

No. 36012/1/2020-Estt. (Res-II)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel and Training
ESTT.(Estt. Reservation-II)

North Block, New Delhi
Dated 26 April, 2023

OFFICE MEMORANDUM

Subject:- Litigation involving reservation in promotion to Persons with Benchmark Disabilities (PwBD)-regarding

The undersigned is directed to say that in pursuance of the Order, dated 28.9.2021 delivered by the Hon'ble Supreme Court of India in the 'Application for Clarification' in the matter of '*Siddaraju vs. State of Karnataka*' in the Civil Appeal No.1567/2017 and in pursuance of the provisions contained in Section 34 of the Rights of Persons with Disabilities Act, 2016, this Department has issued detailed guidelines for providing reservation in promotions to Persons with Benchmark Disabilities (PwBDs) vide O.M. No.36012/1/2020-Estt (Res.-II), dated 17.5.2022. However, before the issuance of the aforesaid O.M., dated 17.5.2022, certain contempt petitions had been filed by some affected parties. In addition, there are certain Orders given by Hon'ble High Courts and Hon'ble Supreme Court of India directing the Government to implement their orders in the matter of reservation in promotion for PwBDs. There may be some other cases also which may have been filed by the affected parties in various Courts before the issuance of the aforementioned O.M., dated 17.5.2022, and some directions might have been issued by different courts which have not been brought to the notice of this Department.

2. It is stated that the judgment/orders given by the Hon'ble Courts are required to be complied with within the time frame given by the Hon'ble Courts. In case, any Department finds any difficulty in implementing the order of the Hon'ble Court, the Department is required to consult the Department of Legal Affairs in the matter and file a suitable affidavit before the Court of Law within time bringing out the difficulties being faced by it in implementing the said order. However, it is not appropriate to neither implement the Order of the Hon'ble Court nor to bring it to the notice of the Hon'ble Court within the time frame indicating the difficulty in implementing the order in such case. In one such case, it has come to the notice of this Department that neither the order of the Hon'ble Court was implemented nor any legal remedy was sought on the said order, which invited the displeasure of the Hon'ble Court.

3. In view of the above, all the Ministries/Departments of the Government of India, including their attached/subordinate offices, CPSEs, autonomous bodies and other organizations are requested to ensure that all such cases, where the Hon'ble Court has given some directions, may be examined for implementation of the same and in case of any difficulty in implementing such orders of the Hon'ble Courts,

appropriate legal remedy may be obtained in consultation with Department of Legal Affairs within the time frame provided by the Hon'ble Court and submit an affidavit before the Hon'ble Court explaining the difficulty in implementing the orders passed by the Hon'ble Court.

4. It is also stated that this Department has issued instructions to all the Ministries/Departments regarding handling of Court cases by them, vide OM No. 28027/1/2016-Estt. A.III, dated 16.03.2016 (copy enclosed). It is reiterated that the Department of Personnel and Training is the nodal Department that formulates policies on service matters and issues instructions on reservation matters from time to time. These instructions are to be followed by the Ministries/Departments of the Central Government scrupulously. All the Court cases filed by employees have to be defended on the basis of the facts available with the Administrative Ministry/Department concerned, keeping in view the instructions issued on the subject by this Department. Attention is also invited to the Cabinet Secretariat's D.O letter, dated 25.02.1994, and 16.06.2016 (copies enclosed), addressed to all the Secretaries to the Government of India, requesting that a common counter reply may be filed in each case, unless otherwise directed by the Court, so that the different Departments do not take divergent positions/individual interpretation in court cases.

5. This issues with the approval of Secretary (P).

Encl. As above.

(Sign of Authority)
Debabrata Das
Under Secretary to the Government of India
011-23040279

To

1. The Secretaries of all the Ministries/Departments of the Govt. of India for ensuring strict compliance of the above instructions.
2. The Secretary, Department of Financial Services, Jeevan Deep Building, Sansad Marg, New Delhi.
3. The Secretary, Department of Public Enterprises, Lodhi Estate, CGO Complex, New Delhi.
4. The Secretary, Railway Board, Ministry of Railways, Rail Bhawan, New Delhi.
5. The Secretary, Union Public Service Commission, Shahjahan Road, New Delhi.
6. The Secretary, Staff Selection Commission (HQ), CGO Complex, Lodhi Road, New Delhi.
7. Office of Comptroller and Auditor General of India, 10, Bahadurshah Zafar Marg, New Delhi.
8. Supreme Court of India/Election Commission of India/ Lok Sabha Secretariat/ Rajya Sabha Secretariat/ Cabinet Secretariat/ Central Vigilance Commission/ President's Secretariat/ Vice President's Secretariat/ Prime Minister's Office/ Niti Ayog

9. Office of Chief Commissioner for Persons with Disabilities (Divyangjan)
5th Floor, NISD Building, Plot No. G-2, Sector-10, Dwarka, New Delhi-110075.
10. The Director, ISTM.

Copy also to: -

1. The Director (AIS), DoPT.
2. The Director (Admn), DoPT.
3. Deputy Secretary (CS-I), DoPT, Lok Nayak Bhavan, New Delhi.
4. Deputy Secretary (CS-II), DoPT, Lok Nayak Bhavan, New Delhi.

[View Annexure \(PDF\)](#)

Annexure - 1