

MANIPUR



GAZETTE

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**File No: RESV/1/2021-DP-DP
GOVERNMENT OF MANIPUR
DEPARTMENT OF PERSONNEL AND ADMINISTRATIVE REFORMS
(PERSONNEL DIVISION)**

OFFICE MEMORANDUM

Imphal, the 25th August, 2022

Subject : Reservation in Promotion - Conditions to be complied with, for effecting reservations in promotions by all Departments of the State Government and their subordinate offices, public sector undertakings, State Government Societies/Agencies, statutory bodies, etc.

The Hon'ble Supreme Court in its judgement dated 28.01.2022 in Civil Appeal No. 629 of 2022 {(arising out of SLP (C) No. 30621 of 2011) (Jarnail Singh &Ors -Vs- Lachhmi Narain Gupta & Ors)}, has observed that "the State is not bound to make reservation for SCs and STs in matters of promotion. However, if it wishes to exercise its discretion, the State has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment, in addition to compliance with Article 335 of the Constitution of India."

2. Reference is invited to DP's OM No.9/1/21-Res/DP dated 27.11.2021 on the subject.
3. The State Cabinet has revisited the matter on 21.07.2022 and has decided to adopt/follow a similar exercise as contained in DoPT's OM No.36012/16/2019-Esttt.(Res.) dated 12.04.2022.
4. Based on the State Cabinet decision dated 21.07.2022, it is reiterated that while implementing the Manipur Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1976 and the Manipur Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Rules, 2011, as amended from time to time, the conditions set out by the Hon'ble Supreme Court for the purpose of implementing the policy of reservation in promotions must be satisfied by the State Government.
5. The conditions are as follows:
 - (i) There must be inadequacy of representation of Scheduled Castes (SC) and Scheduled Tribes (ST).
 - (ii) Inadequacy must be determined on the basis of quantifiable data. Collection of information / quantifiable data regarding inadequacy of representation of SCs and STs cannot be with reference to the entire service or 'class'/group' but it should be relatable to the grade/category of posts to which promotion is sought.
 - (iii) 'Cadre' should be the unit for determining inadequacy.
6. All Departments are required to ensure that the above conditions are complied with, before implementing the policy of reservation in promotion and carrying out reservation based thereon.

7. While considering proposals for promotion involving reservation in promotion for SC or ST or both, all Departments are also requested to ensure the following:

- (i) Policy of Reservation in promotion as codified in the Act/Rules applicable to the State of Manipur is for promotion to cadres in Group B, C, D and for promotion from Group B to cadres in lowest rung of Group A.
- (ii) While cadre is generally to be construed as the number of posts in a particular grade, for the purpose of preparation of roster, it shall be comprised of posts required to be filled by a particular mode of recruitment in terms of the applicable recruitment rules. To illustrate, in a cadre comprising 200 posts, where the recruitment rules prescribe a ratio of 50:50 for filling up on the basis of direct recruitment and promotions respectively, the roster for direct recruitment shall have 100 points and that for promotion shall have 100 points – thus making a total of 200.
- (iii) All posts for which a separate roster is maintained will constitute a separate cadre.
- (iv) Inadequacy of representation will be determined with respect to posts within a cadre. Illustrations for guidance are given at the Appendix.
- (v) While complying with the conditions as stipulated above, a clause shall be mentioned in all promotion orders to the effect that “the promotion order shall be subject to further orders that may be passed by the Supreme Court in Jarnail Singh batch of cases”.
- (vi) The **Administrative Secretary concerned** shall ensure that the reservation rosters are maintained as per the instructions/guidelines, laid down in DP's OM No.9/6/2007-SC/ST/OBC/DP(Pt) dated 03.03.2011 and Notification No. 9/1/91-DP(ST/SC) dated 17.05.2011, as amended from time to time.
- (vii) In order to ensure maintenance of efficiency of administration, the DPC shall carefully assess the suitability of the officers/officials, being considered for promotion.
- (viii) The Appointing Authority shall issue the appointment / promotion orders only after satisfying itself that the conditions mentioned above have fully been complied with.

8. The illustrations at Appendix does not apply to those ST/SC officials who did not avail any type of relaxation at the time of initial appointment. However, it will be applicable to those ST/SC officials who have availed the relaxation, even if they are placed higher than UR officials in the Seniority List being considered for the promotion.

9. It is reiterated that conditions laid down by the Hon'ble Supreme Court in its judgement dated 28.01.2022 in the above mentioned cases must be complied with.

10. This OM shall come into effect from the date of publication in the official Gazette of the State Government.

11. All Departments are requested to urgently bring these instructions to the notice of all their attached / subordinate offices as also the public sector undertakings, State Government societies / agencies, statutory bodies, etc. for adherence and strict compliance.

NINGTHOUJAM GEOFFREY,
Special Secretary to the Government of Manipur,
DP & AR (Personnel Division).

Illustrations:

1. Cadre is the unit for considering inadequacy in representation. E.g., the post of UDC in the Directorate of Agriculture is a separate cadre specific to the said Directorate. The unit for operation of the roster would be the Cadre Strength.

2. Scheduled Tribes

2.1 If there are 100 posts in the cadre to be filled up by promotion, then as per Manipur Reservation of Vacancies in Posts and Services (for Schedule Castes and Schedule Tribes) Act, 1976 and the Manipur Reservation of Vacancies in Posts and Services (for Schedule Castes and Schedule Tribes) Rules, 2011, as amended from time to time, 31% of these posts are reserved for promotion for Schedule Tribes. Therefore, 31 posts are reserved for promotion. If, on the basis of roster for these posts, there are less than 31 ST officials in position, then there is inadequacy in representation. Therefore, policy of reservation in promotion for filling up the said posts, upto a total of 31 posts (inclusive of posts already filled up by Schedule Tribes) based on eligibility and other conditions for promotion, will apply.

2.2 If there are 31 or more than 31 Schedule Tribes officials already in the cadre, then there is no inadequacy in representation for Schedule Tribes and the policy of reservation in promotion (expressed through Act/Rules) will not be applicable. That is, the vacancies cannot be filled up by the ST candidates on the basis of the said Act & Rules.

3. Scheduled Castes

3.1 If there are 100 posts in the cadre to be filled up by promotion, then as per Manipur Reservation of Vacancies in Posts and Services (for Schedule Castes and Schedule Tribes) Act, 1976 and the Manipur Reservation of Vacancies in Posts and Services (for Schedule Castes and Schedule Tribes) Rules, 2011, as amended from time to time, 2% of these posts are reserved for promotion for Schedule Castes. Therefore, 2% posts are reserved for promotion. If, on the basis of roster for these posts, there are less than 2 SC officials in position, then there is inadequacy in representation. Therefore, policy of reservation in promotion for filling up the said posts, upto a total of 2 posts (inclusive of posts already filled up by Schedule Castes) based on eligibility and other conditions for promotion, will apply.

3.2 If there are 2 or more than 2 Schedule Castes officials already in the cadre, then there is no inadequacy in representation for Schedule Castes and the policy of reservation in promotion (expressed through act/rules) will not be applicable. That is, the vacancies cannot be filled up by the SC candidates on the basis of the said Act & Rules.