

No. 20011/1/96-Estt.(D)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi, dated the 30th January, 1997

OFFICE MEMORANDUM

Subject:- Seniority of SC/ST officers promoted earlier vis-à-vis general candidate promoted later.

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According to the general principle 5(i) contained in MHA OM No. 9/11/55-RPS dated 22.12.1959 and para 2.2 in DOPT OM No. 22011/7/86-Estt. (D) dated 3.7.1986 read with DOPT OM No. 20011/5/90-Estt. (D) dated 4.11.1992, (copy enclosed) seniority of a person regularly appointed to a post according to rule would be determined by the order of merit indicated at the time of initial appointment and seniority of persons promoted to various grades shall be determined in the order of selection for such promotion. Thus, persons appointed through an earlier selection will enbloc be senior to those promoted through subsequent selection.

2. The Supreme Court has in its judgment date 10.10.95 in the case of Union of India Vs. Virpal Singh Chauhan etc. (JT 1995(7) SC.231) held as follows:-

“Even if a Scheduled Caste/Scheduled Tribe candidate is promoted earlier by virtue of rule of reservation/roster than his senior general candidate and the senior general candidate is promoted later to the said higher grade, the general candidate regains his seniority over such earlier promoted Scheduled Caste/Scheduled Tribe candidate. The earlier promotion of the Scheduled Caste/Scheduled Tribe candidate in such a situation does not confer upon him seniority over the general candidate even though the general candidate is promoted later to that category.”

3. Having regard to the above judgment of the Supreme Court, it has been decided to modify the existing policy of fixing seniority on promotion on the lines mentioned in para 2 above. Accordingly, it has been decided to add the following proviso to general principle 5(i) contained in MHA (now DOPT) OM No. 9/11/55-RPS dated 22.12.59 and para 2.2 of this Department OM No. 22011/7/86-Estt. (D) dated 3.7.1986 :-

“Provided that if a candidate belonging to the Scheduled Caste or the Scheduled Tribe is promoted to an immediate higher post/grade against a reserved vacancy earlier than his senior general/OBC candidate who is promoted later to the said immediate higher post/grade, the general/OBC candidate will regain his seniority over

such earlier promoted candidate of the Scheduled Caste and the Scheduled Tribe in the immediate higher post/grade.”

4. These orders shall take effect from the date of issue of this Office Memorandum.

Sd/-
(K.K. JHA)
Director(E)

To

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

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1. Comptroller and Auditor General of India.
2. Secretary, Union Public Service Commission.
3. Rajya Sabha Sectt./Lok Sabha Sectt.
4. All State/Union Territory Governments/Administrations
5. All attached/subordinate offices under the DOPT/MHA
6. National Commission for SC/ST, New Delhi.
7. National Commission for OBC, New Delhi.
8. Secretary, Staff Side, National Council (JCM), 9, Ashoka Road, New Delhi.
9. Registrar General, Supreme Court, New Delhi.
10. All Officers/Sections
11. 500 spare copies for Estt. (D).