

✓

No. 36012/22/93-Estt. (SCT)
Government of India
Ministry of Personnel, Public Grievances & Pensions
(Department of Personnel & Training)

New Delhi, the 8th September, 1993
OFFICE MEMORANDUM

Subject:-Reservation for Other Backward Classes in Civil Posts and Services under the Government of India—Regarding.

The undersigned is directed to refer to this Department's O.M. No. 36012/31/90-Estt. (SCT), dated the 13th August, 1990 and 25th September, 1991 regarding reservation for Socially and Educationally Backward Classes in Civil Posts and Services under the Government of India and to say following the Supreme Court judgement in the Indira Sawhney and others Vs. Union of India and others case [Writ Petition (Civil) No. 930 of 1990] the Government of India appointed an Expert Committee to recommend the criteria for exclusion of the socially advanced persons/sections from the benefits of reservations for Other Backward Classes in civil posts and services under the Government of India.

Consequent to the consideration of the Expert Committee's recommendations this Department's Office Memorandum No. 36012/31/90-Estt. (SCT), dated 13.8.90 referred to in para (1) above is hereby modified to provide as follows:

27% (twentyseven percent) of the vacancies in civil posts and services under the Government of India, to be filled through direct recruitment, shall be reserved for the Other Backward Classes. Detailed instructions relating to the procedure to be followed for enforcing reservation will be issued separately.

Candidates belonging to OBCs recruited on the basis of merit in an open competition on the same standards prescribed for the general candidates shall not be adjusted against the reservation quota of 27%.

- (i) The aforesaid reservation shall not apply to persons/sections mentioned in column 3 of the Schedule to this office memorandum.
- (ii) The rule of exclusion will not apply to persons working as artisans or engaged in hereditary occupations, callings. A list of such occupations, callings will be issued separately by the Ministry of Welfare.

The OBCs for the purpose of the aforesaid reservation would comprise, in the first phase, the castes and communities which are common to both the lists in the report of the Mandal Commission and the State Governments' Lists. A list of such castes and communities is being issued separately by the Ministry of Welfare.

The aforesaid reservation shall take immediate effect. However, this will not apply to vacancies where the recruitment process has already been initiated prior to the issue of this order.

Similar instructions in respect of public sector undertakings and financial institutions including sector banks will be issued by the Department of Public Enterprises and by the Ministry of Finance respectively effective from the date of this Office Memorandum.

Sd/-
(Smt. Sarita Prasad)
Joint Secretary to the Government of India.

Ministries/Departments of Government of India.

Department of Public Enterprises, New Delhi : It is requested that the said instructions may be issued in respect of PSUs, Public Sector Banks & Insurance Corporation.

Ministry of Finance (Banking & Insurance Divisions), New Delhi :

IMMEDIATE

No. 36012/22/93-Estt. (SCT)

भारत सरकार

GOVERNMENT OF INDIA

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

MINISTRY OF PERSONNEL PUBLIC GRIEVANCES AND PENSIONS

कार्मिक और प्रशिक्षण विभाग

DEPARTMENT OF PERSONNEL & TRAINING

नई दिल्ली

NEW DELHI

Dated the 15th Nov. 1993

To

The Chief Secretaries of
all the State Governments/Union Territories.

Sub: Reservation for Other Backward Classes — exclusion of Creamy Layer for the purpose of appointment in services and posts under the Government of India — Certificate to be produced by the candidates.

Sir,

I am directed to say that the Government of India has issued instructions on 8.9.93 providing for reservation to Other Backward Classes in the services and posts under the Government of India (A copy of this O.M. is enclosed). The Other Backward Classes for the purpose of the above said reservation would comprise, in the first phase, the castes and communities which are common to both the lists in the report of the Mandal Commission and the State Government's list. A list of such castes and communities was notified in Resolution No. 12011/68/93-BCC(C), dated 10th Sept. 1993 published in the Gazette of India, Extraordinary Part I Section I dated 13.9.93. For the purpose of verification of the castes and communities the Government of India has prescribed a certificate from the following authorities as in the case of SC/ST vide this Department's O.M. No. 36012/22/93-Estt. (SCT), dated 22.10.93 (copy enclosed):

- (a) District Magistrate/Additional District Magistrate/Collector/Deputy Commissioner/Additional Deputy Commissioner/Deputy Collector/Ist Class Stipendary Magistrate/Sub-Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner (not below the rank of Ist Class Stipendary Magistrate).
- (b) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.
- (c) Revenue Officer not below the rank of Tehsildar; and
- (d) Sub-Divisional Officer of the area where the candidate and/or his family normally resides.

2. In the light of the Supreme Court's judgement in the Indira Sawhney case, this Department has specified the persons/section ("Creamy Layer") to whom the benefit of reservation shall not apply vide column 3 of the Schedule to the Department of Personnel and Training O.M.No. 36012/22/93-Estt. (SCT), dated 8.9.93. It has been considered that the same authorities who are notified as competent to certify OBCs status should also be authorised to certify that a candidate does not belong to the "Creamy Layer". It is, therefore, requested that instructions may be issued to the District Authorities under your control to verify and issue the necessary certificate to the candidates regarding his OBCs status as well as exclusion from the "creamy layer". To enable the District Authorities to

No. 36012/1993-Estt (SCT)
Government of India
Ministry of Personnel, PG & Pensions
Department of Personnel & Training

New Delhi, the 22nd October, 1993

OFFICE MEMORANDUM

Subject:—Reservation for Other Backward Classes in Civil Posts and Services under the Government of India—Regarding.

The undersigned is directed to refer to this Department's O.M. of even number dated the 8th September, 1993 on the above subject and to say that in accordance with the Supreme Court Judgement in the Indira Sawhney case, the reservations contemplated in clause 4 of Article 16 should not exceed 50%. For the purpose of applying the rule of 50%, an year should be taken as the unit and not the entire strength of the cadre, service or the unit as the case may be. This position would also apply in the case of carry forward vacancies. Therefore, the Ministries/Departments are requested to ensure that the reservations provided to SC/ST/OBCs put together do not exceed 50% of vacancies arising in an year.

2. In the light of the reservations provided to other backward classes, it is necessary to revise the existing reservation rosters. In respect of direct recruitment on All India basis by open competition where there is a reservation for 15% for SC and 7-1½% for ST, the existing 40 point-roster has been revised into a 200 point-roster as in the model indicated in Annexure-A. The revised roster will come into effect immediately. Vacancies filled on or after 8-9-1993 should be shown in the new roster now prescribed in Annexure-A. The old roster shall be deemed to have been closed from this date. The reservations which had to be carried forward in the previous roster shall now be carried forward to the new roster.

3. There is no change in the existing reservation rosters in so far as promotion is concerned, as there is no reservation for OBCs in promotion.

4. No other relaxation/concession is admissible to OBCs. There is no provision for any relaxed standard to be applied in the case of OBCs.

5. In para 2(d) of this Department's O.M. of even number dated 8th September, 1993, it has been stated that a list of castes and communities for the purpose of the reservation for OBCs is to be issued separately by the Ministry of Welfare. The Ministry of Welfare have since notified the said list vide their Resolution No. 12011/68/93-BCC(C) dated 10th September, 1993 published in the Gazette of India Extraordinary Part I Section I dated 13th September, 1993. For the purpose of verification of the castes/communities the certificate from the following authorities only will be accepted:

- (a) District Magistrate/Additional District Magistrate/Collector/Deputy Commissioner/Additional Deputy Commissioner/Deputy Collector/1st Class Stipendary Magistrate/Sub-Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner (not below the rank of 1st Class Stipendary Magistrate).
- (b) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.
- (c) Revenue Officer not below the rank of Tehsildar; and
- (d) Sub-Divisional Officer of the area where the candidate and/or his family resides.

(Sd)

(M. Venkataraman)

Under Secretary to the Government of India

To

1. All Ministries/Departments of the Government of India.
2. Department of Public Enterprises, New Delhi.
3. Department of Economic Affairs (Banking Division), New Delhi.
4. Department of Economic Affairs (Insurance Division), New Delhi.

SCHEDULE

| 1 | Description of category | To whom rule of exclusion will apply |
|-----|-----------------------------|--|
| 1 | 2 | 3 |
| I. | CONSTITUTIONAL POSTS | <p>Son(s) and daughter(s) of</p> <ul style="list-style-type: none"> (a) President of India; (b) Vice President of India; (c) Judges of the Supreme court and High Courts; (d) Chairman & Members of UPSC the State Public Service Commission, Chief Election Commissioner; Comptroller & Auditor General of India; (e) persons holding Constitutional posts of like nature. |
| II. | SERVICE CATEGORY | <p>Son(s) and daughter(s) of</p> <ul style="list-style-type: none"> (a) parents, both of whom are Class I officers; (b) parents, either of whom is a Class I officer; (c) parents, both of whom are Class I officers, but one of them dies or suffers permanent incapacitation. (d) parents, either of whom is a Class I officer and such parent dies or suffers permanent incapacitation and before death or such incapacitation has been in the benefit of employment in any national Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years. (e) parents, both of whom are class I officers and die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has been in the benefit of employment in any national Organisation like UN, World Bank, etc. for a period of not less than 5 years. <p>Provided that the rule of exclusion shall not apply in the following cases:</p> <ul style="list-style-type: none"> (a) Sons and daughters of parents both of whom or both of whom are Class I officers and such parent(s) die or suffer permanent incapacitation. (b) A lady belonging to OBC category who has got married to a Class-I officer and may herself like to apply for the job. |

examine the claims of the candidates a model format has been devised as in Annexure B. This may be suitably revised if considered necessary. The format of the certificate that may be given by the concerned district authorities may be as in Annexure A.

3. It is also requested that wide publicity may be given to the Ministry of Welfare Resolution No. 12011/68/93-BCC(C), dated 10-9-93 published in the Gazette of India/Extraordinary Part I Section I, dated 13-9-93 containing the list of Backward Castes as well as to DOPT O.M.No. 36012/22/93-Estt. (SCT), dated 8-9-93 which specifies the criteria which will determine the persons who belong to the creamy layer and to whom the reservation shall not apply. This will facilitate the candidates to ascertain their eligibility for reservation. It would also be advisable to appropriately brief the certifying Authorities and to provide them with sufficient number of copies of the above mentioned Gazette Notification and the Deptt. O.M. date 8.9.93 in order to ensure prompt and correct certification.

4. A copy of the orders issued by your Government in this regard may also be endorsed to this Department for information.

Yours faithfully, .

sd/

(Smt. Sarita Prasad).

Joint Secretary to the Government of India.

B. Group B/Class II officers of the Central & State Services (Direct Recruitment)

- Son(s) and daughter(s) of
- (a) parents both of whom are Class II officers.
 - (b) parents of whom only the husband is a Class II officer and he gets into Class I at the age of 40 or earlier.
 - (c) parents, both of whom are Class II officers and one of them dies or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation;
 - (d) parents of whom the husband is a Class I officer (direct recruit or pre-forty promoted) and the wife is a Class II officer and the wife dies; or suffers permanent incapacitation; and
 - (e) parents, of whom the wife is a Class I officer (Direct Recruit or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation

Provided that the rule of exclusion shall not apply in the following cases:

Sons and daughters of

- (a) Parents both of whom are Class II officers and one of them dies or suffers permanent incapacitation.
- (b) Parents, both of whom are Class II officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.

C. Employees in Public Sector Undertakings etc.

The criteria enumerated in A & B above in this Category will apply mutatis mutandi to officers holding equivalent or comparable posts in PSUs, banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and positions under private employment, Pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI below will apply to the officers in these Institutions.

APPLYING FOR APPOINTMENT TO POSTS UNDER THE GOVERNMENT OF INDIA

This is to certify that
son of of village
District/Division in the State
belongs to the Community which is recognised as a backward class under the
Government of India, Ministry of Welfare Resolution No. 12011/68/93-BCC(C), dated 10th Sept.
1993 published in the Gazette of India Extraordinary Part I Section I dated 13th Sept. 1993.
Shriand/or his family ordinarily reside(s) in the District/Division of
the State. This is also to certify that he/she does not belong to the persons/sections
(Creamy Layer) mentioned in column 3 of the Schedule to the Government of India, Department of
Personnel & Training O.M. No. 36012/22/93-Estt. (SCT), dated 8.9.93.

District Magistrate,
Deputy Commissioner etc.

Dated:

Seal

NB : (a) The term 'ordinarily' used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.

(b) Where the certificates are issued by Gazetted Officers of the Union Government or State Governments, they should be in the same form but countersigned by the District Magistrate or Deputy Commissioner. (Certificates issued by Gazetted Officers and attested by District

III. ARMED FORCES INCLUDING PARA-MILITARY FORCES

(Persons holding civil posts are not included)

Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces;

Provided that:—

- (i) if the wife of an Armed Forces Officer is herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel;
- (ii) the service ranks below Colonel of husband and wife shall not be clubbed together;
- (iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No. II in which case the criteria and conditions enumerated therein will apply to her independently.

IV. PROFESSIONAL CLASS AND THOSE ENGAGED IN TRADE AND INDUSTRY

- (I) Persons engaged in profession as a doctor, lawyer, chartered Accountant, Income-Tax Consultant, financial or management consultant, dental surgeon, engineer, architect, computer specialist, film artists and other film professional, author, playwright, sports person, sports professional, media professional or any other vocations of like status.

Criteria specified against Category VI will apply:—

- (II) Persons engaged in trade, business and industry

Criteria specified against Category VI will apply:

Explanation:

- (i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply only on the basis of the husband's income.
- (ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.

Immediate

No. 36012/22/93-Estt. (SCT)

भारत सरकार

GOVERNMENT OF INDIA

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

कार्मिक और प्रशिक्षण विभाग

DEPARTMENT OF PERSONNEL & TRAINING

नई दिल्ली

NEW DELHI

Dated the 15th Nov. 1993

Sub: Reservation for Other Backward Classes in Civil Posts and Services under the Government of India regarding.

The undersigned is directed to refer to paragraph 5 of this Department's O.M. of even number dated 22.10.93 wherein the authorities competent to issue certificate for the purpose of verification of the castes/communities have been indicated for the purpose of giving the benefit of reservation to Other Backward Classes in Civil services and posts under the Government of India. It has now been decided that the same authorities which are notified as competent to certify OBCs status should also be authorised to certify that the candidate in question does not belong to the persons/section (creamy layer) mentioned in column 3 of the Schedule to this Department's O.M. of even number dated 8.9.93. A modal form of certificate to be furnished by the candidates from the authorities mentioned at para 5 of O.M. dated 22.10.93 is enclosed at Annexure A. This certificate may be accepted by the Ministries, Departments etc. for the purpose of giving the benefit of reservation to Other Backward Classes.

(Sd/)

(M. Venkataraman)

Under Secretary to the Government of India

To

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

2. Department of Public Enterprises, New Delhi.

3. Department of Economic Affairs (Banking Division), New Delhi.

4. Department of Economic Affairs (Insurance Division), New Delhi.

5. UPSC, New Delhi with reference to their No. F.22/31/92-E(I)B, dated 3.11.93.

6. SSC, New Delhi with reference to their No. 1/77/90-P&P, dated 1.11.93.

7. Ministry of Welfare, New Delhi (Smt. Manjula Krishnan, Director), New Delhi.

V. PROPERTY OWNERS

A. Agricultural holdings

Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns

(a) only irrigated land which is equal to or more than 85% of the statutory ceiling area, or

(b) both irrigated and unirrigated land, as follows:

The rule of exclusion will apply where the pre-condition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion). If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 80% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disqualification will occur.

(ii) The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.

B. Plantations

(i) Coffee, tea, rubber, etc.

(ii) Mango, citrus, apple plantations etc.

Criteria of income/wealth specified in Category VI below will apply.

Deemed as agricultural holding and hence criteria at A. above under this Category will apply.

C. Vacant land and/or buildings in urban areas or urban agglomerations

Criteria specified in Category VI below will apply.

Explanation: Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.

Son(s) and daughter(s) of

(a) Persons having gross annual income of Rs. 1 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.

VI. INCOME/WEALTH TEST

1. All Ministries/Departments of the Government of India
2. Department of Public Enterprises, New Delhi
3. Department of Economic Affairs (Banking Division), New Delhi
4. Department of Economic Affairs (Insurance Division), New Delhi

Form of Certificate to be produced by Other Backward Classes applying for appointment to posts under the Government of India.

This is to certify that of village.....
son of
District/Division State community
in the belongs to the
which is recognised as a backward class under the Government of India, Ministry of Welfare
Resolution No. 12011/68/93-BCC(C), dated 10th Sept. 1993 published in the Gazette of India
Extraordinary Part I Section I dated 13th Sept. 1993. Shri
and/or his family ordinarily reside(s) in the State
..... District/Division of the

This is also to certify that he/she does not belong to the persons/sections (Creamy Layer) mentioned
in column 3 of the Schedule to the Government of India, Department of personnel & Training O.M.
No. 36012/22/93-Estt. (SCT), dated 8.9.93.

District Magistrate.
Deputy Commissioner etc.

Dated

Seal

NB

- (a) The term 'ordinarily' used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950.
- (b) Where the certificates are issued by Gazetted Officers of the Union Government or State Governments, they should be in the same form but countersigned by the District Magistrate or Deputy Commissioner (Certificates issued by Gazetted Officers and attested by District Magistrate/Deputy Commissioner are not sufficient).

- (b) Persons in Categories I, II, III and V A who are not disentitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.

Explanation:

- (i) Income from salaries or agricultural land shall not be clubbed;
- (ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands, the interregnum may be less.

Explanation: Wherever the expression "permanent incapacitation" occur in this schedule, it shall mean incapacitation which results in putting an officer out of service.