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"I am directed to refer to your letter No. A. 27265/12/23/CS(EC)/95 dated 21.9.1995 on the above subject and to say that according to para 9 of MHA (Now DoPT) OM No. 42/21/49-NGS dt. 23.1.1952, the Central Government instructions apply mutatis mutandis to all Part C States (now UTs) as well. Such UTs have therefore to follow all Central Government instructions.

In view of the above position explained above, Pondicherry being UT, services under the Administration will be open to all the SC/ST irrespective of their State of origin. Further in regard to posts filled on all-India basis through UPSC or SSC on open competition basis, SC/ST candidates irrespective of their state of origin can apply. In regard to the posts filled through SSC, Madras all the SC/ST candidates from the southern region will be eligible to apply.

The Government of Pondicherry circulated the aforesaid letter of Government of India to Secretaries of all Departments and Heads of Departments/Offices vide its G.O. Ms. No. 9 dated 20.10.1995.

16. These documents show that Government of Pondicherry has throughout been proceeding on the basis that being a Union territory, all orders regarding reservation for SC/ST in respect of posts/services under the Central Government are applicable to posts/services under the Pondicherry administration as well. Since all SC/ST candidates which have been recognized as such under the orders issued by the President from time to time irrespective of the State/Union territory, in relation to which particular castes or tribes have been recognized as SCs/STs are eligible for reserved posts/services under the Central Government, they are also eligible for reserved posts/services under the Pondicherry administration. Consequently, all SC/ST

candidates from outside the U.T. of Pondicherry would also be eligible for posts reserved for SC/ST candidates in Pondicherry administration. Therefore, right from the inception, this policy is being consistently followed by the Pondicherry administration whereunder migrant SC/ST candidates are held to be eligible for reserved posts in Pondicherry administration.

17. We do not find anything inherently wrong or any infraction of any constitutional provision in such a policy. The principle enunciated in Marri Chandra Shekhar Rao (supra) cannot have application here as U.T. of Pondicherry is not a State. As shown above, a Union territory is administered by the President through an administrator appointed by him. In the context of Article 246, Union territories are excluded from the ambit of expression "State" occurring therein. This was clearly explained by a Constitution Bench in *T.M. Kannian vs. Income Tax Officer* 1968 (2) SCR 103 (AIR 1968 SC 367). In *New Delhi Municipal Council vs. State of Punjab* 1997(7) SCC 339 the majority has approved the ratio of T.M. Kannian and has held that the Union territories are not States for the purpose of Part XI of the Constitution (para 145). The Tribunal has, therefore, clearly erred in applying the ratio of Marri Chandra Shekhar Rao in setting aside the selection and appointment of migrant SC candidates.

18. The contesting respondents (applicants before the Tribunal, who who challenged the selection) can derive no benefit from the decision in Marri Chandra Shekhar Rao (supra). In this case the writ petitioner Marri Chandra was born in Gouda community in the State of Andhra Pradesh, which is recognized as a Scheduled Tribe in the Presidential Order issued for the said State. For getting admission in a medical college in the State of Maharashtra, he claimed benefit of reservation being an ST. Gouda community was not recognized as Scheduled Tribe in the