GOVERNMENT OF GOA
DIRECTORATE OF SOCIAL WELFARE
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No. 3(3-2022-23-EPwD/Reservation|1737 Date: 14/05/2022

OFFICE MEMORANDUM

A copy of the under mentioned O. M. No.36012/1/2020- Estt.(Res.-II) dated 17/05/2022 issued by Government of India, Ministry of Personnel, Public Grievances and Pensions Department of Personnel and Training, North Block, New Delhi is forwarded for strict compliance by all the Heads of Government Departments/ Offices, Public Sector undertaking and Autonomous bodies.

(Siddhivinayak Naik)
Director of Social Welfare
Ex-officio/Jt. Secretary (SW)

To,
All the Heads of the Departments / Offices.

No.36012/1/2020- Estt.(Res.-II)

Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi.
Dated, the 17 May, 2022.

OFFICE MEMORANDUM

Subject: -Reservation in promotion to Persons with Benchmark Disabilities (PwBDs).

The undersigned is directed to say that the matter regarding reservation in promotion for Persons with Benchmark Disabilities

(PwBDs) had been under litigation before various courts of law for quite some time, and the Hon'ble Supreme Court, in its order, dated 28.9.2021, delivered in the *'Application for Clarification'* in the matter of *'Siddaraju vs. State of Karnataka'*, Civil Appeal No.1567/2017, directed the Government to issue instructions on 'Reservation in Promotion', as provided in Section 34 of the Rights of Persons with Disabilities Act, 2016.

1.2 Accordingly, the following instructions are issued for grant of reservation in promotion to PwBDs, in the posts and services of the Central Government, as defined under Section 2(r) of the said Act, notified by the Department of Empowerment of Persons with Disabilities (DEPwD).

2. QUANTUM OF RESERVATION

2.1 In case of promotion, four per cent of the total number of vacancies in the cadre strength within Group 'C', from Group 'C' to Group 'B', within Group 'B' and from Group 'B' to the lowest rung of Group 'A' shall be reserved for PwBDs. Reservation in promotion shall be applicable in the cadres in which the element of direct recruitment, if any, does not exceed 75%.

2.2 Against the posts identified for each disability, one per cent each shall be reserved for PwBDs under clauses (a), (b) and (c), respectively, and one per cent combined, under clauses (d) and (e) below, unless otherwise excluded under the provisions of Para 3 hereinunder: -

a. blindness and low vision;
b. deaf and hard of hearing;
c. locomotor disability including cerebral palsy, leprosy cured, dwarfism, acid attack victims and muscular dystrophy;
d. autism, intellectual disability, specific learning disability and mental illness;
e. multiple disabilities from amongst persons under clauses (a) to (d) including deaf-blindness.

2.3 The authenticity of any certificate, issued by the competent medical authority, may be got verified/ re-verified by the appointing authority at the time of appointment.

3. EXEMPTION FROM RESERVATION IN PROMOTION

3.1 Proviso to Section 20(1) of the Right of Persons with Disabilities Act, 2016, states that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, exempt any establishment from the provisions of this Section.

3.2 Accordingly, if any Ministry/ Department in the Central Government considers it necessary to exempt any establishment or any cadre or cadres fully or partly from the provisions of reservation in promotion for PwBDs, it shall make a reference to the DEPwD, giving full justification for the proposal. The DEPwD, having regard to the type of work carried out in any Government establishment, by notification, and subject to such condition, if any, as may be specified in the notification, in consultation with the Chief Commissioner for Persons with Disabilities (CCPD), may exempt any Establishment or any cadre(s), fully or partly, from the provisions of reservation for PwBDs. While doing so, Notes 1 to 9 under the Notification No.38-16/2020-DD.II, dated the 4th January, 2021, issued and as modified from time to time by the DEPwD, may kindly be kept in view.

4. NO DENIAL OF PROMOTION MERELY ON THE GROUND OF DISABILITY

4.1 In terms of Section 20(3) of the Rights of Persons with Disabilities Act, 2016, no promotion shall be denied to a person merely on the ground of disability. Further, in terms of Section 20(4) of the Act, no Government establishment shall dispense with or reduce in rank an employee who acquires a disability during his/her service. As per the proviso to this sub-section, if an employee, after acquiring disability is not suitable for the post he was holding, shall be shifted to some other post with the same pay scale and service benefits. This section further provides that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier. However, in case the PwBDs for whom the supernumerary

post was created is eligible for next promotion to higher pay level, and it is not possible to adjust the employee against any post, a fresh creation of supernumerary post in next higher level will be required by surrendering the previously created supernumerary post at the lower level, and the proposal for the same may be submitted to the Department of Expenditure.

4.2 An employee who acquires disability, after entering into service, will be entitled to get the benefit of reservation in promotion as a PwBD. However, his seniority among PwBDs will be counted from the date of certification of his/her disability, i.e., disability of 40% or more in the categories covered under Section 34(1) of the Rights of Persons with Disabilities Act, 2016.

4.3 No benefit of reservation shall be given on the basis of temporary certificate of disability.

5. IDENTIFICATION OF POSTS:

5.1 The DEPwD has already identified posts suitable for being held by PwBDs and the physical requirement for all such posts, have been notified, vide their Notification No. 38-16/2020-DD-III, dated the 4th January, 2021. The posts mentioned in Annexure- C of the said notification (to be read in conjunction with Notes 1 to 9 mentioned under the main Notification, dated 4th January, 2021) shall be used by the Cadre Controlling Authorities to give effect to reservation in promotion to the PwBDs.

6. RESERVATION IN POSTS IDENTIFIED FOR ONE OR TWO CATEGORIES

6.1 If in a Ministry/Department/Organization, a post is identified suitable only for one category of disability, reservation in promotion in that post shall be given to persons with that category of benchmark disability only. However, reservation of 4% for PwBDs shall not be reduced in such cases and total reservation in the cadre will be given to PwBDs for which it has been identified. Likewise, in case the post is identified suitable for two categories

of disabilities, reservation shall be distributed between persons with those categories of disabilities equally, as far as possible. It shall, however, be ensured that reservation in different posts in the establishment is distributed in such a way that the PwBDs, as far as possible, get equal/fair representation. The points used in the 100-point Roster after a gap of 25 points shall be used to give reservation. In other words, it will be given only at the points reserved for PwBDs, and not in a bunched manner.

7. ADJUSTMENT OF PwBD CANDIDATES WHO ARE IN THE ZONE OF CONSIDERATION AGAINST GENERAL VACANCY

7.1 In case of promotions by seniority-cum-fitness, if a PwBD is otherwise eligible and is in the list of candidates finally approved for promotion, he/she may be promoted against the vacancy not specifically reserved for PwBD. In other words, a PwBD cannot be denied promotion on the ground that the vacancy is not earmarked for his category.

7.2 In the case of promotion by selection, PwBDs selected without relaxed standards, along with other candidates, will not be adjusted against the reserved share of vacancies. The reserved vacancies will be filled up separately from amongst the eligible candidates with benchmark disabilities who are lower in merit than the last candidate in merit list but, otherwise found suitable for appointment, if necessary, by relaxed standards.

8. RELAXATION OF STANDARD OF SUITABILITY:

8.1 If sufficient number of PwBD candidates with benchmark disabilities are not available on the basis of prescribed standard to fill all the vacancies (in case of promotion through Limited Departmental Competitive Examination/ Departmental Examination, etc.) reserved for them, candidates belonging to this category may be selected on relaxed standard to fill up the remaining vacancies reserved for them, provided they are not found unfit for such post or posts. However, this provision shall not be used to allow any relaxation in the eligibility criteria laid down for the issuance of certificate of benchmark disability.

8.2 The same relaxed standard should be applied for all the PwBD candidates with benchmark disabilities, irrespective of whether they belong to the Unreserved/ SC/ ST/ OBC category. No further relaxation of standards will be considered or admissible in favour of my candidate from any category whatsoever.

9. COMPUTATION OF NUMBER OF VACANCIES TO BE RESERVED

9.1 Number of vacancies in a recruitment year to be reserved for PwBDs in Group 'C', Group 'B' and Group 'A', wherever reservation in promotion for PwBD is applicable, shall be computed as 4% of the total number of vacancies in the cadre strength, although the PwBDs would be posted against the category of posts identified as suitable for them.

10. EFFECTING RESERVATION – MAINTENANCE OF ROSTERS

10.1 Every Government establishment shall maintain, cadre- wise and group-wise, a separate 100-point vacancy-based reservation roster/register, as in the case of direct recruitment, for determining/effecting reservation for the PwBDs in promotion. There will be separate roster / register, in each cadre in Group 'C', Group 'B' and Group 'A', wherever reservation in promotion for PwBD is applicable. There shall be separate roster/register for promotion and direct recruitment.

10.2 Each register shall have cycles of 100 points and each cycle of 100 points shall be divided into four blocks, comprising the following points:

1st Block - Point No. 01 to point No. 25
2nd Block - Point No. 26 to point No. 50
3rd Block - Point No. 51 to point No. 75
4th Block — Point No. 76 to point No.100

10.3 Points 1, 26, 51 and 76 of the roster shall be earmarked for PwBDs - one point each for category under (a), (b), (c) of Para 2.2 above, respectively, and one point for category (d) and (e) conjointly. The Head of the establishment shall ensure that vacancies identified at Sl.No.1, 26, 51 and 76 are earmarked for

the respective categories of the PwBD. However, the Head of the Department shall decide the placement of the selected candidate in the roster/register. In other words, thecategory to be appointed first will be decided by the Head of the Department based on the functional requirement.

10.4 All the vacancies in each recruitment year in a grade, arising irrespective of vacancies reserved for PwBDs, shall be entered in the relevant roster. If the vacancy falling at point no.1 is not identified for the PwBD, or if the Head of the Department feels that it is not possible to fill up that post by the PwBDs for any other reason, to be recorded in writing, one of the vacancies falling at any of the points from 2 to 25 shall be treated as reserved for the PwBD and filled, as such.

10.5 Likewise, one vacancy out of the total vacancies falling at points from 26 to 50 or from 51 to 75 or from 76 to 100 shall have to be filled by the PwBDs. The purpose of keeping points 1, 26, 51 and 76 as reserved is to fill up the first available suitable vacancy by the PwBD candidate of the category for which the post is earmarked.

10.6 There is a possibility that none of the vacancies from 1 to 25 is found suitable for any category of the PwBD. In that case, two vacancies from 26 to 50 shall be filled from amongst the PwBDs. If the vacancies from 26 to 50 are also not suitable for any category, three vacancies in the third block 51 to 75 shall be filled as reserved. This means that if no vacancy can be reserved in a particular block, it shall be carried over to the next block.

10.7 After all the 100 points of the roster are covered, a fresh cycle of 100 points shall start.

10.8 If the number of vacancies in a year is such as to cover only one block (say 25 vacancies, including PwBD quota, if any) or two (say 50 vacancies, including the quota, if any), the category of the PwBDs should be accommodated as per the roster points. However, in case, the said vacancy is not identified for the respective category of disability, the Head of the Department shall decide the category on the basis of the nature of the post, the level of representation of the specific category in the grade/post concerned, etc.

11. CERTIFICATE BY REQUISTIONING/ CADRE CONTROLLING AUTHORITY WHILE SENDING APPLICATION FOR SELECTION BY PROMOTIONS/ DEPARTMENTAL EXAMINATION INCLUDING LIMITED COMPETITIVE DEPARTMENTAL EXAMINATION:

11.1 In order to ensure proper implementation of the provisions of reservation for PwBDs, the requisitioning/ cadre controlling authority, while sending the requisition/ proposal to the recruiting agency/ DPC, as the case may be, for filling up of vacancies through promotion by selection/ Departmental Examination/ Limited Competitive Departmental Examination, shall furnish the following certificate to the recruiting agency/ DPC: -

"It is certified that the requirements of the THE RIGHTS OF PERSONS WITH DISABILITIES ACT, 2016 which has become effective from 19th day of April, 2017 and Rules made thereupon, vide Rights of Persons with Disbilities Rules, 2017, and the policy relating to reservation for persons with benchmark disabilities has been taken care of while sending this requisition/ proposal. The vacancies reported in this requisition/ proposal fall at points no..... of cycle no..... of 100-point reservation roster out of which ..... number of vacancies are reserved for persons with benchmark disabilities."

12. NOTICE OF VACANCIES FOR ROMOTION BY SELECTION

12.1 In order to ensure that PwBDs get a fair opportunity in consideration for appointment against an identified post, the following points shall be kept in view while sending the requisition notice/proposal to the recruiting agencies (SSC, UPSC etc.) and DPCs-

(i) Number of vacancies reserved for SCs, STs and each category of PwBDs should be indicated clearly.

(ii) In respect of vacancies in posts identified suitable for being held by PwBD, it shall be indicated that the post is identified for that respective category of PwBDs from amongst the categories, as mentioned in (a) to (e) of Para2.2 above, as the case may be. Functional classification for performing the duties attached to such post(s), shall also be indicated clearly.

(iii) The PwBDs belonging to the category/ categories for which the post is identified shall be allowed to apply for the post advertised for being filled up by Limited Departmental Competitive Examination, even if no vacancy is reserved for them. However, they will not be allowed any relaxed standard. Such PwBD candidates will be considered for selection for appointment to the post by general standards of merit.

(iv) It shall also be indicated that persons with valid certificate of benchmark disability shall alone be eligible for the benefit of reservation. However, no benefit of reservation shall be given on the basis of temporary certificate of disability.

13. ZONE OF CONSIDERATION, INTERSE EXCHANGE AND CARRY FORWARD OF RESERVATION IN CASE OF PROMOTION

13.1 While filling up the reserved vacancies by promotion by selection, those PwBD candidates who are within the normal zone of consideration, shall be considered for promotion. However, if adequate number of PwBD candidates of the respective category are not available within the normal zone, the zone of consideration may be extended to five times the number of vacancies and the PwBD candidate falling within the extended zone may be considered for promotion. In the event of non- availability of candidates even in the extended zone, the vacancy shall not be filled and be carried forward to the subsequent year. In the subsequent year, if a PwBD of the required category is not available, the reservation can be exchanged with the other categories, so that post can be filled by a person with other category of disability, if possible. If a PwBD candidate of other category is within the zone of consideration and within the number of vacancies available, he cannot be denied promotion on the grounds of disability. If it is not possible to fill up the post by reservation even in the 2nd year, the post may be filled by a person other than a PwBD, and the reservation shall be carried forward for two subsequent recruitment years, whereafter it shall lapse.

13.2 While filling up vacancies by promotion by non-selection, the eligible candidates with benchmark disabilities within the normal zone of consideration shall be considered for promotion

against the reserved vacancies. In case no eligible candidate of the respective category of disability is available in the normal zone of consideration, additional PwBD candidates of respective category to the extent required shall be considered by going down the seniority list, provided they are eligible, and that the post is identified for them. In the event of non-availability of PwBD candidates for promotion even in the extended zone, the vacancy shall not be filled and shall be carried forward. In the subsequent years if PwBD of respective category is not available, the same can be exchanged with other categories of disabilities identified for it. If it is not possible to fill up the vacancy by reservation even by exchange, the reservation shall be carried forward for two subsequent recruitment years, where-after it shall lapse.

13.3 In order to ensure that cases of lapse of reservation are kept to the minimum, any recruitment of the PwBD candidates shall first be counted against the vacant posts brought forward from previous years, if any, in the chronological order. If candidates are not available for all the vacancies, the older carried-forward posts shall be filled first, and the current vacancies shall be carried forward, if not filled up, provided that in every recruitment, the number of vacancies reserved for PwBD, including the carried forward vacancies, shall be announced beforehand, for the information of all aspirants.

14. HORIZONTALITY OF RESERVATION FOR PERSONS WITH BENCHMARK DISABILITIES

14.1 Reservation for backward classes of Citizens (SCs, STs and OBCs) is called 'vertical' reservation and the reservation for categories such as PwBDs and ex-servicemen is called 'horizontal' reservation. Horizontal reservation cuts across vertical reservation (in what is called interlocking reservation) and persons selected/promoted against the quota for PwBDs have to be placed in the appropriate category viz. SC/ ST/ OBC/ Unreserved, depending upon the category to which they belong in the roster meant for reservation of SCs/ STs/ OBCs. To illustrate, if in a given year, there are two vacancies reserved for the PwBDs, and out of two PwBDs promoted, one belongs to Scheduled Caste and the other belongs to Unreserved, the SC candidate with benchmark disability shall be adjusted against the SC point in the reservation roster and the Unreserved candidate

with benchmark disability against the unreserved point in the relevant roster. In case none of the vacancies falls on point reserved for the SCs, the candidate under benchmark disability belonging to SC shall be adjusted in future against the next available vacancy reserved for SC.

14.2 Since the PwBDs have to be placed in the appropriate category, viz. SC/ ST/ OBC/ Unreserved in the roster meant for reservation of SCs/ STs/OBCs, the application form (in respect of Departmental examination for promotion) for the post should require the candidates applying under the quota reserved for PwBDs to indicate whether they belong to SC/ ST/ OBC or unreserved.

15. ANNUAL REPORTS REGARDING REPRESENTATION OF PERSONS WITH BENCHMARK DISABILITIES

15.1 The Ministries/Departments shall continue to upload data on promotion of PwBDs, along with data on representation/ direct recruitment of PwBDs in respect of posts/ services under the Central Government on the URL i.e. **www.rrcps.nic.in**, as on 1st January of every year. All Ministries/Departments have been provided respective user code and password with guidelines for operating the URL.

16. LIAISON OFFICER FOR PERSONS WITH BENCHMARK DISABILITIES:

16.1 Liaison Officers appointed to look after reservation matters for SCs/ STs shall also work as Liaison Officers for reservation matters relating to PwBDs and shall ensure compliance of instructions, as contained in DoPT OM No.43011/ 153/2010-Estt (Res), dated 4.1.2013.

17. MAINTENANCE OF REGISTER OF COMPLAINTS BY THE GOVERNMENT ESTABLISHMENT

17.1 Every Government establishment shall appoint a senior officer of the Department as the Grievance Redressal Officer.

17.2 The Grievance Redressal Officer shall maintain a register of complaints of Persons with Benchmark Disabilities with the following particulars, namely: -

(a) date of complaint;

(b) name of complainant;

(c) the name of the establishment or person against whom the complaint is made;

(d) gist of the complaint;

(e) date of disposal by the Grievance Redressal Officer; and any other information.

17.3 Any person aggrieved with any matter relating to discrimination in promotion, may file a complaint with the Grievance Redressal Officer of the respective Government establishment.

17.4 Every complaint filed, shall be inquired into within two months of its registration, and outcome thereof or action taken thereon, shall be communicated to the complainant / PwBD.

18. All the Ministries/Departments are requested to bring the above instructions to the notice of all appointing authorities under their control.

(S. P. Pant)
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