for the disposal of this appeal are that the Collector & District Magistrate, East Godavari District, Andhra Pradesh (Respondent No. 2) issued a preventive detention order on 30<sup>th</sup> September, 2013, under the Andhra Pradesh Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short "the Act") stating that the husband of the appellant (detenu) has got all the attributes to be called as a 'goonda' as envisaged under Section 2(g) of the Act. It is also mentioned that he was involved in several cases of theft of Government and private properties as well as cases of destruction of public properties and his antisocial activities are harmful to the society and general public and referred 11 cases registered against him.

4. It is significant to note that while passing the detention order, the Collector made it clear that the detenu has a right to make a representation to the Government under Section 8(1) of the Act and the case will be referred to the Advisory Board for review and opinion under Section 10 of the Act and the detenu can be heard personally

by the Advisory Board. The Collector also indicated that the Government, on the basis of opinion of the Advisory Board, may confirm and continue the detention for a period not exceeding 12 months from the date of detention.

5. After having served with a copy of the detention order along with the grounds of detention, the husband of the appellant was taken into custody by Respondent No. 3 and from 5<sup>th</sup> October, 2013 he was detained in the Central Prison, Rajahmundry till date.

6. It appears that on the basis of the recommendation of the Collector and after obtaining a report from the Advisory Board, the Government of Andhra Pradesh issued G.O.Rt. No. 4803, dated 6<sup>th</sup> November, 2013 and directed detention of the detenu for a period of twelve months from the date on which he was detained i.e. 5<sup>th</sup> October, 2013.

## JUDGMENT

7. When the appellant challenged the detention of her husband before the High Court in a habeas corpus Writ Petition, the High Court dismissed the same with a cryptic order. In our considered view, when habeas corpus writ petition is filed, even though the petitioner has not properly framed the petition and not sought appropriate relief, it is expected from the Court to at least go into the

issue and decide on merits. Normally, in such matters where liberty of a person is at stake, the Courts would take a liberal approach in the procedural aspects. But unfortunately in the instant case, the High Court has dismissed the writ petition at the threshold itself.

8. Before us, learned counsel for the appellant mainly contended that as per the provisions of the Act, the period of detention in the first instance shall not exceed more than three months and a person cannot be put under detention without facing trial for a long period. When the husband of the appellant—detenu is already facing charges under various provisions of the Indian Penal Code in around 11 cases, the invocation of detention laws against him and not permitting him to face the trial is bad in law and it is also contrary to Clause (4)(a) of Article 22 of the Constitution of India. He further contended that the Government Order directing detention of the detenu for a period of 12 months is contrary to the proviso to sub-Section (2) of Section 3 of the Act, and on this ground alone, the order of detention is liable to be set aside. To support his arguments, he strongly relied on decisions of this Court in Rekha Vs. State of Tamil Nadu (2011) 5 SCC 244 and Munagala Yadamma Vs. State of Andhra Pradesh & Ors. (2012) 2 SCC 386.

9. On behalf of the State, Mr. A.T.M. Rangaramanujam, learned senior counsel supported the detention order and sought time till after summer vacation.

10. Now the issue for consideration before us is whether the State Government has the power to pass a detention order to detain a person at a stretch for a period of 12 months under the provisions of the Act.

11. To answer the above issue, it is necessary to examine the relevant provisions of the Act. Section 3 of the Act empowers the detention of certain category of persons, as defined under the Act. Apart from conferring of power, the section regulates the manner of passing the orders of detention as well as their duration. It reads thus:

**Section 3: Power to make orders detaining certain persons** : (1) The Government may, if satisfied with respect to any bootlegger, dacoit, drug-offender, goonda, immoral traffic offender or land-grabber that with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, it is necessary so to do, make an order directing that such person be detained.

(2) If, having regard to the circumstances prevailing or likely to prevail in any area within the local limits of the jurisdiction of a District Magistrate or a Commissioner of Police, the Government are satisfied that it is necessary so to do, they may, by order in writing direct that during such period as may be specified in the order, such District Magistrate or Commissioner of Police may also, if

satisfied as provided in Sub-section (1), exercise the powers conferred by the said sub-section:

Provided that the period specified in the order made by the Government under this sub-section **shall not in the first instance, exceed three months, but the Government may, if satisfied as aforesaid that it is necessary so to do, amend such order to extend such period from time to time by any period not exceeding three months at any one time.**

(3) When any order is made under the section by an officer mentioned in Sub-section (2), he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars as in his opinion, have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof, unless, in the meantime, it has been approved by the Government.

**12.** A reading of the above provisions makes it clear that the State Government, District Magistrate or Commissioner of Police are the authorities, conferred with the power to pass orders of detention. The only difference is that the order of detention passed by the Government would remain in force for a period of three months in the first Instance, whereas similar orders passed by the District Magistrate or the Commissioner of Police shall remain in force for an initial period of 12 days. The continuance of detention beyond 12 days would depend upon the approval to be accorded by the Government in this regard. Sub-section (3) makes this aspect very

clear. Section 13 of the Act mandates that the maximum period of detention under the Act is 12 months.

**13.** Proviso to Sub-section (2) of Section 3 is very clear in its purport, as to the operation of the order of detention from time to time. An order of detention would in the first instance be in force for a period of three months. The Government alone is conferred with the power to extend the period, beyond three months. Such extension, however, cannot be for a period, not exceeding three months, at a time. It means that, **if the Government intends to detain an individual under the Act for the maximum period of 12 months, there must be an initial order of detention for a period of three months, and at least, three orders of extension for a period not exceeding three months each.** The expression "extend such period from time to time by any period not exceeding three months at any one time" assumes significance in this regard.

**14.** The requirement to pass order of detention from time to time in the manner referred to above, has got its own significance. It must be remembered that restriction of initial period of detention to three months, is nothing but implementation of the mandate contained in

Clause (4)(a) of Article 22 of the Constitution of India. It reads as under:

Clause 4 : No law providing for preventive detention shall authorize the detention of a person for a longer period than three months unless -

(a) an Advisory Board consisting of persons who are or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorize the detention of any person beyond the maximum period prescribed by any law made by Parliament under Sub-clause (b) of Clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of Clause (7).

**15.** Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure. When the provisions of Section 3 of the Act clearly mandated the authorities to pass an order of detention at one time for a period not exceeding three months only, the Government Order in the present case, directing detention of the husband of the appellant for a period of twelve months at a stretch is clear violation of the prescribed manner and contrary to the provisions of law. The

Government cannot direct or extend the period of detention up to the maximum period of twelve months, in one stroke, ignoring the cautious legislative intention that even the order of extension of detention must not exceed three months at any one time. One should not ignore the underlying principles while passing orders of detention or extending the detention period from time to time. **16.**

Normally, a person who is detained under the provisions of the Act is without facing trial which in other words amounts to curtailment of his liberties and denial of civil rights. In such cases, whether continuous detention of such person is necessary or not, is to be assessed and reviewed from time to time. Taking into consideration these factors, the Legislature has specifically provided the mechanism “Advisory Board” to review the detention of a person. Passing a detention order for a period of twelve months at a stretch, without proper review, is deterrent to the rights of the detenu. Hence, the impugned Government Order directing detention for the maximum period of twelve months straightaway cannot be sustained in law.

**17.** Even though, learned senior counsel appearing for the State sought for an adjournment beyond summer vacation, we are unable to accept his prayer for the simple reason that maximum part of the

period of detention of the detenu is going to complete by the end of summer vacation. Undisputedly, the detenu was detained on 5<sup>th</sup> October, 2013 which means that he remained under detention for about seven months at a stretch without any periodical review as envisaged by law. We are, therefore, of the considered opinion that the detention order passed by the Government of Andhra Pradesh in this case is in contravention to the provisions of law. On this ground alone, without going into other issues, we thought this appeal has to be allowed and the order of detention has to be quashed.

**18.** We accordingly allow the appeal quashing the detention order issued by the Government of Andhra Pradesh and setting aside the impugned judgment of the High Court. The detenu shall be set at liberty forthwith.

JUDG.....J.  
**(RANJANA PRAKASH DESAI)**

.....J.  
**(N.V. RAMANA)**

**NEW DELHI,  
MAY 08, 2014.**

PETITIONER:  
CHANDRA KISHORE JHA

Vs.

RESPONDENT:  
MAHAVIR PRASAD & ORS.

DATE OF JUDGMENT: 21/09/1999

BENCH:  
A.S.Anand

JUDGMENT:

DR. A.S. ANAND. CJI :

Election of Respondent No.1 to the Bihar Legislative Assembly from 86, Ghanshyampur Assembly Constituency, held in March, 1995, was challenged by the appellant through an Election Petition on various grounds. The Election Petition was resisted by the returned candidate and certain preliminary objections were also raised. The returned candidate on 14.8.1997 filed an application under Section 81(1) read with Section 86 of the Representation of the People Act, 1951 (hereinafter the

Act) in the High Court of Patna seeking dismissal of the election petition, on the ground that the petition presented on 17.5.1995 was beyond the period of limitation and thus liable to be dismissed under Section 86 of the Act. The application was decided in favour of the returned candidate and the learned designated election Judge vide order dated 3rd October, 1997 dismissed the election petition, without trial, as termed by limitation. . Aggrieved, the appellant is before us.

The only issue debated before us centers around the non-filing of the election petition within the precribed period of 45 days from the date of election. Reference to some dates, which are not in dispute, becomes necessary at the outset.

After the polling of votes, counting of ballot papers took place on 31st March, 1995. The result was declared on 1.4.1995. (Initially, there was some dispute with regard to the exact date when the result was declared, i.e., whether on 31.3.1995 or 1.4.1995 or 2.4.1995, but both, before the learned designated election Judge as well as in this Court, on the basis of the record, it has been admitted by learned counsel for the parties that the result of the election was declared on 1.4.1995). The election petition was presented to the learned designated election Judge in the 'open Court' on 17.5.1995. The prescribed period of 45 days within which the election petition could be filed expired on 16.5.1995.

At the time of presentation of the election petition in the open Court, on 17.5.1995, the following order was made by the learned designated election Judge:

"Shri Chandra Kishore Jha appears in person and is

duly Identified by his counsel, Shri P.K. Verma. The Election Petitioner files an election petition calling in question the election of respondent No.1, Shri Mahabir Prasad to the Bihar Legislative Assembly from 86 Ghanshyampur Assembly Constituency. He also files a challan showing deposit of Rs.2,000/- as security money. There being 20 respondents the election petitioner has also filed 20 extra copies of the - election petition attested to be true copy by the election petitioner under his signature.

Learned counsel while staling the circumstances In which the election petition has been filed without stamp report mentioned that the necessary challan showing deposit of the security money had been filed showing the receipt of the deposit by the Joint Registrar of this Court. It bears the date 16.5.95. The counsel also pointed out that necessary affidavit In support of the election petition had also been sworn yesterday i.e. on 16.5.95. Counsel stated all this to support his contention that the petition was ready 'in all respects for being filed yesterday and it has been handed over to the Bench Clerk of the court at 4.05 P.M. yesterday itself. Unfortunately, 'it could not be preserved before the court on account of the fact that there was a death reference at 3.15 P.M. yesterday and after the reference the working of the court had been suspended for the rest of the day. The Bench Clerk of the Court, Shri Santosh Kumar Sinha, who is present testifies to the aforesaid fact which had been telephonically communicated to the Presiding Officer of the Court at his residence yesterday itself. It may be mentioned that counsel for the petitioner at the very out set stated that he had been handed over the election petition by the Bench Clerk for being presented today"

The learned designated election Judge opined that the presentation of the election petition on 16.5.1995, before the Bench Clerk was improper, the same not being in conformity with the High Court Rules and, therefore, could not save the period of limitation and that the presentation of the Election Petition made in the open Court on 17.5.1995 was beyond the period of limitation and hence liable to be dismissed under Section 66(1) ' read with Section 81 of the Act, notwithstanding the fa^t that on 16.5.1995, ' after 3.15 P.M., designated Judge was not available in the Court to whom the election petition could be presented in the open Court.

With a view to examine the correctness of the abovefinding, it is desirable to take note of some of the relevant provisions of the Rules of the Patna High Court. Chapter XXI-E lays down Rules for disposal of election petitions filed under Section 81 of the Act. Rule 6 of Chapter XXI-E reads thus:

"Subject always to the orders of the Judge, before 9 ' formal presentation of the election petition is made to the Judge in open court, it shall be presented to the Stamp Reporter of the Court, who shall certify thereon if it is in time and in conformity with requirements of the Act and the rules in this behalf, or is defective and shall thereafter return the petition to the petitioner for making the formal presentation after removing the defects, if any:

Provided that if on any Court day the Judge is not

available on account of temporary absence or otherwise, the petitioner; may be presented before the Bench hearing civil applications and motions.'

Rule 7 provides:

"Rule 7(1) - The date of presentation to the Judge or the Bench as mentioned in the proviso to Rule 6 shall be the date of the filing the election petition for the purposes of limitation.

(2) Immediately after it is presented, the petition shall- be entered in a special register maintained for the registration of election petitions.

Rule 9 reads:

"(1) As soon as may be, after an election petition has been presented and registered, it shall be placed before Judge for such orders as may be required to be passed under Section 86 of the Act.

(2) If the petition is not dismissed under Section 86(1) of the Act, a summons, on the direction of the Judge, shall be issued to the respondents to appear before the Judge on a day not earlier than three weeks from the date of the issue of the summons, unless otherwise ordered by the Judge.

(3) The summons shall be for filing written statement and settlement of issues and shall be served on the Respondents through the District Judge of the district to which the respondent belongs or in the district in which he ordinarily resides, in the manner provided for the service of summonses in the Code of Civil Procedure and the concerned District Judge will make his best endeavour to get the summons duly served and make a return of the service of summons before the date Fixed."

Rule 13 of Chapter II, Part-1 of the High Court Rules reads :

"In addition to the powers conferred upon him by other rules the Registrar shall have the following duties and powers.

(i) To receive an appeal under Clause 10 of the Letters Patent.

(ii) To receive an application for Probate or Letters of Administration or for revocation of the same and to issue notices thereon.

(iii) To receive a plaint or an appeal from the decree or order of a Subordinate Civil Court and to determine whether it shall be admitted and notice issued at 'once to the other side or be posted for hearing under Order XLI, rule 11, or otherwise laid before the Court for orders.

xxx xxx xxx

Rule 24 of Chapter XXI-E provides:

"The Patna High Court Rules, except in so far as they are inconsistent with the above rules, shall apply mutatis

mutandis to all election petitions. Where no specific provision is made in the Act, the Code or the High Court Rules, the Judge may pass such orders as he may consider necessary."

A combined reading of the above Rules shows that an election petition is required to be presented, first to the Stamp Reporter of the Court, who shall certify thereon if 'it is within time and in conformity with the requirements of the Act and the Rulee made in that behalf or is defective, and in the event it is found to be defective, the same shall be returned to the petitioner for making formal presentation, after removing the defects. The election petition is then required to be presented to ihe designated election Judge in the 'open Court'. The proviso to Rule 6 lays down that If

on any Court day, the Judge is not available on account of temporary absence or otherwise, the petition may be presented before the Bench hearing civil applications and motions. By virtue of Rule 7, the date of filing of an election petition for purposes of limitation is the date of presentation of the election petition to the Judge or the Bench as mentioned In the proviso to Rule 6. Thus. the date of presentation of the election petition in the open Court to the designated election Judge or to the Bench, as the case may be, would be the actual date of filing of the election petition, for the purposes of limitation. '

Under Rute 13, the Registrar of the High Court in addition to his other powers has been clothed with the duty to receive certain memos of appeals, plaints and application for review, revision or restoration.

Rule 24 of Chapter XXI-E lays down, that the Patna High Court Rules, except insofar as they are inconsistent with the Rules contained in Chapter XXI-E, shall apply mutu'e's mutandis to all election petitions but where no specific provision is made in the High Court Rules, "the Judge may pass orders as he may consider necessary.

Having examined the Rules, let us now take note of the fact situation as existing in the present case. There is no doubt that in the instant case, the appellant had made the security deposit and got his affidavit attested

and had twenty copies of the election petition duly attested as true copies under his own signatures ready with him. It is also not in dispute that he did go to the Court of the learned designated election Judge at 4.05 P.M. on 16.5.1995, fcut, found him not present in the open Court. The learned designated election Judge in the impugned order recorded:

"There is no dispute between the parties that neither the Court ' before which this Election Petition could be presented nor, the , Bench hearing Civil Applications and Motions was available on 16.5.1995 after 3.15 P.M. when an Obituary Reference was held to mourn the demise of late Raj Ballav Prasad Sinha, an Advocate of this Court and the then Hon'ble the Chief Justice declared while concluding the Obituary Speech that the Court shall not sit for the rest of the day. It is in this background that it has to be examined as to whether the Election Petition could have been

presented on account of non-availability of the Court and the Bench hearing Civil Applications and Motions to the Bench Clerk."

and opined that the presentation of the election petition to the Bench Clerk was not proper. The learned designated election judge was of the opinion that in view of Rule 24 of Chapter XXI-E read with Rule 13 of Chapter I, Part I of the High Court Rules, the election petitioner ought to have presented the election petition to the Registrar. In the words of the learned designated election judge:

"Admittedly the Election Petition was presented at 4.05 P.M. on 16.5.1995 when neither the Hon'ble Judge nor the Bench hearing Civil Applications & Motions was available and in such a situation, in my opinion, the Election Petition ought to have been presented before the Registrar of the Court as it is not in dispute that the Registrar was not available at 4.05 P.M. on 16.5.1995"

In our opinion, reliance on Rule 24 of Chapter XXI-E read with Rule 13(iii) of Chapter II, Part I of the High Court Rules is misplaced. The plain phraseology of Rule 6 read with the proviso thereto makes it abundantly clear that formal presentation of an election petition can be made only to the designated election Judge in the open Court and "if on any Court day the Judge is not available on account, of temporary absence or otherwise, the petition may be presented before the Bench hearing civil applications and motions. Thus, the High Court Rules do not prescribe any other mode of presentation of an election petition except in the open Court either before the designated election Judge or before the Bench hearing civil applications and motions, where the designated election Judge is not available on account of temporary absence or otherwise. The presentation of an election petition to the Registrar has not been prescribed as a mode of presentation of an election petition by the Rules. An election petition is not included in any of the clauses of Rule 13. The learned designated election Judge rightly found that presentation of the election petition to the Bench Clerk on 16.5.1995 at 4.05 P.M. was not a proper presentation under the Rules. In the absence of any provision in the Rules, presentation of an election petition to the

Registrar would not stand at any better footing than the presentation of the petition to the Bench Clerk. An election petition being a purely statutory remedy, nothing is to be read into the Rules - nothing is to be presumed - which is not provided for in the Rules. Rule 24 (supra) cannot advance the case of the returned candidate any further because of the absence of mention of an election petition in Rule 13 (supra).

In our opinion insofar as an election petition is concerned, proper presentation of an election petition in the Patna High Court can only be made in the manner prescribed by Rule 6 of Chapter XXI-E. No other mode of presentation of an election petition is envisaged under the Act or the Rules thereunder and, therefore, an election petition could, under no circumstances, be presented to the Registrar to save the period of limitation. It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has

to be done in that manner and in no other manner. (See with advantage : Nazir Ahrnad v. King Emperor, 63 Indian Appeals 372=AIR 1936 PC 253; Rao Shiv Bahadw Singh & Anr. V. State of Vindhya Pndwh, 1954 SCR 1098 = AIR 1954 SC 322. State of Utter Pradesh v. Singhan Singh & Ors., AIR 1964 SC 358 = (1964) 1 SCWR 57] An election petition under the Rules could only have

been presented in the open Court upto 16.5.1995 till 4.15 P.M. (working hours of the Court) in the manner prescribed by Rule 6 (supra) either to the Judge or the Bench as the case may be to save the period of limitation. That, however, was not done. However, we cannot ignore that the situation in the present case was not of the making of the appellant. Neither the designated election Judge before whom the election petition could be formally presented in the open Court nor the Bench hearing civil applications and motions was admittedly available on 16.5.1995 after 3.15 P.M., after the Obituary Reference since admittedly the Chief Justice of the High Court had declared that "the Court shall not sit for the rest of the day" after 3.15 P.M. Law does not expect a party to do the impossible - impossiblum nulla obligatioest as in the instant case, the election petition could not be filed on 16.5.1995 during the Court hours, as far all intent and purposes, the Court was closed on 16.5.1995 after 3.15 P.M.

It is precisely to take care of a situation like this that Section 10 of the General Clauses Act gets attracted. It reads :'

"Computation of time. (1) Where, by any Central Act or Regulation made after the commencement of this Act, any act or proceeding is directed or allowed to be done or taken in any

Court or office on a certain day or within a prescribed period, then, if the Court or office is closed on that day or the last day of the prescribed period, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day afterwards on which the Court or office is open:

Provided that nothing in this section shall apply to any act or proceeding to which the Indian Limitation Act, 1877 (XV of 1887) applies."

(Emphasis ours)

Since, Indian Limitation Act does not apply to an election petition, Section 10 of the General Clauses Act would apply. As already noticed, the Patna High Court was, for all practical purposes, closed after 3.15 P.M. on 16.5.1995. It was, therefore, not possible for the appellant to have presented the election petition to the designated election Judge or in his absence to the Bench hearing civil applications and motions in the open Court on that date, which was the last day of the prescribed period of limitation. Thus, the presentation of the election petition on the very next date i.e. 17.5.1995, in the open Court, would be considered, by virtue of Section 10 of the General Clauses Act, as presentation of the election petition within the prescribed period of limitation. In the established facts and circumstances of the case, the learned designated election Judge fell in error in denying to the

appellant the benefit of Section 10 of the General Clauses Act and dismissing the election petition as barred by

time. The order of the learned designated election Judge cannot, under the circumstances, be sustained. The election petition must proceed to trial on merits.

Mr. P.S. Mishra, learned senior counsel for the returned candidate - respondent No.1, when faced with this situation, submitted that the presentation of the election petition in the open Court on 17.5.1995 was also not a proper presentation because no certificate of the Stamp Reporter had admittedly been obtained by the appellant as required by Rule 6 of Chapter XXI-E, before presenting the election petition, in the open Court to the designated election Judge and that the said defect was fatal. Mr. S.P. Singh, teamed counsel appearing for the appellant, countered the submission by asserting that the appellant had done all that was required of him to do for filing the election petition and the order of the teamed designated Judge dated 17.5.1995, takes care of the objection raised by Mr. Mishra. This argument has not been considered by the learned designated election Judge as presumably the occasion to raise it did not arise but be that as it may, we would not like to express any opinion on this question. It would be open to the returned candidate to raise all such pleas as are available to him in law, including the plea above noticed, during the trial of the election petition before the learned designated election Judge. Equally, it would be open to the appellant to resist all such

pleas in accordance with law. All such pleas shall be decided by the learned designated election Judge, as and when raised, in accordance with law.

Thus, for what we have said above the appeal succeeds and is allowed. The impugned order dated 3.10.1997 is set aside. The election petition shall be tried on merits by the learned designated election Judge expeditiously. There shall be no order as to costs insofar as this appeal is concerned.

No.36012/17/2002-Estt.(Res)  
Government of India  
Ministry of Personnel, P.G. & Pensions  
Department of Personnel & Training

...  
New Delhi, dated: the 6<sup>th</sup> November, 2003

**OFFICE MEMORANDUM - 6<sup>th</sup> NOV 2003**

Sub:- Non- permissibility of exchange of reservation between SCs and STs.

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The undersigned is directed to say that after introduction of post based reservation various ministries/departments have been seeking clarification whether it is possible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice versa by applying the principle of exchange of reservation between Scheduled Castes and Scheduled Tribes as was possible when vacancy based rosters were in vogue.

2. Basic principle of post based reservation is that the number of posts filled by reservation by any category in a cadre should be equal to the quota prescribed for that category. If exchange of reservation between SCs and STs is permitted, number of employees of one reserved category of employees appointed by reservation will go beyond reservation prescribed for that category. It would be against the spirit of post based reservation. Therefore, after introduction of post based reservation, it is not permissible to fill up a post reserved for Scheduled Tribes by a Scheduled Caste candidate or vice-versa by exchange of reservation between SCs and STs.

3. If sufficient number of SC/ST/OBC candidates fit for appointment against reserved vacancies are not available, procedure as given below should be followed for filling up such reserved vacancies:

A. In cases of Direct Recruitment:

(i) Where sufficient number of candidates belonging to SC/ST/OBC 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 is a ban on dereservation of vacancies reserved for SCs, STs and OBCs in direct recruitment.

- (ii) If sufficient number of suitable SC/ST/OBC candidates are not available to fill up vacancies reserved for them in the first attempt of recruitment, 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/OBC candidates are not even then available, the vacancies which could not be filled up shall remain unfilled until the next recruitment year. These vacancies will be treated as "backlog vacancies."
- (iii) In the subsequent recruitment year when recruitment is made for the vacancies of that year (called the current vacancies), the backlog vacancies of SCs, STs and OBCs will also be announced for recruitment. While doing so it may be kept in view that the vacancies of the particular recruitment year i.e. the current vacancies and the backlog vacancies of OBCs will be treated as one group and backlog vacancies of SCs and STs as a separate and distinct group. Thus, there will be two distinct groups of vacancies. One group will contain the current vacancies and the backlog vacancies of OBCs, and the another group will contain backlog vacancies of SCs and STs. While in respect of vacancies in the first group instructions that not more than 50% of the vacancies can be reserved in a year will apply, all the backlog vacancies reserved for SCs and STs will be filled up by the candidates belonging to concerned category without any restriction whatsoever as they belong to distinct group of backlog vacancies of SCs and STs.
- (iv) If vacancies reserved for SCs/STs/OBCs cannot be filled up and are carried forward as backlog vacancies and remain unfilled in the following recruitment year also, they will be carried forward as backlog vacancies for subsequent recruitment year(s) as long as these are not filled by candidates of the category for which these are reserved.

(v) There may be rare and exceptional cases in Group 'A' services, where posts cannot be allowed to remain vacant in public interest. In such situations, the administrative Ministry/Department under which the recruitment is being made shall make a proposal for dereservation giving full justification for such action, and consult the National Commission for Scheduled Castes and Scheduled Tribes in case of posts reserved for SCs/STs and the National Commission for Backward Classes in case of posts reserved for OBCs and obtain the comments of concerned Commission on each proposal. After obtaining the comments of the concerned Commission, the administrative Ministry/Department shall place the proposal for dereservation alongwith the Commission's comments before a Committee comprising the Secretaries in the Department of Personnel and Training, in the Ministry of Social Justice and Empowerment and in the Ministry/Department under which the recruitment is being made for consideration and recommendation. The recommendation of the Committee shall be placed before the Minister in charge of the Department of Personnel and Training for a final decision. If dereservation of the vacancies is approved, these can be filled by the candidate of other communities.

**B. In cases of Promotion:**

(i) In cases of promotion including promotion by selection from Group 'C' to Group 'B', within Group 'B' and from Group 'B' to the lowest rung of Group 'A', if sufficient number of SC/ST candidates fit for promotion against reserved vacancies are not available, such vacancies may be dereserved as per prescribed procedure and filled by candidates of other communities.

(ii) If sufficient number of SC/ST candidates fit for promotion against reserved vacancies are not available and such vacancies can also not be dereserved for reasons like non-availability of candidates of other categories to fill up the posts etc., the vacancies shall not be filled and will remain unfilled until the next recruitment year. These vacancies will be treated as "backlog vacancies."

- (iii) In the subsequent recruitment year when recruitment is made for the vacancies of that year (called the current vacancies), the backlog vacancies of SCs and STs will also be filled up, keeping the current vacancies and the backlog vacancies of SCs and STs as two distinct groups. While in respect of the current vacancies the instructions that not more than 50% of the vacancies can be reserved will apply, all the backlog vacancies reserved for SCs and STs will be filled up by candidates belonging to the concerned category without any restriction whatsoever as they belong to distinct group of backlog vacancies.
- (iv) If backlog vacancies reserved for SCs/STs cannot be filled up by reservation and can also not be dereserved in the subsequent recruitment year as well, such backlog vacancies will be carried forward as backlog reserved vacancies for subsequent recruitment year(s) as long as these are not filled by candidates of the category for which these are reserved or by candidates of other communities after dereservation.

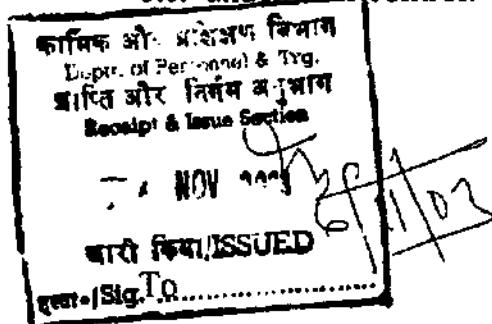
4. In cadres having more than 13 posts, number of posts filled by reservation by any category at any point of time should ideally be equal to the quota determined as per percentage of reservation prescribed for that category. Whenever the posts are filled, efforts have to be made to complete reservation quota for SCs/STs/OBCs in case of direct recruitment and for SCs/STs in case of promotion so that the number of posts filled by reservation by SCs, STs and OBCs, as the cases may be, in the cadre is equal to the number of posts earmarked for them. It means that if reservation quota is not complete, efforts would be made to complete the reservation quota whenever the recruitments are made in the cadre. Thus, reservation would not lapse in case of post based reservation for the reason that reserved posts could not be filled for a specified number of years.

5. In cadres having 13 or less number of posts where 14 point L-shaped rosters are applied, if a reserved vacancy is filled by a candidate belonging to other community after dereservation, the reservation will be carried forward for subsequent recruitment year. Such carry forward of reservation would be permitted for three subsequent recruitment years. In the third year of carried forward of

reservation, the vacancy will be treated reserved for the concerned category, but if it cannot be filled by reservation in the third year of carried forward of reservation by a candidate of the concerned category, reservation will be treated as lapsed and it will be filled as an unreserved vacancy.

6. It is possible that some posts reserved for STs might have been filled by SC candidates by exchange of reservation or vice versa before issue of this OM. Such cases need not be reopened. However, if number of SC or ST candidates appointed by reservation including by exchange of reservation between SCs and STs is in excess of reservation prescribed for them, such excess representation may be adjusted in future recruitment.

7. All the Ministries/Departments are requested to bring these instructions to the notice of all offices/organizations/establishments etc. under their control.



(K.G.Verma)  
Deputy Secretary to the Govt. of India

1. All Ministries / Departments of Govt. of India
2. Department of Economic Affairs (Banking Division), New Delhi
3. Department of Economic Affairs (Insurances Division), New Delhi
4. Department of Public Enterprises, New Delhi,
5. Railway Board,
6. Union Public Service Commission / Supreme Court of India / Election Commission / Lok Sabha Secretariat / Rajya Sabha Secretariat / Cabinet Secretariat / Central Vigilance Commission / President's Secretariat / Prime Minister's Office / Planning Commission
7. Staff Selection Commission, CGO Complex, Lodi Road, New Delhi.
8. Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
9. 200 spare copies.

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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.

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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 08.1.1952 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/Cen.", 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.

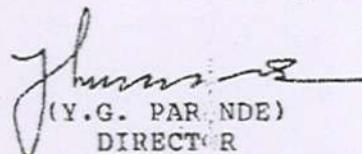
6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

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, Trikoot-I, Bhikaji-cama-place, P.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 13 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 posts 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 of roster starting with the earliest appointee. Thus if the earlier appointee in the cadre happens to be a candidate belonging to the Scheduled Castes, 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.**

7

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

| Sl. No.<br>of post | Share of entitlement |             |             | category for which<br>the post should be<br>earmarked. |
|--------------------|----------------------|-------------|-------------|--------------------------------------------------------|
|                    | SC<br>@15%           | ST<br>@7.5% | OBC<br>@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                                                     |

|     |      |       |       |        |
|-----|------|-------|-------|--------|
| 26. | 3.90 | 1.95  | 7.02  | OBC-7  |
| 27. | 4.05 | 2.025 | 7.29  | SC-4   |
| 28. | 4.20 | 2.1   | 7.56  | ST-2   |
| 29. | 4.35 | 2.175 | 7.83  | UR     |
| 30. | 4.50 | 2.25  | 8.1   | OBC-8  |
| 31. | 4.65 | 2.325 | 8.37  | UR     |
| 32. | 4.80 | 2.4   | 8.64  | UR     |
| 33. | 4.95 | 2.475 | 8.91  | UR     |
| 34. | 5.10 | 2.55  | 9.18  | OBC-9  |
| 35. | 5.25 | 2.625 | 9.54  | SC-5   |
| 36. | 5.40 | 2.7   | 9.72  | UR     |
| 37. | 5.55 | 2.775 | 9.99  | UR     |
| 38. | 5.70 | 2.85  | 10.26 | OBC-10 |
| 39. | 5.85 | 2.925 | 10.53 | UR     |
| 40. | 6.00 | 3     | 10.8  | ST-3   |
| 41. | 6.15 | 3.075 | 11.07 | SC-6   |
| 42. | 6.30 | 3.15  | 11.35 | OBC-11 |
| 43. | 6.45 | 3.225 | 11.61 | UR     |
| 44. | 6.60 | 3.3   | 11.88 | UR     |
| 45. | 6.75 | 3.375 | 12.15 | OBC-12 |
| 46. | 6.90 | 3.45  | 12.4  | UR     |
| 47. | 7.05 | 3.525 | 12.6  | SC-7   |
| 48. | 7.20 | 3.6   | 12.96 | UR     |
| 49. | 7.35 | 3.675 | 13.23 | OBC-13 |
| 50. | 7.50 | 3.75  | 13.5  | UR     |
| 51. | 7.65 | 3.825 | 13.77 | UR     |
| 52. | 7.80 | 3.9   | 14.04 | OBC-14 |
| 53. | 7.95 | 3.975 | 14.31 | UR     |
| 54. | 8.10 | 4.05  | 14.58 | SC-8   |
| 55. | 8.25 | 4.125 | 14.85 | ST-4   |
| 56. | 8.40 | .2    | 15.12 | OBC-15 |
| 57. | 8.55 | 4.275 | 15.39 | UR     |
| 58. | 8.70 | 4.35  | 15.66 | UR     |

|     |       |       |       |        |
|-----|-------|-------|-------|--------|
| 59. | 8.85  | 4.425 | 15.93 | UR     |
| 60. | 9.00  | 4.5   | 16.2  | OBC-16 |
| 61. | 9.15  | 4.575 | 16.47 | SC-9   |
| 62. | 9.30  | 4.65  | 16.74 | UR     |
| 63. | 9.45  | 4.725 | 17.01 | OBC-17 |
| 64. | 9.60  | 4.8   | 17.01 | UR     |
| 65. | 9.75  | 4.875 | 17.55 | UR     |
| 66. | 9.90  | 4.95  | 17.82 | UR     |
| 67. | 10.05 | 5.025 | 18.09 | OBC-18 |
| 68. | 10.20 | 5.1   | 18.36 | SC-10  |
| 69. | 10.35 | 5.175 | 18.63 | ST-5   |
| 70. | 10.50 | 5.25  | 18.9  | UR     |
| 71. | 10.65 | 5.325 | 19.17 | OBC-19 |
| 72. | 10.80 | 5.4   | 19.44 | UR     |
| 73. | 10.95 | 5.475 | 19.71 | UR     |
| 74. | 11.10 | 5.55  | 19.98 | SC-11  |
| 75. | 11.25 | 5.625 | 20.25 | OBC-20 |
| 76. | 11.40 | 5.7   | 20.52 | UR     |
| 77. | 11.55 | 5.775 | 20.79 | UR     |
| 78. | 11.70 | 5.85  | 21.06 | OBC-21 |
| 79. | 11.85 | 5.925 | 21.33 | UR     |
| 80. | 12.00 | 6     | 21.6  | ST-6   |
| 81. | 12.15 | 6.075 | 21.87 | SC-12  |
| 82. | 12.30 | 6.15  | 22.14 | OBC-22 |
| 83. | 12.45 | 6.225 | 22.41 | UR     |
| 84. | 12.60 | 6.3   | 22.68 | UR     |
| 85. | 12.75 | 6.375 | 22.95 | UR     |
| 86. | 12.90 | 6.45  | 23.22 | OBC-23 |
| 87. | 13.05 | 6.525 | 23.49 | SC-13  |
| 88. | 13.20 | 6.6   | 23.76 | UR     |
| 89. | 13.35 | 6.675 | 24.03 | OBC-24 |
| 90. | 13.50 | 6.75  | 24.3  | UR     |
| 91. | 13.65 | 6.825 | 24.57 | UR     |

|      |       |       |       |         |
|------|-------|-------|-------|---------|
| 92.  | 13.80 | 6.9   | 24.84 | UR      |
| 93.  | 13.95 | 6.975 | 25.11 | OBC-25  |
| 94.  | 14.10 | 7.05  | 25.38 | SC-14   |
| 95.  | 14.25 | 7.125 | 25.65 | ST-7    |
| 96.  | 14.40 | 7.2   | 25.92 | UR      |
| 97.  | 14.55 | 7.275 | 26.19 | OBC-26  |
| 98.  | 14.70 | 7.35  | 26.46 | UR      |
| 99.  | 14.85 | 7.425 | 26.73 | SC-15*  |
| 100. | 15.00 | 7.5   | 27    | OBC-27* |
| 101. | 15.15 | 7.575 | 27.27 | UR      |
| 102. | 15.30 | 7.65  | 27.54 | UR      |
| 103. | 15.45 | 7.725 | 27.81 | UR      |
| 104. | 15.60 | 7.80  | 28.08 | OBC-28  |
| 105. | 15.75 | 7.875 | 28.35 | UR      |
| 106. | 15.90 | 7.95  | 28.62 | UR      |
| 107. | 16.05 | 8.025 | 28.89 | SC-16   |
| 108. | 16.2  | 8.10  | 29.43 | ST-8    |
| 109. | 16.35 | 8.175 | 29.43 | OBC-29  |
| 110. | 16.50 | 8.25  | 29.70 | UR      |
| 111. | 16.65 | 8.325 | 29.97 | UR      |
| 112. | 16.80 | 8.40  | 30.24 | OBC-30  |
| 113. | 16.95 | 8.475 | 30.51 | UR      |
| 114. | 17.10 | 8.55  | 30.78 | SC-17   |
| 115. | 17.25 | 8.625 | 31.05 | OBC-31  |
| 116. | 17.40 | 8.70  | 31.32 | UR      |
| 117. | 17.55 | 8.775 | 31.59 | UR      |
| 118. | 17.70 | 8.85  | 31.86 | UR      |
| 119. | 17.85 | 8.925 | 32.13 | OBC-32  |
| 120. | 18    | 9     | 32.40 | ST-9    |
| 121. | 18.15 | 9.075 | 32.67 | SC-18   |
| 122. | 18.30 | 9.15  | 32.94 | UR      |
| 123. | 18.45 | 9.225 | 33.21 | OBC-32  |
| 124. | 18.60 | 9.30  | 33.48 | UR      |

|      |       |        |       |        |
|------|-------|--------|-------|--------|
| 158. | 23.70 | 11.85  | 42.66 | UR     |
| 159. | 23.85 | 11.925 | 42.93 | UR     |
| 160. | 24    | 12     | 43.20 | ST-12  |
| 161. | 24.15 | 12.075 | 43.47 | OBC-43 |
| 162. | 24.30 | 12.15  | 43.74 | SC-24  |
| 163. | 24.45 | 12.225 | 44.01 | OBC-44 |
| 164. | 24.60 | 12.30  | 44.28 | UR     |
| 165. | 24.75 | 12.375 | 44.55 | UR     |
| 166. | 24.90 | 12.45  | 44.82 | UR     |
| 167. | 25.05 | 12.525 | 45.09 | OBC-45 |
| 168. | 25.20 | 12.60  | 45.36 | SC-25  |
| 169. | 25.35 | 12.675 | 45.63 | UR     |
| 170. | 25.50 | 12.75  | 45.90 | UR     |
| 171. | 25.65 | 12.825 | 46.17 | OBC-46 |
| 172. | 25.80 | 12.90  | 46.44 | UR     |
| 173. | 25.95 | 12.975 | 46.71 | UR     |
| 174. | 26.10 | 13.05  | 46.98 | SC-26  |
| 175. | 26.25 | 13.125 | 47.25 | ST-13  |
| 176. | 26.40 | 13.20  | 47.52 | OBC-47 |
| 177. | 26.55 | 13.275 | 47.79 | UR     |
| 178. | 26.70 | 13.35  | 48.06 | OBC-48 |
| 179. | 26.85 | 13.425 | 48.33 | UR     |
| 180. | 27    | 13.50  | 48.60 | SC-27  |
| 181. | 27.15 | 13.575 | 48.87 | UR     |
| 182. | 27.30 | 13.65  | 49.14 | OBC-49 |
| 183. | 27.45 | 13.725 | 49.41 | UR     |
| 184. | 27.60 | 13.80  | 49.68 | UR     |
| 185. | 27.75 | 13.875 | 49.95 | UR     |
| 186. | 27.90 | 13.95  | 50.22 | OBC-50 |
| 187. | 28.05 | 14.025 | 50.49 | SC-28  |
| 188. | 28.20 | 14.10  | 50.76 | ST-14  |
| 189. | 28.35 | 14.175 | 51.03 | OBC-51 |
| 190. | 28.50 | 14.25  | 51.30 | UR     |

|      |       |        | -123- |        |
|------|-------|--------|-------|--------|
| 125. | 18.75 | 9.375  | 33.75 | UR     |
| 126. | 18.90 | 9.45   | 34.02 | OBC-34 |
| 127. | 19.05 | 9.525  | 34.29 | SC-19  |
| 128. | 19.20 | 9.60   | 34.56 | UR     |
| 129. | 19.35 | 9.675  | 34.83 | UR     |
| 130. | 19.50 | 9.75   | 35.10 | OBC-35 |
| 131. | 19.65 | 9.825  | 35.37 | UR     |
| 132. | 19.80 | 9.90   | 35.64 | UR     |
| 133. | 19.95 | 9.975  | 35.91 | UR     |
| 134. | 20.10 | 10.05  | 36.18 | OBC-36 |
| 135. | 20.25 | 10.125 | 36.45 | SC-20  |
| 136. | 20.40 | 10.20  | 36.72 | ST-10  |
| 137. | 20.55 | 10.275 | 36.99 | UR     |
| 138. | 20.70 | 10.35  | 37.26 | OBC-37 |
| 139. | 20.85 | 10.425 | 37.53 | UR     |
| 140. | 21    | 10.50  | 37.80 | SC-21  |
| 141. | 21.15 | 10.575 | 38.07 | OBC-38 |
| 142. | 21.30 | 10.65  | 38.34 | UR     |
| 143. | 21.45 | 10.725 | 38.61 | UR     |
| 144. | 21.60 | 10.80  | 38.88 | UR     |
| 145. | 21.75 | 10.875 | 39.15 | OBC-39 |
| 146. | 21.90 | 10.95  | 39.42 | UR     |
| 147. | 22.05 | 11.025 | 39.69 | SC-22  |
| 148. | 22.20 | 11.10  | 39.96 | ST-11  |
| 149. | 22.35 | 11.175 | 40.23 | OBC-40 |
| 150. | 22.50 | 11.25  | 40.50 | UR     |
| 151. | 22.65 | 11.325 | 40.77 | UR     |
| 152. | 22.80 | 11.40  | 41.04 | OBC-41 |
| 153. | 22.95 | 11.475 | 41.31 | UR     |
| 154. | 23.10 | 11.55  | 41.58 | SC-23  |
| 155. | 23.25 | 11.625 | 41.85 | UR     |
| 156. | 23.40 | 11.70  | 42.12 | OBC-42 |
| 157. | 23.55 | 11.775 | 42.39 | UR     |

|      |       |        |       |         |
|------|-------|--------|-------|---------|
| 191. | 28.65 | 14.325 | 51.57 | UR      |
| 192. | 28.80 | 14.40  | 51.84 | UR      |
| 193. | 28.95 | 14.475 | 52.11 | OBC-52  |
| 194. | 29.10 | 14.55  | 52.38 | SC-29   |
| 195. | 29.25 | 14.625 | 52.65 | UR      |
| 196. | 29.40 | 14.70  | 52.92 | UR      |
| 197. | 29.55 | 14.775 | 53.19 | OBC-53  |
| 198. | 29.70 | 14.85  | 53.46 | ST-15*  |
| 199. | 29.85 | 14.925 | 53.73 | SC-30*  |
| 200. | 30    | 15     | 54    | OBC-54* |

\* To allot requisite number of posts without violating rule of 50%.

13

DIRECT RECRUITMENT ON ALL INDIA BASIS BY OPEN COMPETITION

Model Roster for cadre strength upto 13 Posts

14

REPLACEMENT NO.

| Cadre Strength | Initial Recruit-<br>ment | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th | 8th | 9th | 10th | 11th | 12th | 13th |
|----------------|--------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|
| 1.             | UR                       | UR  | UR  | 0BC | UR  | UR  | SC  | 0BC | UR  | UR  | UR   | 0BC  | UR   | ST   |
| 2.             | UR                       | UR  | 0BC | UR  | UR  | SC  | 0BC | UR  | UR  | UR  | 0BC  | UR   | ST   |      |
| 3.             | UR                       | 0BC | UR  | UR  | SC  | 0BC | UR  | UR  | UR  | 0BC | UR   | UR   | ST   |      |
| 4.             | 0BC                      | UR  | UR  | SC  | 0BC | UR  | UR  | UR  | 0BC | UR  | ST   |      |      |      |
| 5.             | UR                       | UR  | SC  | 0BC | UR  | UR  | UR  | 0BC | UR  | UR  | ST   |      |      |      |
| 6.             | UR                       | SC  | 0BC | UR  | UR  | UR  | 0BC | UR  | UR  | ST  |      |      |      |      |
| 7.             | SC                       | 0BC | UR  | UR  | UR  | 0BC | UR  | UR  | ST  |     |      |      |      |      |
| 8.             | 0BC                      | UR  | UR  | UR  | 0BC | UR  | ST  |     |     |     |      |      |      |      |
| 9.             | UR                       | UR  | UR  | 0BC | UR  | ST  |     |     |     |     |      |      |      |      |
| 10.            | UR                       | UR  | 0BC | UR  | ST  |     |     |     |     |     |      |      |      |      |
| 11.            | UR                       | 0BC | UR  | ST  |     |     |     |     |     |     |      |      |      |      |
| 12.            | 0BC                      | UR  | ST  |     |     |     |     |     |     |     |      |      |      |      |
| 13.            | UR                       | ST  |     |     |     |     |     |     |     |     |      |      |      |      |

Note:-

1. For cadres of 2 to 13 posts the roster is to be read from entry 1 under column Cadre Strength till the last post and then horizontally till the last entry in the horizontal row i.e. like "L"
2. All the posts of a cadre are to be earmarked for the categories shown under column initial Appointment. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally against the last post of the cadre.
3. The relevant rotation by the indicated reserved category could be skipped over if it leads to more than 50% representation of reserved category.

## FOR PROMOTION

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

MODEL ROSTER OF RESERVATION WITH REFERENCE TO POSTS

| Sl. No.<br>of post | Share of entitlement<br>SC<br>@15% | ST<br>@7.5% | category for which<br>the post should be<br>earmarked. |
|--------------------|------------------------------------|-------------|--------------------------------------------------------|
| 1.                 | 0.15                               | 0.075       | UR                                                     |
| 2.                 | 0.30                               | 0.15        | UR                                                     |
| 3.                 | 0.45                               | 0.225       | UR                                                     |
| 4.                 | 0.6                                | 0.3         | UR                                                     |
| 5.                 | 0.75                               | 0.375       | UR                                                     |
| 6.                 | 0.90                               | 0.45        | UR                                                     |
| 7.                 | 1.05                               | 0.525       | SC-1                                                   |
| 8.                 | 1.2                                | 0.6         | UR                                                     |
| 9.                 | 1.35                               | 0.675       | UR                                                     |
| 10.                | 1.5                                | 0.75        | UR                                                     |
| 11.                | 1.65                               | 0.825       | UR                                                     |
| 12.                | 1.8                                | 0.9         | UR                                                     |
| 13.                | 1.95                               | 0.975       | UR                                                     |
| 14.                | 2.1                                | 1.05        | ST-1                                                   |
| 15.                | 2.25                               | 1.125       | SC-2                                                   |
| 16.                | 2.40                               | 1.2         | UR                                                     |
| 17.                | 2.55                               | 1.275       | UR                                                     |
| 18.                | 2.70                               | 1.35        | UR                                                     |
| 19.                | 2.85                               | 1.425       | UR                                                     |
| 20.                | 3.0                                | 1.5         | SC-3                                                   |
| 21.                | 3.15                               | 1.575       | UR                                                     |
| 22.                | 3.30                               | 1.65        | UR                                                     |
| 23.                | 3.45                               | 1.725       | UR                                                     |
| 24.                | 3.60                               | 1.8         | UR                                                     |
| 25.                | 3.75                               | 1.875       | UR                                                     |

|     |      |       |      |
|-----|------|-------|------|
| 26. | 3.90 | 1.95  | UR   |
| 27. | 4.05 | 2.025 | SC-4 |
| 28. | 4.20 | 2.1   | ST-2 |
| 29. | 4.35 | 2.175 | UR   |
| 30. | 4.50 | 2.25  | UR   |
| 31. | 4.65 | 2.325 | UR   |
| 32. | 4.80 | 2.4   | UR   |
| 33. | 4.95 | 2.475 | UR   |
| 34. | 5.10 | 2.55  | UR   |
| 35. | 5.25 | 2.625 | SC-5 |
| 36. | 5.40 | 2.7   | UR   |
| 37. | 5.55 | 2.775 | UR   |
| 38. | 5.70 | 2.85  | UR   |
| 39. | 5.85 | 2.925 | UR   |
| 40. | 6.00 | 3     | ST-3 |
| 41. | 6.15 | 3.075 | SC-6 |
| 42. | 6.30 | 3.15  | UR   |
| 43. | 6.45 | 3.225 | UR   |
| 44. | 6.60 | 3.3   | UR   |
| 45. | 6.75 | 3.375 | UR   |
| 46. | 6.90 | 3.45  | UR   |
| 47. | 7.05 | 3.525 | SC-7 |
| 48. | 7.20 | 3.6   | UR   |
| 49. | 7.35 | 3.675 | UR   |
| 50. | 7.50 | 3.75  | UR   |
| 51. | 7.65 | 3.825 | UR   |
| 52. | 7.80 | 3.9   | UR   |
| 53. | 7.95 | 3.975 | UR   |
| 54. | 8.10 | 4.05  | SC-8 |
| 55. | 8.25 | 4.125 | ST-4 |
| 56. | 8.40 | 4.2   | UR   |
| 57. | 8.55 | 4.275 | UR   |
| 58. | 8.70 | 4.35  | UR   |

|     |       |       |       |
|-----|-------|-------|-------|
| 59. | 8.85  | 4.425 | UR    |
| 60. | 9.00  | 4.5   | UR    |
| 61. | 9.15  | 4.575 | SC-9  |
| 62. | 9.30  | 4.65  | UR    |
| 63. | 9.45  | 4.725 | UR    |
| 64. | 9.60  | 4.8   | UR    |
| 65. | 9.75  | 4.875 | UR    |
| 66. | 9.90  | 4.95  | UR    |
| 67. | 10.05 | 5.025 | UR    |
| 68. | 10.20 | 5.1   | SC-10 |
| 69. | 10.35 | 5.175 | ST-5  |
| 70. | 10.50 | 5.25  | UR    |
| 71. | 10.65 | 5.325 | UR    |
| 72. | 10.80 | 5.4   | UR    |
| 73. | 10.95 | 5.475 | UR    |
| 74. | 11.10 | 5.55  | SC-11 |
| 75. | 11.25 | 5.625 | UR    |
| 76. | 11.40 | 5.7   | UR    |
| 77. | 11.55 | 5.775 | UR    |
| 78. | 11.70 | 5.85  | UR    |
| 79. | 11.85 | 5.925 | UR    |
| 80. | 12.00 | 6     | ST-6  |
| 81. | 12.15 | 6.075 | SC-12 |
| 82. | 12.30 | 6.15  | UR    |
| 83. | 12.45 | 6.225 | UR    |
| 84. | 12.60 | 6.3   | UR    |
| 85. | 12.75 | 6.375 | UR    |
| 86. | 12.90 | 6.45  | UR    |
| 87. | 13.05 | 6.525 | SC-13 |
| 88. | 13.20 | 6.6   | UR    |
| 89. | 13.35 | 6.675 | UR    |
| 90. | 13.50 | 6.75  | UR    |
| 91. | 13.65 | 6.825 | UR    |

|      |       |       |        |
|------|-------|-------|--------|
| 92.  | 13.80 | 6.9   | UR     |
| 93.  | 13.95 | 6.975 | UR     |
| 94.  | 14.10 | 7.05  | SC-14  |
| 95.  | 14.25 | 7.125 | ST-7   |
| 96.  | 14.40 | 7.2   | UR     |
| 97.  | 14.55 | 7.275 | UR     |
| 98.  | 14.70 | 7.35  | UR     |
| 99.  | 14.85 | 7.425 | SC-15* |
| 100. | 15.00 | 7.5   | UR     |
| 101. | 15.15 | 7.575 | UR     |
| 102. | 15.30 | 7.65  | UR     |
| 103. | 15.45 | 7.725 | UR     |
| 104. | 15.60 | 7.80  | UR     |
| 105. | 15.75 | 7.875 | UR     |
| 106. | 15.90 | 7.95  | UR     |
| 107. | 16.05 | 8.025 | SC-16  |
| 108. | 16.2  | 8.10  | ST-8   |
| 109. | 16.35 | 8.175 | UR     |
| 110. | 16.50 | 8.25  | UR     |
| 111. | 16.65 | 8.325 | UR     |
| 112. | 16.80 | 8.40  | UR     |
| 113. | 16.95 | 8.475 | UR     |
| 114. | 17.10 | 8.55  | SC-17  |
| 115. | 17.25 | 8.625 | UR     |
| 116. | 17.40 | 8.70  | UR     |
| 117. | 17.55 | 8.775 | UR     |
| 118. | 17.70 | 8.85  | UR     |
| 119. | 17.85 | 8.925 | UR     |
| 120. | 18    | 9     | ST-9   |
| 121. | 18.15 | 9.075 | SC-18  |
| 122. | 18.30 | 9.15  | UR     |
| 123. | 18.45 | 9.225 | UR     |
| 124. | 18.60 | 9.30  |        |

|      |       |        |       |
|------|-------|--------|-------|
| 125. | 18.75 | 9.375  | UR    |
| 126. | 18.90 | 9.45   | UR    |
| 127. | 19.05 | 9.525  | SC-19 |
| 128. | 19.20 | 9.60   | UR    |
| 129. | 19.35 | 9.675  | UR    |
| 130. | 19.50 | 9.75   | UR    |
| 131. | 19.65 | 9.825  | UR    |
| 132. | 19.80 | 9.90   | UR    |
| 133. | 19.95 | 9.975  | UR    |
| 134. | 20.10 | 10.05  | UR    |
| 135. | 20.25 | 10.125 | SC-20 |
| 136. | 20.40 | 10.20  | ST-10 |
| 137. | 20.55 | 10.275 | UR    |
| 138. | 20.70 | 10.35  | UR    |
| 139. | 20.85 | 10.425 | UR    |
| 140. | 21    | 10.50  | SC-21 |
| 141. | 21.15 | 10.575 | UR    |
| 142. | 21.30 | 10.65  | UR    |
| 143. | 21.45 | 10.725 | UR    |
| 144. | 21.60 | 10.80  | UR    |
| 145. | 21.75 | 10.875 | UR    |
| 146. | 21.90 | 10.95  | UR    |
| 147. | 22.05 | 11.025 | SC-22 |
| 148. | 22.20 | 11.10  | ST-11 |
| 149. | 22.35 | 11.175 | UR    |
| 150. | 22.50 | 11.25  | UR    |
| 151. | 22.65 | 11.325 | UR    |
| 152. | 22.80 | 11.40  | UR    |
| 153. | 22.95 | 11.475 | UR    |
| 154. | 23.10 | 11.55  | SC-23 |
| 155. | 23.25 | 11.625 | UR    |
| 156. | 23.40 | 11.70  | UR    |
| 157. | 23.55 | 11.775 | UR    |

19

|      |       |        |       |
|------|-------|--------|-------|
| 158. | 23.70 | 11.85  | UR    |
| 159. | 23.85 | 11.925 | UR    |
| 160. | 24    | 12     | ST-12 |
| 161. | 24.15 | 12.075 | UR    |
| 162. | 24.30 | 12.15  | SC-24 |
| 163. | 24.45 | 12.225 | UR    |
| 164. | 24.60 | 12.30  | UR    |
| 165. | 24.75 | 12.375 | UR    |
| 166. | 24.90 | 12.45  | UR    |
| 167. | 25.05 | 12.525 | UR    |
| 168. | 25.20 | 12.60  | SC-25 |
| 169. | 25.35 | 12.675 | UR    |
| 170. | 25.50 | 12.75  | UR    |
| 171. | 25.65 | 12.825 | UR    |
| 172. | 25.80 | 12.90  | UR    |
| 173. | 25.95 | 12.975 | UR    |
| 174. | 26.10 | 13.05  | SC-26 |
| 175. | 26.25 | 13.125 | ST-13 |
| 176. | 26.40 | 13.20  | UR    |
| 177. | 26.55 | 13.275 | UR    |
| 178. | 26.70 | 13.35  | UR    |
| 179. | 26.85 | 13.425 | UR    |
| 180. | 27    | 13.50  | SC-27 |
| 181. | 27.15 | 13.575 | UR    |
| 182. | 27.30 | 13.65  | UR    |
| 183. | 27.45 | 13.725 | UR    |
| 184. | 27.60 | 13.80  | UR    |
| 185. | 27.75 | 13.875 | UR    |
| 186. | 27.90 | 13.95  | UR    |
| 187. | 28.05 | 14.025 | SC-28 |
| 188. | 28.20 | 14.10  | ST-14 |
| 189. | 28.35 | 14.175 | UR    |

|      |       |        |        |
|------|-------|--------|--------|
| 191. | 28.65 | 14.325 | UR     |
| 192. | 28.80 | 14.40  | UR     |
| 193. | 28.95 | 14.475 | UR     |
| 194. | 29.10 | 14.55  | SC-29  |
| 195. | 29.25 | 14.625 | UR     |
| 196. | 29.40 | 14.70  | UR     |
| 197. | 29.55 | 14.775 | UR     |
| 198. | 29.70 | 14.85  | ST-15* |
| 199. | 29.85 | 14.925 | SC-30* |
| 200. | 30    | 15     | UR     |

\* To allot requisite number of posts without violating rule  
of 50%.

## Model Roster for Promotion for cadre strength upto 13 Posts

22

REPLACEMENT NO.

| Cadre Strength | Initial Recruit-<br>ment | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th | 8th | 9th | 10th | 11th | 12th | 13th |
|----------------|--------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|
| 1.             | UR                       | UR  | UR  | UR  | UR  | UR  | SC  | UR  | UR  | UR  | UR   | UR   | UR   | ST   |
| 2.             | UR                       | UR  | UR  | UR  | UR  | SC  | UR  | UR  | UR  | UR  | UR   | UR   | UR   | ST   |
| 3.             | UR                       | UR  | UR  | UR  | SC  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | UR   | ST   |
| 4.             | UR                       | UR  | UR  | SC  | UR   | UR   | UR   | ST   |
| 5.             | UR                       | UR  | SC  | UR   | UR   | UR   | ST   |
| 6.             | UR                       | SC  | UR   | UR   | UR   | ST   |
| 7.             | SC                       | UR   | UR   | UR   | ST   |
| 8.             | UR                       | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | UR   | ST   |
| 9.             | UR                       | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | UR   | ST   |
| 10.            | UR                       | UR  | UR  | UR  | UR  | ST  |     |     |     |     |      |      |      |      |
| 11.            | UR                       | UR  | UR  | UR  | ST  |     |     |     |     |     |      |      |      |      |
| 12.            | UR                       | UR  | ST  |     |     |     |     |     |     |     |      |      |      |      |
| 13.            | UR                       | ST  |     |     |     |     |     |     |     |     |      |      |      |      |

Note:- 1. For cadres of 2 to 13 posts the roster is to be read from entry 1 under column Cadre Strength till the last post and then horizontally till the last entry in the horizontal row i.e. like "L"

2. All the posts of a cadre are to be earmarked for the categories shown under column initial Appointment. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally against the last post of the cadre.

3. The relevant rotation by the indicated reserved category could be skipped over if it leads to more than 50% representation of reserved category.

FOR DIRECT RECRUITMENT

II

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

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

| Sl.No.<br>of post | Share of entitlement |              |                 | Category for<br>which the post<br>should be<br>earmarked. |
|-------------------|----------------------|--------------|-----------------|-----------------------------------------------------------|
|                   | SC<br>@ 16.66%       | ST<br>@ 7.5% | OBC<br>@ 25.84% |                                                           |
| 1.                | 0.166                | 0.075        | 0.258           | UR                                                        |
| 2.                | 0.332                | 0.150        | 0.516           | UR                                                        |
| 3.                | 0.498                | 0.225        | 0.774           | UR                                                        |
| 4.                | 0.664                | 0.300        | 1.032           | OBC-1                                                     |
| 5.                | 0.830                | 0.375        | 1.290           | UR                                                        |
| 6.                | 0.996                | 0.450        | 1.548           | UR                                                        |
| 7.                | 1.162                | 0.525        | 1.806           | SC-1                                                      |
| 8.                | 1.328                | 0.600        | 2.064           | OBC-2                                                     |
| 9.                | 1.494                | 0.675        | 2.322           | UR                                                        |
| 10.               | 1.660                | 0.750        | 2.580           | UR                                                        |
| 11.               | 1.826                | 0.825        | 2.838           | UR                                                        |
| 12.               | 1.992                | 0.900        | 3.096           | OBC-3                                                     |
| 13.               | 2.158                | 0.975        | 3.354           | SC-2                                                      |
| 14.               | 2.324                | 1.050        | 3.612           | ST-1                                                      |
| 15.               | 2.490                | 1.125        | 3.870           | UR                                                        |
| 16.               | 2.656                | 1.200        | 4.128           | OBC-4                                                     |

|    |     |       |       |        |        |
|----|-----|-------|-------|--------|--------|
| 24 | 17. | 2.822 | 1.275 | 4.386  | UR     |
|    | 18. | 2.988 | 1.350 | 4.644  | UR     |
|    | 19. | 3.154 | 1.425 | 4.902  | SC-3   |
|    | 20. | 3.320 | 1.500 | 5.160  | OBC-5  |
|    | 21. | 3.486 | 1.575 | 5.418  | UR     |
|    | 22. | 3.652 | 1.650 | 5.676  | UR     |
|    | 23. | 3.818 | 1.725 | 5.934  | UR     |
|    | 24. | 3.984 | 1.800 | 6.192  | OBC-6  |
|    | 25. | 4.150 | 1.875 | 6.480  | SC-4   |
|    | 26. | 4.316 | 1.950 | 6.708  | UR     |
|    | 27. | 4.482 | 2.025 | 6.966  | ST-2   |
|    | 28. | 4.648 | 2.100 | 7.224  | OBC-7  |
|    | 29. | 4.814 | 2.175 | 7.482  | UR     |
|    | 30. | 4.980 | 2.250 | 7.740  | UR     |
|    | 31. | 5.146 | 2.325 | 7.998  | SC-5   |
|    | 32. | 5.312 | 2.400 | 8.256  | OBC-8  |
|    | 33. | 5.478 | 2.475 | 8.514  | UR     |
|    | 34. | 5.644 | 2.550 | 8.772  | UR     |
|    | 35. | 5.810 | 2.625 | 9.030  | OBC-9  |
|    | 36. | 5.976 | 2.700 | 9.288  | UR     |
|    | 37. | 6.142 | 2.775 | 9.546  | SC-6   |
|    | 38. | 6.308 | 2.850 | 9.804  | UR     |
|    | 39. | 6.474 | 2.925 | 10.062 | OBC-10 |
|    | 40. | 6.640 | 3.000 | 10.320 | ST-3   |
|    | 41. | 6.806 | 3.075 | 10.578 | UR     |
|    | 42. | 6.972 | 3.150 | 10.836 | UR     |
|    | 43. | 7.138 | 3.225 | 11.094 | SC-7   |

|     |        |       |        |        |
|-----|--------|-------|--------|--------|
| 44. | 7.304  | 3.300 | 11.352 | OBC-11 |
| 45. | 7.470  | 3.375 | 11.610 | UR     |
| 46. | 7.636  | 3.450 | 11.868 | UR     |
| 47. | 7.802  | 3.525 | 12.126 | OBC-12 |
| 48. | 7.968  | 3.600 | 12.384 | UR     |
| 49. | 8.134  | 3.675 | 12.642 | SC-8   |
| 50. | 8.300  | 3.750 | 12.900 | UR     |
| 51. | 8.466  | 3.825 | 13.158 | OBC-13 |
| 52. | 8.632  | 3.900 | 13.416 | UR     |
| 53. | 8.798  | 3.975 | 13.674 | UR     |
| 54. | 8.964  | 4.050 | 13.932 | ST-4   |
| 55. | 9.130  | 4.125 | 14.190 | OBC-14 |
| 56. | 9.296  | 4.200 | 14.448 | SC-9   |
| 57. | 9.462  | 4.275 | 14.706 | UR     |
| 58. | 9.628  | 4.350 | 14.964 | UR     |
| 59. | 9.794  | 4.425 | 15.222 | OBC-15 |
| 60. | 9.960  | 4.500 | 15.480 | UR     |
| 61. | 10.126 | 4.575 | 15.738 | SC-10  |
| 62. | 10.292 | 4.650 | 15.996 | UR     |
| 63. | 10.458 | 4.725 | 16.254 | OBC-16 |
| 64. | 10.624 | 4.800 | 16.512 | UR     |
| 65. | 10.790 | 4.875 | 16.770 | UR     |
| 66. | 10.956 | 4.950 | 17.028 | OBC-17 |
| 67. | 11.122 | 5.025 | 17.286 | SC-11  |
| 68. | 11.288 | 5.100 | 17.544 | ST-5   |
| 69. | 11.454 | 5.175 | 17.802 | UR     |
| 70. | 11.620 | 5.250 | 18.060 | OBC-18 |
| 71. | 11.786 | 5.325 | 18.318 | UR     |

|     |        |       |        |        |
|-----|--------|-------|--------|--------|
| 72. | 11.952 | 5.400 | 18.576 | UR     |
| 73. | 12.118 | 5.475 | 18.834 | SC-12  |
| 74. | 12.284 | 5.550 | 19.092 | OBC-19 |
| 75. | 12.450 | 5.625 | 19.350 | UR     |
| 76. | 12.616 | 5.700 | 19.608 | UR     |
| 77. | 12.782 | 5.775 | 19.866 | UR     |
| 78. | 12.948 | 5.850 | 20.124 | OBC-20 |
| 79. | 13.114 | 5.925 | 20.382 | SC-13  |
| 80. | 13.280 | 6.000 | 20.640 | ST-6   |
| 81. | 13.446 | 6.075 | 20.898 | UR     |
| 82. | 13.612 | 6.150 | 21.156 | OBC-21 |
| 83. | 13.778 | 6.225 | 21.414 | UR     |
| 84. | 13.944 | 6.300 | 21.672 | UR     |
| 85. | 14.110 | 6.375 | 21.930 | SC-14  |
| 86. | 14.276 | 6.450 | 22.188 | OBC-22 |
| 87. | 14.442 | 6.525 | 22.446 | UR     |
| 88. | 14.608 | 6.600 | 22.704 | UR     |
| 89. | 14.774 | 6.675 | 22.962 | UR     |
| 90. | 14.940 | 6.750 | 23.220 | OBC-23 |
| 91. | 15.106 | 6.825 | 23.478 | SC-15  |
| 92. | 15.272 | 6.900 | 23.736 | UR     |
| 93. | 15.438 | 6.975 | 23.994 | UR     |
| 94. | 15.604 | 7.050 | 24.252 | OBC-24 |
| 95. | 15.770 | 7.125 | 24.510 | ST-7   |
| 96. | 15.936 | 7.200 | 24.768 | UR     |
| 97. | 16.102 | 7.275 | 25.026 | SC-16  |
| 98. | 16.268 | 7.350 | 25.284 | OBC-25 |

27

|      |        |       |        |         |
|------|--------|-------|--------|---------|
| 99.  | 16.434 | 7.425 | 25.542 | UR      |
| 100. | 16.600 | 7.500 | 25.800 | UR      |
| 101. | 16.766 | 7.575 | 26.058 | OBC-26  |
| 102. | 16.932 | 7.650 | 26.316 | UR      |
| 103. | 17.098 | 7.725 | 26.574 | SC-17   |
| 104. | 17.264 | 7.800 | 26.832 | UR      |
| 105. | 17.430 | 7.875 | 27.090 | OBC-27  |
| 106. | 17.596 | 7.950 | 27.348 | UR      |
| 107. | 17.762 | 8.025 | 27.606 | ST-8    |
| 108. | 17.928 | 8.100 | 27.864 | UR      |
| 109. | 18.094 | 8.175 | 28.122 | OBC-28  |
| 110. | 18.260 | 8.250 | 28.380 | SC-18   |
| 111. | 18.426 | 8.325 | 28.638 | UR      |
| 112. | 18.592 | 8.400 | 28.896 | UR      |
| 113. | 18.758 | 8.475 | 29.154 | OBC-29  |
| 114. | 18.924 | 8.550 | 29.412 | UR      |
| 115. | 19.090 | 8.625 | 29.670 | SC-19   |
| 116. | 19.256 | 8.700 | 29.928 | UR      |
| 117. | 19.422 | 8.775 | 30.186 | OBC-30  |
| 118. | 19.588 | 8.850 | 30.444 | ST-9    |
| 119. | 19.754 | 8.925 | 30.702 | SC-20*  |
| 120. | 19.920 | 9.000 | 30.960 | OBC-31* |

\*努力 allot requisite number of posts without violating rule  
of 50%.

Roster for Direct Recruitment otherwise than through  
Open Competition for cadre strength upto 13 Posts

28

## REPLACEMENT NO.

| Cadre Strength | Initial Recruitment | 1st | 2nd | 3rd | 4th | 5th | 6th | 7th | 8th | 9th | 10th | 11th | 12th | 13th |
|----------------|---------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|------|------|------|
| 1.             | UR                  | UR  | UR  | SC  | UR  | SC  | UR  | UR  | UR  | UR  | UR   | SC   | ST   |      |
| 2.             | UR                  | UR  | UR  | UR  | UR  | SC  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |
| 3.             | UR                  | UR  | UR  | UR  | SC  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |
| 4.             | UR                  | UR  | UR  | SC  | UR   | UR   | SC   | ST   |
| 5.             | UR                  | UR  | SC  | UR   | UR   | SC   | ST   |
| 6.             | UR                  | SC  | UR   | UR   | SC   | ST   |
| 7.             | SC                  | UR   | UR   | SC   | ST   |
| 8.             | UR                  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |
| 9.             | UR                  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |
| 10.            | UR                  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |
| 11.            | UR                  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |
| 12.            | UR                  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |
| 13.            | UR                  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR  | UR   | UR   | SC   | ST   |

Note:- 1. For cadres of 2 to 13 posts the roster is to be read from entry 1 under column Cadre Strength till the last post and then horizontally till the last entry in the horizontal row i.e. like "L"

2. All the posts of a cadre are to be earmarked for the categories shown under column initial appointment. While initial filling up will be by the earmarked category, the replacement against any of the post in the cadre shall be by rotation as shown horizontally against the last post of the cadre.

3. The relevant rotation by the indicated reserved category could be skipped over if it leads to more than 50% representation of reserved category.

**No.DOPT-1667545596919**  
**Government of India**  
**Ministry of Personnel, Public Grievances & Pensions**  
**Department of Personnel and Training**  
**ESTT.(Estd. A-III)**  
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(Dated 23 September, 2022 )

**OFFICE MEMORANDUM**

**Representation from Government servants on service matters**

Department of Personnel and Training has issued various instructions from time on redressal of grievances filed by Government servant on service matters. These instructions are broadly categorized as under:

- ) Representation from Government servant on service matters
- ) Redressal of grievances – Recourse to courts of law by Government servant

2. All these instructions issued till date have been consolidated under easily comprehensible headings for reference and guidance of all the concerned.

**Part-A: Representation from Government servant on service matters**

Whenever, in any matter connected with his service rights or conditions, a Government servant wishes to press a claim or to seek redressal of a grievance, the proper course for him is to address his immediate official superior, or the Head of Office, or such other authority at the appropriate level who is competent to deal with the matter in the organization.

OM No: No. 118/52-Ests. Dated: 30/4/1952

OM No: F. No. 11013/08/2013-Estt(A-III) Dated: 31/8/2015

**❖ Action by the authorities on the representations from Government servants on service matters:-**

| <b>Sl. No.</b> | <b>Type of representation/<br/>grievance</b> | <b>Action by the authorities</b> |
|----------------|----------------------------------------------|----------------------------------|
|                |                                              |                                  |

|     |                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1.  | <p>(i) Representations/complaints regarding non-payment of salary/allowances other dues.</p> <p>(ii) Representations on other service matters.</p> | <p>If the individual has not received a reply thereto within a month of its submission, he could address or ask for an interview with the next higher officer for redress of his grievances. Such superior officer should immediately send for the papers and take such action as may be called for, without delay.</p>                                                                                                                                                                                 |
| (2) | Representations against the orders of the immediate superior authority                                                                             | <p>These types of representations would be made generally only in cases where there is no provision under the statutory rules or orders for making appeals or petitions. Such representations also should be dealt with as expeditiously as possible. The provisions of the Sl. No. 1 above would apply to such representations also but not to later representations made by the same Government servant on the same subject after his earlier representation has been disposed off appropriately.</p> |
| (3) | Appeals and petitions under statutory rules and orders (e.g. Classification, Control and Appeal Rules and the petition instructions)               | <p>Although the relevant rules or orders do not prescribe a time limit for disposing of appeals and petitions by the competent authority, it should be ensured that all such appeals and petitions receive prompt attention and are disposed within a reasonable time. If it is anticipated that an appeal or a petition cannot be disposed of within a month of its submission, an acknowledgement or an interim reply should be sent to the individual within a month.</p>                            |

[OM No: No. 25/34/68-Estt \(A\) Dated: 20/12/1968](#)

❖ **Representations directly to the higher authorities by-passing the prescribed channel of communication-**

(a) It is observed that there is an increasing tendency on the part of officers at different levels to by-pass the prescribed channels of representation and write directly to the high functionaries totally ignoring the prescribed channels. The problem is more acute in large Departments where often very junior employees at clerical level address multiple representations to the Minister, Prime Minister and other functionaries. Apart from individual representations, the service unions have also developed a tendency to write to the Ministers and Prime Minister on individual grievance. Some of these representations are often forwarded through Members of Parliament, in violation of Rule 20 of the CCS (Conduct) Rules, 1964.

[OM No: No. 11013/7/99-Estt. A Dated: 1/11/1999](#)

[OM No: No.11013/08/2013-Estt.\(A\)-III Dated: 6/6/2013](#)

(b) DoPT is also receiving a number of representations on service matters addressed to Prime Minister/ Minister/ Secretary (P) and other higher authorities/officers directly from the Government servants including the officers/ officials of para military forces and Army personnel.

[OM No: No.11013/08/2013-Estt.\(A\)-III Dated: 6/6/2013](#)

[OM No: F. No. 11013/08/2013-Estt\(A-III\) Dated: 31/8/2015](#)

(c) In view of adequate instructions being available in the matter of submission of representations by the Government servants and treatment of the representations by the authorities concerned, submission of representations directly to higher authorities bypassing the prescribed channel of communication, has to be viewed seriously and appropriate disciplinary action should be taken against those who violate these instructions as it can rightly be treated as an unbecoming conduct attracting the provisions of Rule 3 (1) (iii) of the CCS (Conduct) Rules, 1964. It is clarified that this would include all forms of communications including through e-mails or public grievances portal etc.

[OM No: No. 11013/7/99-Estt. A Dated: 1/11/1999](#)

[OM No: No.11013/08/2013-Estt.\(A\)-III Dated: 6/6/2013](#)

[OM No: F. No. 11013/08/2013-Estt\(A-III\) Dated: 31/8/2015](#)

❖ **Treatment of Advance copies of representations so received should be governed by the following general principles-**

(a) If the advance copy does not clearly show that all means of securing attention or redress from lower authorities have been duly tried and exhausted, the representation should be

ignored or rejected summarily on that ground, the reasons being communicated briefly to the Government servants. If the Government servant persists in this prematurely addressing the higher authorities, suitable disciplinary action should be taken against him.

- (b) If the advance copy shows clearly that all appropriate lower authorities have been duly addressed and exhausted, it should be examined to ascertain whether on the facts as stated, some grounds for interference or for further consideration, *prima facie* exist. Where no such grounds appear, the representation may be ignored or summarily rejected, the reasons being communicated briefly to the Government servant.
- (c) Even where some grounds for interference or further consideration appear to exist, the appropriate lower authority should be asked within a reasonable time, to forward the original representation, with its report and comments on the points urged. There is ordinarily no justification for the passing of any orders on any representation without thus ascertaining the comments of the appropriate lower authority.

[OM No: No. 118/52-Ests. Dated: 30/4/1952](#)

#### ❖ **Representation from the relatives of Government servant**

Relatives of a Government servant sometimes make representations concerning service matters affecting the Government servant. This is done in some cases in the hope of reviving a representation which the Government servant had himself made and which had been turned down. In some cases, this procedure is resorted to in order to get round the requirement that the Government servant should submit his representation through his official superiors. The practice is obviously undesirable, and should be strongly discouraged. It has accordingly been decided that no notice should be taken of a representation on service matters submitted by a relative of a Government servant. The only exceptions may be cases in which because of the death or physical disability, etc. of the Government servant, it is impossible for the Government servant himself to submit a representation.

[OM No: 25/21/63-Ests.\(A\) Dated: 19/9/1963](#)

#### ❖ **Disciplinary Action on violation of these instructions**

Appropriate disciplinary action may be taken against those who violate these instructions.

[OM No: No. 11013/7/99-Estt. A Dated: 1/11/1999](#)

[OM No: No.11013/08/2013-Estt.\(A\)-III Dated: 6/6/2013](#)

#### **Part-B: Redressal of grievances – recourse of courts of law by Government servant**

- (a) Government servants seeking redress of their grievances arising out of their employment or conditions of service should, in their own interest and also consistently with official propriety and discipline, first exhaust the normal official channel of redress before they take the issue to a court of Law.

(b) Where, however, permission to sue Government in a court of Law for the redress of such grievances is asked for by any Government servant either before exhausting the normal official channels of redress or after exhausting them, he may be informed that such permission is not necessary.

[OM No: No. 25/3/59-Ests. \(A\) Dated: 21/4/1959](#)

[OM No: No. 25/29/63-Ests-\(A\) Dated: 26/11/1963](#)

**Note:** In case any reference to the relevant OM is required, the same may be accessed by clicking on the hyperlink or from the DOPT's website.

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