

No. 36012/5/97-Estt.(Res)  
Government of India  
Ministry of Personnel, Public Grievances & Pensions  
(Department of Personnel & Training)  
(Establishment Reservation Section)

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North Block,  
New Delhi, the 29th Aug., 1997.

OFFICE MEMORANDUM

Subject: Modification of instructions to provide that the 50% limit shall apply to current as well as backlog vacancies and discontinuation of the Special Recruitment Drives.

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The undersigned is directed to invite reference to the instructions contained in this Department's O.M. No. 36012/6/88-Estt.(SCT) dated April 25, 1989, according to which, for the purpose of determining the ceiling of 50% on reservation, reservation against the current vacancies and the backlog vacancies are to be treated as two distinct groups. It was also laid down that the instructions, to the effect that not more than 50% of the vacancies could be reserved for SCs/STs, Physically Handicapped etc., would apply only in respect of current vacancies arising in a year and would not apply in case of backlog vacancies reserved for SCs/STs, which would continue to be filled up without any restriction.

2. The Supreme Court in the judgement in the case of Indira Sawhney Vs. Union of India, inter-alia, validated the "carry forward" rule under which reservations are carried forward from year to year. However, while doing so, the Court also directed that the application of this rule, in whatever manner it was operated, should not result in the breach of the 50% rule. In other words, the judgement laid down that the number of vacancies to be filled on the basis of reservation in a year, including carried forward reservation, should in no case exceed the 50% limit. It is, therefore, not possible now to treat the current and the backlog reservation on separate footings in the manner contemplated in this Department's O.M. dated April 25, 1989 mentioned in para 1 above.

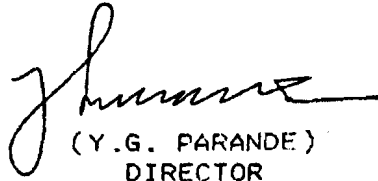
3. In view of the position stated above, for the purpose of applying the rule of 50%, a year has to be taken as the unit and not the entire strength of the cadre, the service or the unit, as the case may be. Thus, not more than 50% vacancies in a year, including the backlog, can be filled on the basis of reservation for SCs/STs/OBCs. In the light of this, henceforth backlog vacancies for the purpose of application of 50% ceiling on reservation shall not be treated as a distinct group, and the instructions contained in the O.M. dated April 25, 1989 may be treated as modified to this extent.

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4. This highlights the need to ensure timely filling up of reserved posts in order to avoid accumulation of backlog. This Department has been issuing instructions from time to time stressing this aspect and laying down the steps to be taken for proper filling up of reserved posts. For instance, instructions contained in this Department's O.M. No. 42/21/49-NGS dated January 28, 1952, O.M. No. 36022/4/76-Estt.(SCT) dated August 7, 1976 and O.M. No. 36034/2/78-Estt.(SCT) dated February 27, 1978 lay down the procedures to be followed in this respect. Similarly, para 2 of the O.M. dated April 25, 1989 requires a second attempt to be made for recruitment if the first attempt to effect recruitment in reserved posts fails. All Ministries/Departments are requested to ensure compliance with these instructions and to make all-out efforts to fill the reserved posts in the same year so that the backlog is minimized.

5. These instructions take immediate effect.

6. All Ministries/Departments are also requested to bring these instructions to the notice of their Attached/Subordinate Offices and Autonomous Bodies/Public Sector Undertakings under their control for compliance.

  
(Y.G. PARANDE)  
DIRECTOR

1. All Ministries/Departments of the Government of India.
2. Union Public Service Commission, Dholpur House, New Delhi.
3. Staff Selection Commission, C.G.O. Complex, Lodi Road, New Delhi.
4. Department of Economic Affairs (Banking Division), New Delhi.
5. Department of Economic Affairs (Insurance Division), New Delhi.
6. Department of Public Enterprises, New Delhi.
7. National Commission for SC & ST, Lok Nayak Bhavan, New Delhi.
8. National Commission for Backward Classes, Trikot-J, Bhikaji-cama-place, R.K. Puram, New Delhi.
9. Ministry of Welfare, Shastri Bhavan, New Delhi.