

No. 1/35/2017-RCI/1071544/1

GOVERNMENT OF PUNJAB
DEPARTMENT OF WELFARE OF SCHEDULED CASTES,
BACKWARD CLASSES AND MINORITIES
(Reservation Cell)

To

All the Heads of Departments,
Commissioners of Divisions, Deputy Commissioners in the state
And the Registrar, Punjab & Haryana
High Court, Chandigarh.

Dated: Chandigarh, 25-9-2017

Subject: Reservation policy- Treatment to be given to the candidates belonging to the SC/BC who are selected against unreserved category vacancies on the basis of their merit.

Sir/Madam

I am directed to refer to the subject cited above and to inform that in light of the judgment of Constitutional bench of Hon'ble Supreme Court of India dated 10.02.1995 in Writ Petition (Civil) No. 79 of 1979 titled R.K.Sabharwal and others and State of Punjab and others, Department of Welfare vide No. 3/8/95-RC3/4853 dated 10/07/1995, No. 3/8/95-RC3/5071 dated 14/07/1995 and No. 3/8/95-RC3/5454 dated 08/07/1996 had issued the following guidelines:-

- i) while calculating the percentage of reservation as prescribed in Govt. instructions from time to time, the officials/officers appointed/promoted on seniority-cum-merit basis belonging to reserve categories will be excluded from the number of reserve categories working in the particular cadre.
- ii) The account of vacancies will be maintained in the form of roster as running account as per the existing instructions. However, the operation of roster will stop when the prescribed percentage for the particular reserve category is reached. This percentage is to be worked out by excluding the posts filled by reserve category employees on the basis of seniority-cum-merit. It is clarified that even after the operation of roster stops on achieving the prescribed percentage, the members of reserved category will not be denied promotion on the basis of seniority-cum-merit.
- iii) Thereafter, when there is a vacancy the same will be filled up from amongst the category to which the post belonged in the cadre. This will mean that a post vacated by a reserve category candidates and a post vacated by a general category candidate should be filled from the person belonging to General Category.
- iv) In case there is a change in the cadre strength subsequently the number of posts on the basis of reservation will be recalculated and changed, if any, will be effected by adopting the running roster procedure.
- v) The procedure xxxxxxxxxxxxxxxxxxxxxx passed by the Hon'ble Supreme Court.

2. Regarding the operation of roster, "The Punjab Scheduled Castes and Backward Classes (Reservation in services) Act, 2006" provides as under:-

"4(6) Reservation shall be implemented by reserving vacancies by means of a running roster, as may be prescribed till the percentages of reservation, as specified in sub-sections (2), (3) and (4), are completed."


3. Regarding the selection of reserved category candidate on seniority-cum- merit basis, this department vide letter No. 6/22/2015-RCI / 586521/1 dated 11-9-2015 clarified as under:-

“ਇੱਥੇ ਇਹ ਸਪੱਸ਼ਟ ਕੀਤਾ ਜਾਂਦਾ ਹੈ ਕਿ ਕਿਸੇ ਵੀ ਕੈਟਾਗਰੀ ਦੇ ਕਰਮਚਾਰੀਆਂ/ਅਧਿਕਾਰੀਆਂ ਦੀ ਭਰਤੀ ਦੇ ਸਮੇਂ ਪ੍ਰੀਖਿਆ ਪਰਿਣਾਮ ਦੀ ਕੇਵਲ ਇੱਕ ਮੈਰਿਟ ਲਿਸਟ ਹੀ ਬਣਾਈ ਜਾਣੀ ਚਾਹੀਦੀ ਹੈ ਅਤੇ ਇਸ ਵਿੱਚ ਜੋ ਵੀ ਪ੍ਰੀਖਿਆਰਥੀ ਅਨੁਸੂਚਿਤ ਜਾਤੀਆਂ/ਪੱਛੜੀਆਂ ਸ਼੍ਰੇਣੀਆਂ ਵਰਗੇ ਨਾਲ ਸਬੰਧ ਰੱਖਦੇ ਹੋਣ ਅਤੇ ਤੈਅਸੂਦਾ ਮੈਰਿਟ ਵਿੱਚ ਆ ਜਾਂਦੇ ਹਨ, ਤਾਂ ਉਨ੍ਹਾਂ ਨੂੰ ਜਨਰਲ ਕੈਟੀਗੋਰੀ ਵਜੋਂ ਗਿਣਿਆ ਜਾਣਾ ਹੈ।”


4. Now, the matter has been considered/examined in the light of judgment dated 06.04.2017 of the Hon'ble Supreme Court in Civil Appeal No. 3609 of 2012- Deepa E.V. V/s Union of India and others and the following clarification/instructions are hereby issued for the guidance of all appointing authorities:-

- i) If a candidate belonging to Scheduled Caste/Backward Classes has not availed of any of the special concessions such as in age-limit, marks, physical fitness, etc. in the recruitment process, which are available to the candidates belonging to these categories, except the concession of fees, and he secures more marks than the marks obtained by the last unreserved category candidate who is selected, such a candidate belonging to the Scheduled Caste/Backward Classes shall be counted against the unreserved category vacancies and not the vacancies reserved for the Scheduled Caste/Backward Classes, as the case may be.
- ii) If any SC candidate gets selected against the unreserved category vacancies on the merit without availing of any of the special concessions which are available to the candidates belonging to these categories, except the concession of fees, such a SC candidate will be treated as a SC candidate, as the case may be, for all further services matters, including further promotions, and all the benefits which are admissible to the other SC persons under the various service rules/government instructions shall be admissible to them.
- iii) The SC category candidates who get selected against unreserved category vacancies on the basis of their merit without availing of any of the special concessions which are available to the candidates belonging to these categories, except the concession of fees, will not be counted against the posts reserved for these categories when it comes to the question of determining the total number of posts occupied by the candidates of these categories in the particular post/cadre.

5. All the appointing authorities are requested to ensure compliance of the above mentioned instructions.


Joint Secretary, Welfare

A copy is forwarded to all the Special Chief Secretaries, Additional Chief Secretaries, Financial Commissioners, Principal Secretaries and Administrative Secretaries to the Govt. of Punjab for information and necessary action.


Joint Secretary, Welfare

To

All the Special Chief Secretaries/
Additional Chief Secretaries/Financial Commissioners/
Principal Secretaries and
Administrative Secretaries to the Govt. of Punjab.

I.D. No. 1/35/2017-RCI/ 1071544/2

Dated, Chandigarh, 25/9/2017