

No.4201 I/22/2006-Estt.(Res)

Ministry of Personnel, P.G & Pensions

Department of Personnel & Training

Government of India

New Delhi, Dated: the 29th March, 2007OFFICE MEMORANDUM

Subject: Action against Government servants who get appointment on the basis of false SC/ST/OBC certificates.

Respondent no.1 in Civil Appeal No. 2294/1986 [State of Maharashtra Vs Milind & Ors] before the Supreme Court had got admission as a Scheduled Tribe candidate to MBBS degree course for the year 1985-86 on the strength of a Scheduled Tribe Certificate issued to him by the competent authority. The Supreme Court held him not to belong to a Scheduled Tribe but did not annul his admission or affected his degree. The Hon'ble Court observed that about 15 years had passed since he took admission and had already completed the course. At that length of time it was for nobody's benefit to annul his admission inasmuch as any action against the candidate might lead to depriving the society of the service of a doctor on whom public money had already been spent. The Court in that case also held that the admissions and appointments that had become final would remain unaffected by the judgement.

2. A question has been raised whether in view of the above referred judgement, the appointments made against the vacancies reserved for SCs/STs/OBCs on the basis of false SC/ST/OBC certificates shall not be disturbed if such appointments have been made final or are continuing for a long time.

3. The matter has been examined in consultation with the Department of Legal Affairs and it has been found that admissions and appointments of some candidates in the case of Milind and in some other similar cases were not annulled by the Supreme Court as a special case keeping in view the special circumstances of those cases. The relief accorded by the Supreme Court was specific relief provided only to the candidates who were party in those cases. The cases other than those protected by the specific order of the Apex Court should be dealt with in