



**Welcome
to the Sessions
on
Reservation in Services**

Constitutional Provisions

- **Article 16** – Equality of opportunity in matters of employment
- **Clause (1)** – There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State
- **Clause (2)** – No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them , be ineligible for, or discriminated against in respect of any employment of office under the State

Clause (3) – Nothing in this article shall prevent the State from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union Territory, any requirement as **to residence within that State or Union territory** prior to such employment or appointment

- **Clause (4)** – Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the services under the State

State	Central government, State government, Parliament, state legislatures, all local authorities (Panchayat, Port trust, Cantt., etc.)
Backward Classes	May include SC and ST (held by SC)
Opinion of the State	opinion cannot be mandatory or subject to any limitation of time. State has discretion
Not adequately represented	subjective satisfaction of the government

Two conditions for reservation

- **Backward class**
- **Not adequately represented**

DISCRETION OF THE STATE

INDIRA SAWHNEY VS UOI – (AIR 1993)

- Against the GOI orders dated 13.07.1990 for reservation for OBC at 27 % in promotion
- Supreme Court upheld the reservation for OBC in services
- Reservation in promotion is unconstitutional but allowed to continue for a period of 5 years from 16.11.92

Clause (4-A) – Nothing in this article shall prevent the State from making any provision for **reservation in matters of promotion** [*with consequential seniority*] to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes, which in the opinion of the State are not adequately represented in the services under the State

[77th amendment Act 1995 w.e.f.17//6/1995; 85th Amendment Act 2001 w.e.f. 17//6/1995]

Clause (4-B)- Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or Clause (4-A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty percent reservation on total number of vacancies of that year

(Constitution 81st Amendment Act, 2000 w.e.f. 9/6/2000)

81st Amendment Act

- Clause 16 (4 B) introduced – unfilled vacancies in case of DR and promotion - treated as separate and distinct group
- Will not be considered together with the reserved vacancies of the year in which they are being filled up for determining the ceiling of 50 percent reservation on total number of vacancies of that year

81st Amendment Act.....contd

- The ceiling of 50 percent on filling up reserved vacancies would apply only on the reserved vacancies arising in the current year and the backlog/carried forward reserved vacancies for Scheduled Castes and Scheduled Tribes or OBC of earlier years would be treated as a separate and distinct group and would not be subject to any ceiling.

81st Amendment Act.....contd

- However, backlog/ or carried forward reservation will automatically lapse in a cadre as soon as combined representation of reserved category in direct recruitment as well as promotion is either equal to or more than the prescribed number of reserved posts in the relevant post based rosters

Article 46

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation

Article 335 - Limitation

- The claim of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of appointments to services and posts in connection with affairs of the Union or of the State

S. Vinod Kumar Vs UOI

- Supreme Court held that the provision for lower qualifying marks/lesser levels of evaluation, in the matter of promotion provided for the SC/ST candidates was not permissible in view of the command contained in Art. 335
- GOI withdrew the provisions in compliance of the court orders

Proviso under Art. 335 – 82nd amendment Act 2000

- *Provided that nothing in this article shall prevent in making of any provisions in favour of the members of the scheduled Castes and Schedules Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the affairs of the Union or of a State.*

(w.e.f. 8.9.2000)

In view of above proviso, al relaxations/concession which were withdrawn earlier w.e.f. 22.07.97 were restored w.e.f. 03.10.2000 vide DoPT order No. 36012/23/96-Estt(Res) Vol I dated 3/10/2000

National Commission for SC/ST

- Art. 338 - National Commission for the Scheduled Castes
- Art. 338 A - National Commission for the Scheduled Tribes .
[inserted vide 89th amendment Act -2003 w.e.f. 19.2.2004]
- Chairperson, Vice-Chairperson and other members appointed by the President under his hand and seal.

- investigate all matters relating to safeguards provided under the constitution or any other law
- inquire into specific complaints with respect to deprivation of rights
- Participate and advise on planning process of socio-economic development of SC/ST
- Present the president reports upon the working of safeguards
- Make recommendations for measures to be taken by States/UTs for effective implementation of safeguards
- Discharge other functions specified by the President

- Clause 6- President shall cause the reports of the commission to be laid before each house of the Parliament – along with action taken on the recommendations and reasons for non-acceptance if any
- Clause 8- powers of Civil courts trying a suit.

- Summon and enforce attendance of any person from any part and examine on oath
- Require the discovery and production of any documents
- Receive evidence on affidavits
- Examination of witnesses
- Any matter by rule determined by the President
- every Union/ State Government shall consult the Commission on all major policy matters affecting SCs/STs (clause 9)

Government instructions-

- SC/ST employee can write directly to the Commission without permission from Government
- Min/Deptt to help Commission in study of rosters maintained and implementation of other concessions and report the follow up on such studies
- No power to commission to grant injunctions – only procedural powers of a civil court

Who will make the lists of SCs/STs ?
Who is SC /ST ?

Article 341

- **Clause (1)** – The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the castes, races or tribes or parts of or groups within castes, races or tribes which shall for the purpose of this Constitution be deemed to be Scheduled Castes in relation to that State or Union territory, as the case may be
- **Clause (2)** – Parliament may by law include in or exclude from the list of Scheduled Castes specified in a notification issued under clause (1) any castes, race or tribe or parts of or groups within castes, races or tribes but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification

Article 342

- **Clause (1)** – The President may with respect to any State or Union territory, and where it is a State after consultation with the Governor thereof, by public notification, specify the tribe or tribal communities which shall for the purpose of this Constitution be deemed to be Scheduled Tribes in relation to that State or Union territory, as the case may be
- **Clause (2)** – Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal communities but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification

Why Reservation

- Aims to empower
- Ensuring participation in the decision making process of the State
- Public employment gives a certain status and power, besides the means of livelihood

(Indra Sawhney & Ors Vs UOI & Ors)

Criteria for Schedule Castes and Scheduled Tribes

Scheduled Castes : Extreme social, educational and economic backwardness arising out of the traditional practice of untouchability

Scheduled Tribes : Indications of primitive traits, distinctive culture, geographical isolation, shyness of contact with the community at large and backwardness

Other Backward Classes

- No definition of OBC in the Constitution
- The Second Backward Classes Commission (Mandal Commission) constituted by an order issued by the President of India in 1979 under Article 340 of the Constitution
- Report submitted by the Commission on 31.12.1980
- Eleven indicators/criteria to determine the social and educational backwardness

Identification of OBC

Castes/Classes

Social (3 point for each of the 4 indicators- total 12 points)

- considered as socially backward by others
- mainly depend on manual labour for their livelihood
- at least 25% females and 10% male above the State average get married at and age below 17 years in rural areas and at least 10% females and 5 % males do so in urban areas
- participation of females in work is atleast 25% above the State average

Educational (2 points for each of the three indicators – total 6 points)

- No. of children in the age group 5-15 years who never attended school is atleast 25 % above the State average
- The rate of student drop out in the age group of 5-15 is atleast 25% above the State average
- The proportion of matriculation is at lease 25 % below the State average

Economic (1 point for each of 4 indicators – total 4 points)

- The average value of family assets is atleast 25% below the State average
- The number of families living in kuchha houses is at least 25 % above the state average
- The source of drinking water is beyond half a km for more than 50% of the households
- The number of households, having taken consumption loan in at least 25% above the State average

The community that obtained 11 points out of total 22 was considered as Socially and Educationally backward Class (now known as OBC)

- National Commission for Backward Classes (NCBC) Act in April, 1993
- Section 2 of NCBC Act defines as backward classes of citizens other than the SCs and STs, as may be specified by the Central Government in the lists;
- also defines “lists” as lists prepared by the Central Government for providing reservation in appointments to backward classes of citizens, which are not adequately represented in services
- Ministry of Social Justice and Empowerment has notified the lists of Castes/Communities which are treated as OBC

Caste Certificate for SCs/STs/OBC

- Caste certificate in the prescribed format
- Issued by one of the authorities empowered to issue such certificate
- **Authorities empowered to issue SC/ST certificate**
 - District Magistrate /Additional District Magistrate/Collector/Deputy Commissioner/Additional Deputy Commissioner /Deputy Collector /1st Class Stipendiary Magistrate/Sub-Divisional Magistrate/Taluk Magistrate/Executive Magistrate/Presidency Magistrate
 - Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate
 - Revenue Officer not below the rank of Tehsildar
 - Sub-Divisional Officer of the area where the candidate and/or his/her family normally resides
 - Administrator/Secretary to Administrator/Development Officer (Lakshadweep Islands)

Contents of the Caste Certificate

- Name of the Person
- Father's Name
- Permanent Place of Residence
- Caste/Tribe/Community
- Constitutional Order (for SC/ST)
- GOI Notification No. and date
- Non-Creamy layer(for OBC)
- Should bear sign, designation with Seal, place and date of issue

Form of Caste Certificate for SC/ST

This is to certify that Shri / Shrimathi / Kumari..... Son/daughter ofof village/town.....in the District / Divisionof the State / Union Territory belongs to theCaste/Tribe which is recognized as a Scheduled Caste/Scheduled Tribe under:

2#. This certificate is issued on the basis of the Scheduled Castes/Scheduled Tribes Certificate issued to Shri/Shrimathi.....father/mother in District/Division.....of the State/Union Territory.....Who belong to the Caste/Tribe which is recognised as a Scheduled Castes/Scheduled Tribes in the State/UT.....issued by the, dated....

3. Shri /Shrimathi/ Kumariand/or his/her family ordinarily reside(s) in village/town ofDistrict/Division of the State/Union Territory of

Signature.....

Designation.....
(with seal of the office)

Place.....

State/UT

Date.....

(the term “Ordinarily resides” used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950)

(# the para 2 is applicable only in those cases when the certificate has been issued by the competent authority in the State/UT in which the applicant is residing after migration)

Form of Caste Certificate for OBC

This is to certify thatSon ofof village.....in the District / Divisionin the State belongs to theCommunity which is recognized as Backward Class under:

2. Shriand/or his family ordinarily reside(s) inDistrict/Division of the State. This is also to certify that he/she does not belong to the persons/sections (Creamy Layer) mentioned in Column 3 of the Schedule to the Government of India, Department of Personnel and training O.M. No. 36012/22/93-Estt.(SCT), dated 8.9.1993.

District Magistrate
Deputy Commissioner, etc.

Dated
SEAL

(the term “Ordinarily” used here will have the same meaning as in Section 20 of the Representation of the Peoples Act, 1950)

Verification of Caste Certificate

- The person and parents actually belong to that community
- The community is included in Presidential orders for SC/ST for that State
- The person belongs to that State and the area in respect of which the community has been scheduled
- **SC**- should profess either Hindu or Sikh or converted to Buddhist religion
- **ST** – may profess any religion
- **OBC** – should belong to the castes notified by Govt. and should be in non creamy layer

Effects on the status of SC/ST

- **Marriage** – does not change the status of SC/ST
- **Migration** – SC/ST status only in respect to the State to which originally belongs
- **Adoption** – Adoptee acquires the status of the adopter
- **Conversion** – forfeiture of claim to SC on conversion to religion other than Hinduism, Sikhism, Buddhism; no bar in respect of ST
- **Re-conversion** – deemed to have reverted to original SC, if accepted by the members of that particular caste as one among them

(Government servant to inform about the change of religion)

The background features a dense pattern of light blue water droplets of various sizes. At the top, there is a decorative blue wave graphic with a gradient from light to dark blue.

Scope & Applicability

Scope of Reservation

- The basic objective of providing reservation for SC/ST in civil posts and services is to uplift these people socially and educationally and to provide them a proper place in the society.
- Reservations at the prescribed %ages for SC /ST should invariably be made in all the posts filled through DR or promotion unless any posts are exempted by special or general order issued by DOPT.

Scope of Reservation contd...

- All Posts/Grades belonging to Groups 'A', 'B', & 'C' under the Central Govt.
- Posts of Industrial Workers
- Work-charged posts (except those required for emergencies like flood relief, accident restoration & relief, etc)
- Daily rated staff [not practical to apply reservation; but overall representation not to go below the prescribed percentage]
- Casual workers to regular posts

Scope of Reservation contd...

- **CPSEs:** DPE may arrange issue of suitable directive by Ministry concerned
- **Autonomous bodies & statutory bodies:** Ministry concerned to issue suitable instructions
- **Voluntary agencies:** Pre-condition for receipt of grants to provide reservation if employee >20 employees; and at least 50% of recurring expenditure met from the grants, and the annual grant is > Rs. 2 lakh

Scope of Reservation contd...

- **Scientific & Technical Posts**

- Reservation: Upto & including the lowest rung of Group A
- S & T Group A (above lowest rung) posts exempted if
- Classified as S & T
- Use knowledge for 'conducting', 'organising, guiding & directing' research
- Approval of the adm Minister concerned

Scope of Reservation **contd...**

Scheme of Reservation does not apply to:

- Armed Forces
- Temporary appointments for < 45 days
- Work charged posts for the emergencies like flood relief, accident restoration & relief etc.

- Promotion by selection from a Group A to another Group A post
- Scientific and Technical posts above the lowest rung of Group A
- Deputation/Absorption
- Single post cadres

Applicability

Direct Recruitment	Yes
Promotion	Yes
Deputation	No
Permanent absorption	No
Short term contract	No
Re-employment	No

Reservation in Direct Recruitment

- Direct Recruitment
 - ✓ All-India open Yes
 - ✓ All-India otherwise than open Yes
 - ✓ Regional recruitment Yes

Reservation in Promotion

- 100% by promotion Yes
- Promotion + Direct Recruitment
if DR element does not exceed 75% Yes
- Promotion + Direct Recruitment
if DR element exceeds 75% No
- Limited Departmental Comp Exam Yes
- Non-Selection Yes

Reservation in Promotion

SELECTION

- Within Group C Yes
- From Group C to B & within B Yes
- From Group B to Lowest rung of A Yes
 - Within A up to Rs. 18300 (8700) No Reservation
But Concession
- Within A beyond Rs 18300 No Concession
No Reservation



Percentages of Reservation

Direct Recruitment

Method of Recruitment	SC	ST	OBC
On all India basis by open competition	15%	7.5%	27%
On all India basis otherwise by open competition	16.66%	7.5%	25.84%

In group C posts % of reservation based on the population of SC/ST/OBC in the respective State/UT subject to 50% ceiling

Promotion

Method	SC	ST	OBC
Through LDCE in Group B & C	15%	7.5%	NIL
By selection in Group B & C posts and from Group B to a Group A post	15%	7.5%	NIL
By Non-Selection in Group A, B & C	15%	7.5%	NIL

Reservation in promotion is not given in the grades in which the element of DR, if any, exceeds 75%

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Relaxations and Concessions

Relaxations

- Age Relaxation – 5 Yrs for SC/ST, 3 Yrs for OBC
- Relaxation in Exp. Qual. in DR (to be mentioned in the advertisement/Requisition to the Emp Exch)
- Relaxation of standard of suitability in DR subject to fitness
- If requisite no. of SC/ST/OBC candidates are not available even on relaxed standards to fill reserved vacancies in a non technical post through DR otherwise than by written examination.....best among in service training.....

Relaxations

contd.....

- Relaxation of standards in Departmental Competitive /Qualifying examinations for promotion subject to fitness (For SC, ST and also for OBC?)
- No relaxation in Educational Qualification
- Extent of relaxations in promotion to depend on – (i) no. of reserved vacancies, (ii) performance fo SC/ST candidates vis-à-vis general candidates, (iii) min. standards of fitness, and (iv) the overall strength of the cadre and that of SC/ST in the cadre.

Concessions

[MHA's OM No 1/9/69-Estt (SCT) of 26/03/1970]

- Applicable in promotions within Group A
- To posts carrying an ultimate (maximum) pay scale of Rs 18300
- SC/ST officer senior enough in the zone of consideration for promotion
- So as to be within the number of vacancies to be filled

Concessions

contd....

- Such officers to be included in the Select List provided they are **not unfit** for promotion
- Position in the panel same as determined by DPC on the basis of ACRs
- For promotions to posts **higher than those carrying pay scale of Rs 18300: no reservation; no concession**
- No roster to be maintained
- Besides, concessions of fee and of consideration for apptt on deputation or absorption for SC/ST

Other Reservations

- Persons with Benchmark Disability 4%
- Ex-Servicemen
 - Group D 20%
 - Group C 10%
 - Group A & B (of the level of Assistant Commandant in paramilitary forces 10%)
- Sportspersons [Groups C & D] 5%

RESERVATION FOR PWD

- 4% in Direct Recruitment in Group A, B, & C posts
 - 3% in promotion within Group C posts
(1% each for Persons suffering from blindness or low vision, hearing impairment and locomotor disability or cerebral palsy)
- No reservation in Promotion in Group A & B posts

BENCHMARK DISABILITIES

- **(a) blindness and low vision;**
- **(b) deaf and hard of hearing;**
- **(c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;**
- **(d) autism, intellectual disability, specific learning disability and mental illness;**
- **(e) multiple disabilities from amongst persons under clauses (a) to (d) above including deaf-blindness**

CATEGORIES OF DISABILITIES

- (A)
 - (a) blindness and low vision;
- (B)
 - (b) deaf and hard of hearing;
- (C)
 - (c) locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;

Contd....

CATEGORIES - CONTINUED

- (D)
- (d) autism, intellectual disability, specific learning disability and mental illness;
- (e) multiple disabilities from amongst the persons under clauses (a) to (d) including deaf-blindness;

Identification of Posts

- Lists of jobs identified suitable issued in 2007 (Groupwise)
- List not exhaustive. Additions by other Ministries permissible.
- Exclusion not permissible without approval of nodal deptt.
- A PwD has a right to compete with others for appointment against unreserved vacancies if the post is identified suitable.

Computation of Reservation

For Group A, B & C Posts in DR

To be calculated on total number of vacancies irrespective of whether post is identified suitable or not

For Group C posts in Promotion

To be calculated on total number of vacancies.

Effecting Reservation

- Reservation to PwD horizontal unlike SC/ST
- If vacancies reserved for any category of disability cannot be filled up by that category, it will be treated to have been carried forward as 'Backlog vacancies'.
- In the subsequent year, it will again be reserved for the same category of disability.
- If no suitable person with that disability not available, interchange permissible.

Effecting Reservation

- If post could not be filled up by a person with disability, it may be filled up by a person other than PwD.
- In that case, reservation to be carried forward up to next two recruitment year.
- Reservation will lapse after that.

Relaxation in Age Limit

- 10 years in Group C & D posts
- 5 years in Group A & B posts in recruitment otherwise than through open competition.
- 10 years in Group A & B posts through open competition.

(In addition to relaxation available to SC/ST/OBC)

Relaxation applicable irrespective of post reserved or not.

Concessions

- Provision for relaxed standard
- The fact that post is identified suitable for PwD needs to be intimated to Medical Authorities.
- Exemption from fee

Miscellaneous

- Like for SC/ST, Liaison Officer to be nominated.
- Exemption from reservation can be granted by Inter-Departmental Committee in M/O SJ&E

Inter-locking reservation

- Horizontal reservation cuts across vertical reservation in what is called 'inter-locking' reservation
- Persons selected against reservation for persons with Benchmark Disability (or ex-servicemen or sportspersons) have to be slotted against the appropriate category

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Thank You