

Ref: C.S's minutes at para 70-72/c.

(73)

As per the instructions issued by the Government of India vide their letter No. 1604/1/82-SC and BCD-I dated 6.8.1984 and 22.2.1985 which have been referred in the letter No. 1-13/92-SCT dated 18/31.8.1992 of the GOI, Deptt. of Tele-communication, (May kindly see at portion "X" of Flag 'A') a SC or ST person on migration from the State of his own origin to another State will not lose his status as SC/ST, but will be entitled to the concessions/ benefits admissible to SC/ST from the State of his origin and not from the State where he has migrated. Accordingly STs from another State/UT working in this UT will not be eligible for promotion against the reserved post of STs.

(74)

As per the judgement/Order of the Calcutta High Court passed in FMAT No. 3/96 (Local Born Association-Vs—UOI & Ors.) (Copy of the judgment dated 1st July, 1996 is placed at Flag 'B' for reference), which was confirmed by the Supreme Court vide its Order dated 14.3.1997 (Copy is placed at Flag 'C' for reference), while dismissing the SLP and Review Petition filed by the Union of India, according to which the benefit of reservation meant for SCs / STs is to be restricted to only such castes/tribes as have been notified in respect of Union Territory of Andaman and Nicobar Islands. The above judgment stand overruled by the Supreme Court Judgment dated 11.2.05 in Civil Appeal No. 6-7 of 1998 in S. Puspa & Ors. -Vs- Sivachandmungalvelu & Ors. of Pondichery (Copy is placed at Flag "D" as has been categorically observed by the Ministry of Home Affairs in consultation with the Ministry of Law & Justice (Deptt. of Legal Affairs) GOI vide letter No. U-13034/127/2005-ANL dated 27.9.2005 of Director (ANL), GOI, MHA (copy is placed at Flag 'E').

(75)

As mentioned in the above letter of Ministry of Home Affairs, the SLP and Review Petition filed by the Union of India against the Order dated 1.7.1996 of the High Court of Calcutta in FMAT No. 3/96 were dismissed by a two judges bench, which is not a law declared by Supreme Court under Article 141 of the Constitution, whereas the decision in S. Puspa case is of 3 judges bench and is law declared by the Supreme Court under article 141 of the Constitution. Therefore, the law declared by the Supreme Court in its Judgment dated 11.2.2005 is equally applicable to all UTs including the A&N Islands.

(76)

However, the Supreme Court in S. Puspa case which has been invoked by the petitioner (Ranchi Association) to claim employment for the migrant STs of other States against the reserved posts/ services in the A&N Administration, has upheld the policy of Govt. of Pondichery, i.e. "The UT of Pondichery having adopted a Policy of Central Govt. whereunder all SCs or STs irrespective of their State are eligible for posts which are reserved for SC/ST candidates, no legal infirmity can be ascribed to such a policy and the same cannot be held to be contrary to any provision of law".