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GOVERNMENT OF ORISSA

GENERAL ADMINISTRATION DEPARTMENT

RESOLUTION

The 16th June 2000

SUBJECT—Fixation of seniority between General, Scheduled Caste and Scheduled Tribe candidates in the promotional posts in State Civil Services/Posts.

The principle of fixation of seniority of General, Scheduled Caste and Scheduled Tribe candidates in the promotional posts is presently being regulated as per Welfare Department Circular No. 23820-W., dated the 8th August 1997, read with General Administration Department Circular No. 6807-Gen., dated the 13th March 1991. As per the said circular the employees belonging to S. C./S. T. categories are being accorded seniority on the basis of their position in the select list drawn up at the time of promotion. Consequently their seniors belonging to general category in the lower grade, who are promoted later, are being placed below the SC-/ST. candidates promoted earlier at roster point.

2. Recently, a five-Judge bench of the Hon'ble Supreme Court of India in its judgement delivered on the 16th September 1999 in *Ajit Singh and others Vrs. State of Punjab and others* reported in J. T. 1999 (7) S. C.-153, held that the law laid down by the Supreme Court in *Union of India Vrs. Virpal Singh Chouhan* reported in 1995 (6) SCC 684 and *Ajit Singh Januja Vrs. State of Punjab and others* reported in 1996 (2) SCC 715 is the correct law, but not the law laid down in *Jagadishlal and others Vrs. State of Haryana and others* reported in J. T. 1997 (5) SC 387, which must be considered as confined to its own peculiar facts. As per the judgement, dated the 16th September 1999, the roster point promotees (reserved category) cannot count their seniority in the promoted category on the basis of their continuous officiation in the promoted post *vis-a-vis* the general candidates who were senior to them in the lower category and who were promoted later. On the other hand the senior general candidate at the lower level, if he reaches promotional level later, but before the further promotion of the reserved candidate, he will have to be treated as senior, at the promotional level, to the reserved candidate, even if the reserved candidate was earlier promoted to that level.

3. The aforesaid directions of the Hon'ble Supreme Court of India in the above judgement is, *inter alia*, binding on all in view of the provisions contained in article-141 of the Constitution of India. Therefore, the State Government, pending suitable amendment to the relevant Act/rules to conform to the aforesaid decision of the Apex Court have decided that the gradation lists of the different cadres in the State Civil Services/Posts should be revised and the *inter se* seniority of General, Scheduled Castes and Scheduled Tribes candidates should be refixed with effect from the 1st March 1996 by adopting the principles laid down as above by the Supreme Court of India but without causing reversion to the reserved candidates.

4. All the Departments of Government are requested to implement the above decision and issue necessary instructions to all the Heads of Departments and Public Sector undertakings and to other Appointing Authorities under their Administrative control for taking immediate action accordingly.

5. This supersedes the instructions contained in Welfare Department Circular No. 23820/W., dated the 8th August 1997 and General Administration Department Circular No. 6807/Gen., dated the 13th March 1991.

6. This has been concurred in by the Law Department in their U. O. R. No. 1493/L., dated the 5th October 1999.

ORDER—Ordered that the resolution be published in the *Orissa Gazette* and copy forwarded to all Departments of Government/All Heads of Departments/All Collectors/Registrar, Orissa High Court/Registrar, O. A. T./Special Secretary, Orissa Public Service Commission, for information.

By order of the Governor

S. B. AGNIHOTRI

Special Secretary to Government

