

SECTION 1

Post-based Rosters (Effective from 2-7-1997)

COPIES OF ORDERS

(1)

G.I., Dept. of Per. & Trg., O.M. No. 36012/2/96-Estt. (Res.),
dated the 2nd July, 1997

*Subject:—*Reservation roster—post based—Implementation of the Supreme Court Judgment in the case of *R. K. Sabharwal v. State of Punjab*.

The undersigned is directed to say that under the existing instructions, vacancy-based rosters have been prescribed in order to implement the Government's policy relating to reservation of jobs for the Scheduled Castes, the Scheduled Tribes and the Other Backward Classes. The application of reservation on the basis of these rosters was called into question before Courts. The Constitution Bench of the Supreme Court, in the case of *R.K. Sabharwal v. State of Punjab* as well as *J.C. Mallick v. Ministry of Railways* has held that the reservation of jobs for the backward classes SC/ST/OBC should apply to **posts** and not to **vacancies**. **The Court further held that the vacancy-based rosters can operate only till such time as the representation of persons belonging to the reserved categories, in a cadre, reaches the prescribed percentages of reservation.** Thereafter, the rosters cannot operate and vacancies released by retirement, resignation, promotion, etc., of the persons belonging to the general and the reserved categories are to be filled by appointment of persons from the respective category so that the prescribed percentage of reservation is maintained.

2. The Court also held that persons belonging to the reserved categories, who are appointed on the basis of merit — and not on account of reservation — are not to be counted towards the quota meant for reservation.

3. With a view to bringing the policy of reservation in line with the law laid down by the Supreme Court, it has been decided that the existing 200-point, 40-point and 120-point **vacancy-based** rosters shall be replaced by **post-based** rosters. All Ministries/Departments and concerned authorities are requested to prepare the respective rosters based on the principles elaborated in the Explanatory Notes given in Annexure - I to this OM and illustrated in the Model Rosters annexed to this OM as Annexures - II, III and IV. Similarly, the concerned authorities may prepare rosters to replace the existing 100-point rosters in respect of local recruitment to Groups 'C' and 'D' posts on the basis of the same principles.

4. The principles for preparing the rosters elaborated upon in the Explanatory Notes are briefly recapitulated below:—

- (a) Since reservation for OBCs does not apply in promotions, there shall be separate rosters for direct recruitment and for promotions;
- (b) The number of points in the roster shall be equal to the number of posts in the cadre. In case there is any increase or decrease in the cadre strength in future, the rosters shall be expanded/contracted correspondingly;
- (c) Cadre, for the purpose of a roster, shall mean a particular grade and shall comprise the number of posts to be filled by a particular mode of recruitment in terms of the applicable Recruitment Rules. Thus, in a cadre of, say, 200 posts, where the Recruitment Rules prescribe a ratio of 50:50 for direct recruitment and promotion, two rosters — one for direct recruitment and one for promotion (when reservation in promotion applies) — each comprising 100-points shall be drawn up on the lines of the respective model rosters;
- (d) Since reservation does not apply to transfer on deputation/transfer, where the Recruitment Rules prescribe a percentage of posts to be filled by this method, such posts shall be excluded while preparing the rosters;
- (e) In small cadres of up to 13 posts, the method prescribed for preparation of rosters does not permit reservation to be made for all the three categories. In such cases, the Administrative Ministries/Departments may consider grouping of posts in different cadres as prescribed in this Department's O.M. No. 42/21/49-NGS, dated 28-1-1952 and subsequent orders reproduced at Pages 70 to 74 of the Brochure on *Reservation for Scheduled Castes and Scheduled Tribes (Eighth Edition)* and prepare common rosters for such groups. In the event it is not possible to resort to such grouping, the enclosed rosters (Appendices to Annexures-II, III, and V) for cadre strength up to 13 posts may be followed. The principles of operating these rosters are explained in the Explanatory Notes.

5. At the stage of initial operation of a roster, it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses/shortages, if any, in the respective categories in the cadre. This may be done starting from the earliest appointment and making an appropriate remark—“utilized by SC/ST/OBC/Gen.”, as the case may be, against each point in the rosters as explained in the explanatory notes appended to the model rosters. In making these adjustments, appointments of candidates belonging to SCs/STs/OBCs which were made on merit (and not due to reservation) are not to be counted towards reservation so far as direct recruitment is concerned. In other words, they are to be treated as general category appointments.

6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

7. All Ministries/Departments are requested to initiate immediate action to prepare rosters and operate them according to these guidelines.

8. The existing orders on the subject are deemed to have been amended to the extent herein.

9. These orders shall take effect from the date of their issue. However, where selections have already been finalized, they need not be disturbed and the necessary adjustments in such cases may be made in future. In other cases, recruitment may be withheld till the revised rosters are brought into operation and recruitment effected in accordance with these instructions.