

GOVERNMENT OF PUDUCHERRY

ABSTRACT

Public Services – Reservation in promotion to Persons with Benchmark Disabilities (PwBDs) – Orders – Communicated.

DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL WING)

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G.O.Ms.No.21

Puducherry, dated 04.03.2024

READ: Office Memorandum No.36012/1/2020-Estt (Res-II) dated 28th December, 2023 of the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel & Training, New Delhi.

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ORDER:-

1. Recorded.
2. A copy of the Office Memorandum read above is forwarded herewith for information and compliance.

/ BY ORDER OF THE LIEUTENANT GOVERNOR /

(V. JAISANKAR)

UNDER SECRETARY TO GOVERNMENT

V. JAISANKAR
4.3.24

Encl. As stated.

To

All Secretariat Departments / Head of Departments / Offices.

Copy to:

1. The Commissioner-cum-Secretaries / All Secretaries to Government, Puducherry.
2. The Secretary to Lieutenant Governor, Puducherry.
3. The OSD to Chief Minister / Home Minister / Public Works Minister / Civil Supplies Minister, Puducherry.
4. The Private Secretary to Chief Minister / Speaker / Sr. P.A. to Deputy Speaker, Puducherry.
5. The Collector, Karaikal; Regional Administrator, Mahe / Yanam.
6. The Director of Social Welfare, Puducherry.
7. The Private Secretary to Chief Secretary, Puducherry.
8. Stock File / G.O. File / C.R.B.

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

North Block, New Delhi,
Dated the 28th December, 2023.

OFFICE MEMORANDUM

Subject: Reservation in promotion to Persons with Benchmark Disabilities (PwBDs) regarding.

The undersigned is directed to say that the Hon'ble Supreme Court, vide its Judgement dated 30.6.2016, in the WP(C) No.521/2008, titled '*Rajeev Kumar Gupta Vs. UOI*', had directed the Government to extend three percent reservation to PWD in all identified posts in Group A and Group B, irrespective of the mode of filling up of such posts. However, subsequently the Hon'ble Supreme Court, vide its Order dated 3.2.2017, in the Civil Appeal No. 1567/2017 titled '*Siddaraju Vs. State of Karnataka & Ors.*' referred to the prohibition made against reservation in promotion as laid down by the majority in *Indra Sawhney & Others v. Union of India & Others* (1992) and observed and held that its Judgement dated 30.6.2016 in *Rajeev Kumar Gupta* needed to be considered by a larger Bench. However, the Hon'ble Supreme Court finally disposed of the *Siddaraju* matter vide its Judgement dated 14.1.2020 and held that its Judgement in *Rajeev Kumar Gupta* would bind the Union and State Governments and it must be strictly followed.

2. However, the Union of India needed some clarification with regard to the implementation of the Hon'ble Supreme Court Judgement dated 30.6.2016 and 14.1.2020, and, therefore, Application for Clarification was filed by the UOI before the Hon'ble Supreme Court seeking clarification which *inter alia* included whether the vacancies for promotion for PwDs would be computed only on the basis of the vacancies against the identified posts or against the vacancies in both identified and non-identified posts and whether the judgement dated 14.1.2020 needs to be implemented on the basis of PwD Act, 1995 or RPWD Act, 2016. Hon'ble Supreme Court disposed of this Application for Clarification vide its Order dated 28.9.2021 directing the Government of India to issue instructions regarding reservation in promotion as provided in Section 34 of the RPWD Act, 2016.

3. Proviso to Section 34 of the RPWD Act, 2016 provides that the reservation in promotion shall be in accordance with such instructions as are issued by the appropriate Government from time to time. Accordingly, DoPT vide its OM of even number dated 17.5.2022 issued detailed instructions for extending the benefit of reservation in promotion to PwDs up to the lowest rung of Group 'A' in posts and services under the