

No.A.48013/86/2022-DP&AR/SS.II(I)
GOVERNMENT OF PUDUCHERRY
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL WING)
.oOo.

Puducherry dated 28.02.2023

I.D. NOTE / OFFICE MEMORANDUM

Sub: Public Services – Procedure to be followed while effecting reservation in promotion – Clarification from Department of Personnel & Training, Govt. of India – Reg.

Ref.: 1. O.M.No.36012/16/2019-Estt.(Res.), dated 12.04.2022 of the Dept. of Personnel & Training, Govt. of India.
2. Letter No.U-13034/95/2022-CPD(Pudu) dated 06.02.2023 of the Ministry of Home Affairs, Govt. of India.

.o.

In the Office Memorandum first cited above, the DoPT, Govt. of India has instructed to ensure that the following conditions are complied with while implementing the policy of reservation in promotion as set out by Hon'ble Supreme Court in Jarnail Singh and Ors. V. Lachhmi Narain Gupta and Ors. (Civil Appeal No. 629 of 2022) case:

- (i) Collection of quantifiable data regarding inadequacy of representation of Scheduled Castes and Scheduled Tribes;
- (ii) Application of this data to each cadre separately; and
- (iii) If a roster exists, the unit for operation of the roster would be the cadre for which the quantifiable data would have to be collected and applied in regard to the filling up of the vacancies in the roster.

2. Following this, the Department of Personnel and Administrative Reforms (Personnel Wing), Puducherry sought for clarification from the Ministry of Home Affairs, Government of India regarding the procedure to be followed while effecting reservation in promotion i.e. whether the SC officials who got promotion on their own merit are to be taken into account to determine the adequacy of representation of SC in a cadre (or) whether the inadequacy of SC in a cadre is to be determined excluding the own merit SC officials and taking into account only those who got promotion as per their quota.

3. Now, the Ministry of Home Affairs has conveyed the clarification given by the DoPT, Government of India which is enclosed herewith for guidance and strict compliance of all the Secretariat Departments / Cadre Controlling Authorities.

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4. It shall be ensured that the recommendations made by DPC held from the date of issue of the O.M. cited above to till date were in accordance with the clarification issued now, and deviations if any may be reviewed and set right immediately. A compliance report shall be sent to this Department.

/ BY ORDER /



(V. JAISANKAR)
UNDER SECRETARY TO GOVERNMENT(PERSONNEL)

Encl: As stated

To

All the Secretariat Departments / Cadre Controlling Authorities.

Copy to:

1. The Commissioner-cum-Secretary to Govt.(Finance) / All Secretaries / Special Secretary to Govt., Puducherry.
2. The Secretary to Lieutenant Governor, Puducherry.
3. The OSD to Chief Minister / Home Minister / PWD Minister, Puducherry.
4. The Private Secretary to all Ministers / Speaker / Sr. P.A. to Deputy Speaker, Puducherry
5. The Collector, Karaikal; The Regional Administrator, Mahe / Yanam.
6. The Private Secretary to Chief Secretary, Puducherry.
7. Spare copy.

No. U-13034/95/2022-CPD(Pudu)
Government of India/Bharat Sarkar
Ministry of Home Affairs/Grih Mantralaya

North Block, New Delhi
Dated the 05 February, 2023

To

The Chief Secretary,
Government of U.T. of Puducherry,
Chief Secretariat, Puducherry.

Subject : Regarding reservation promotions-Procedure to be followed while effecting reservation in promotion-Clarifications on DoPT Om-dated 12.04.2022-requested.

Qain Sir,
Secy (Per)

Please refer to Govt. of UT of Puducherry's letter dated 22.11.2022 and two representations received from Sh. T. Pozhilan, Principal Secretary Viduthalai Situthaigal Katchi Party, Puducherry and Mani. Govindaradjou, General Secretary, Arasu Oozhiyar Aikkiya Peravai, Puducherry State (copy enclosed), on the subject cited above.

2. The matter has been examined in this ministry in consultation with DoPT. Govt. of UT of Puducherry is, therefore, requested to take necessary action in the matter as per DoPT's ID Note No. 36028/3/2022-Estt.(Res-I) dated 27.01.2023 (Copy enclosed).

Yours faithfully,

Prabhat Nigam 05/02/2023
(Prabhat Nigam)

Under Secretary to Govt. of India
Tel No.: 011-23094517

Encls.: As above.

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16.02.2023

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| OFFICE OF THE CHIEF SECRETARY PONDICHERRY | |
| Tapal No. | <i>577/G</i> |
| Received on | <i>09/02/2023</i> |
| Despatched on | <i>10 FEB 2023</i> |

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| C/O. SECRETARY GA/PEAR/Secy (Per) Home/EC&MO/Wg | |
| No. | <i>4057 (Secy) Per 10/2/23</i> |
| Received | <i>10 FEB 2023</i> |
| Despatched | <i>16 FEB 2023</i> |

AUTHORISED FOR ISSUE

R. Kumaravel
R. KUMARAVEL
SUPERINTENDENT (SS-II)
Dept. of Personnel & Administrative Reforms (PW)
CHIEF SECRETARIAT, PUDUCHERRY.

16/2/23

Department of Personnel and Training
Estt.(Res-I) Section

Subject: Regarding reservation promotions-Procedure to be followed while effecting reservation in promotion-Clarifications on DoPT OM dated 12.4.2022- req.

Ministry of Home Affairs may refer to their note dated 15.01.2023, vide which they have forwarded a query of Govt. of Puducherry (GoP) in which GoP has sought clarification with regard to the policy of Own Merit in Promotion.

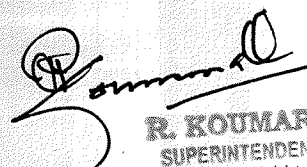
2. The case has been examined and it is stated that the policy of reservation in promotion is still subjudice before the Hon'ble Supreme Court in the SLP No. 30621/2011 titled '*Jarnail Singh & Ors. vs Laxmi Narain Gupta & Ors*'. However, Hon'ble Supreme Court vide its judgment date 28.01.2022 has answered some common issues that were formulated after hearing the parties. In pursuance to this judgment, DoPT, in consultation with Ld. AG, has issued the OM dated 12.04.2022 prescribing the procedure to be followed prior to effecting reservation in promotion by the Departments of the Central Government.

3. With regard to the specific query of GoP, attention is invited to the observations of Hon'ble Supreme Court in para 17 of its judgement dated 28.1.2022, which is relevant to the query. In this para, Hon'ble Supreme Court has referred to the *Sabharwal* judgement in which the issue/point of own merit was one of the matters of dispute. Hon'ble Supreme stated that in *Sabharwal* judgement, it was held, "**...reserved category candidates can compete for non-reserved posts and in the event of their appointment to the said posts, their number cannot be added and taken into consideration for working out the percentage of reservation.**" Accordingly, the Hon'ble Supreme Court, vide its aforesaid judgement dated 28.1.2022 has held, '**The percentage of posts reserved for Backward Classes, as prescribed by the State, has to be strictly followed and cannot be varied or changed simply because some members of the Backward Class have already been appointed/promoted against the general seats.**'

4. However, since the *Jarnail Singh* batch of cases is still pending in the Hon'ble Supreme Court of India, the OM dated 12.04.2022 provides that any promotion order issued shall be subject to further orders that may be passed by the Supreme Court in the said batch of cases. In view of the above, GoP may take further action accordingly.

5. This issues with the approval of Addl. Secretary (Estt.).

// AUTHORIZED FOR ISSUE //



R. KOUMARAVEL
SUPERINTENDENT (SS-II)
Dept. of Personnel & Administrative Reforms (PW)
CHIEF SECRETARIAT, PUDUCHERRY.

(Abhay Kumar)

Under Secretary to the Govt. of India

Under Secretary, UT Division, Ministry of Home Affairs, New Delhi-01

Dept ID Note No. 36028/3/2022-Estt(Res I)
dated 23-01-2023

1 AUTHORIZED FOR ISSUE //



R. KOUMARAVEL
SUPERINTENDENT (SS-II)
Dept. of Personnel & Administrative Reforms (PW)
CHIEF SECRETARIAT, PUDUCHERRY.