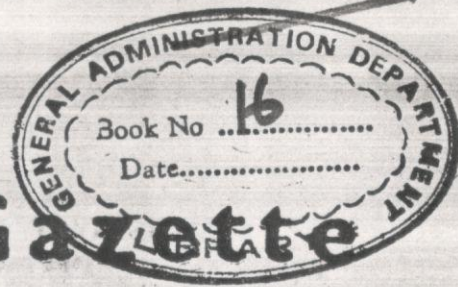


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The Orissa



Gazette



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No. 39734-(e)—2R-1-/27/2000(Pt)-Gen.,
GOVERNMENT OF ORISSA
GENERAL ADMINISTRATION DEPARTMENT

RESOLUTION

The 2nd November 2000

SUBJECT—Fixation of seniority between General, Scheduled Castes and Scheduled Tribes Candidates in the promotional posts in the State Civil Services/Posts.

In view of the pendency of a writ petition before the Hon'ble Orissa High Court arising out of judgement in O.A. No. 1685/1988, the G.A. Department Resolution No. 21260-Gen., dated the 16th June 2000 and subsequent Office Order No. 30083-Gen., dated the 27th July 2000 on the above subject have been carefully reviewed. After such review, the Government have been pleased to decide that the instructions issued in the above cited Resolution and Office Order shall stand modified and the guidelines issued by the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) in their Office Memorandum No. 20011/1/96-Estt. (D), dated the 30th January 1997 and the clarification issued in Office Memorandum on the 21st March 1997 on the above subject will be followed as an interim measure. A copy of the above cited Office Memorandum and clarification issued by the Government of India on it are enclosed for reference.

This has been concurred in by the Law Department in their U.O.R. No. 1588-L., dated the 12th October 2000.

ORDER—Ordered that the Resolution be published in the extraordinary issue of the *Orissa Gazette* and copy forwarded to all Departments of Government/all Heads of Departments/all Collectors/Registrar, Orissa High Court/Registrar, Orissa Administrative Tribunal, Bhubaneswar/Special Secretary, Orissa Public Service Commission/Secretary, Orissa Staff Selection Commission for information.

U. N. BEHERA
Special Secretary to Government

No. 20011—1/96-Esst. (D)

GOVERNMENT OF INDIA

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS
DEPARTMENT OF PERSONNEL & TRAINING

New Delhi the 30th January 1997

OFFICE MEMORANDUM

SUBJECT—Seniority of S. C./S. T. Officers promoted earlier *vis-a-vis* general candidate promoted later.

According to the general principle 5 (i) contained in MHAOM No. 9/11/55-RPS., dated the 22nd December 1959 and Para 2.2 in DOPT OM No. 22011/7/86-Esst. (D), dated the 3rd July 1986 read with DOPT OM No. 20011/5/90-Esst. (D), dated the 4th November 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 judgement dated 10-10-1995 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 the 22nd December 1959 and Para, 2.2 of this Department OM No. 22011/7/86-Esst. (D), dated the 3rd July 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.

K. K. JHA

Director (E)

No. 20011/2/97-Estt. (D)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, P. G. AND PENSIONS
(DEPARTMENT OF PERSONNEL AND TRAINING)

OFFICE MEMORANDUM

New Delhi, the 21st March 1997

SUBJECT—Seniority of S. C./S. T. officers promoted earlier *vis-a-vis* General/O. B. C. officers promoted later—Clarification regarding Office Memorandum, dated 30-1-1997.

The undersigned is directed to refer to the Department of Personnel and Training's Office Memorandum No. 20011/1/96-Estt. (D), dated January 30, 1997 on the above subject and to say that according to Para. 4 therein. The decision contained in the said Office Memorandum is effective from the date of its issue, i. e. January 30, 1997. In this context, it is clarified that the said Office Memorandum does not contemplate revision of any seniority lists prevailing on January 30, 1997, nor does it prohibit promotion of officers (including S. C./S. T. Officers) on the basis of the seniority list prevailing on January 30, 1997. If on the basis of the seniority list prevailing on January 30, 1997 a junior S. C./S. T. officer is promoted to a higher post/grade because of the rule of reservation and his senior General/O. B. C. officer is promoted subsequently to that higher post/grade, the said senior general/O. B. C. officer will regain his original seniority over his earlier promoted S. C./S. T. Officer in the immediate higher post/grade by virtue of this Department's aforesaid Office Memorandum of January 30, 1997.

2. It is also clarified that as at present seniority list prevailing on the crucial date for determining eligibility for promotion (i. e. 1st July if ACRs are written calendar yearwise or 1st October if ACRs written financial yearwise, as the case may be) shall be the basis for further promotion.

3. Hindi version will follow.

K. K. JHA

Director (E)