

GOVERNMENT OF ORISSA  
ST & SC DEVELOPMENT DEPARTMENT

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No. 11704 /SSD., Bhubaneswar, Dated. 20/3/08  
EMP-I-A-70/2006  
From

Shri B.Mishra, I.A.S.,  
Addl. Secretary to Govt.

To  
The Principal Secretary to Govt.  
Home Department.

Sir,


In continuation of this Department clarification dated 19-5-2007 in Home Deptt. File No. CC(T)-2/2007, the undersigned is directed to say that Supreme Court in the case of M.Nagraj & Others, has observed that :

**“In the case of Article 16(4B) of the Constitution following the judgment in R.K.Sabharwal, the concept of post-based roster is introduced. Consequently, specific slots for OBC, SC and ST as well as General candidate have to be maintained in the roster. For want of candidate in a particular category the post may remain unfilled. Nonetheless, that slot has to be filled only by the specified category.”**

In view of the above observation by the Supreme Court, ST & SC Development Deptt. has clarified that no dereservation is allowed in initial appointment.

However, due to exigencies of the situation and for the sake of administrative necessity, the Administrative Deptt. may de-reserve posts meant for SC/ST candidates in case of promotion, where there is no eligible SC/ST candidates in the feeder grade, after following Section-7 of the ORV Act and Rule 5 of the ORV Rules framed there under. While doing so, the Administrative Department may take action against the appointing authority for violating reservation provisions while filling up the feeder cadre, wherever lapses have been committed. Section 12A & 12B of the ORV act need to be invoked in the matters of appointment in violation of the reservation provisions

Yours faithfully,

  
o/c Addl. Secretary to Govt.

NOTE SHEET

ST & SC DEVELOPMENT DEPARTMENT

1. As per the principles enunciated by the Hon'ble Supreme Court in the case of M. Nagaraj and others - Vrs. - Union of India and others, post based roster is to be maintained instead of vacancy based roster.


2. The total cadre strength of a post will be taken as a unit in the operation of the roster in order to ascertain whether a given class/group is adequately represented in the service.

3. In the event of non-availability of a candidate of particular category, the post may be kept vacant, but there would not be any exchange between SC/ST and de reservation of vacancies.

4. The candidates belonging to reserved category can compete for posts meant for UR/general category. In case their success against the post meant for U. R. category, their number will not be included for specifying the quota limit fixed for that category.

Taking the cadre strength as a whole, of Suppl level II all the five vacancies should be filled up by ST candidates

(Extract taken from ST & SC Dev. Deptt. file No. EMP-I-A-43/07.)

  
19/5/2007  
ADDL. SECRETARY TO GOVT.