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No. 36012/2/96-Estt. (Res.)
GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PERSONNEL & TRAINING)

North Block,
New Delhi, the 2nd July 1997

Sub. : Reservation roster- Post based- Implementation of the Supreme Court Judgement in the case of R.K. Sabharwal Vs. 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 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 Vs. State of Punjab as well as J.C Mallick Vs. 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 reserved categories 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 the 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 beginning 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 the 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 O.M. and illustrated in the Model Rosters annexed to this O.M. as Annexure - II, III & IV. Similarly, the concerned authorities may prepare rosters to replace the existing 100-point rosters in respect of local recruitment to Group C & 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 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 cadre. In case there is any increase of decrease in the cadre strength in future, the rosters shall be explained/ contracted correspondingly ;