

E2-E3 MANAGEMENT

CHAPTER 24

RESERVATION POLICY

Reservational Policy

Important Constitutional provisions

Article 15: Right to Equality:

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.-

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to-

(a) access to shops, public restaurants, hotels and places of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public.

(3) Nothing in this article shall prevent the State from making any special provision for women and children and making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

Article 16: Equality of opportunity in matters of public employment:

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory] prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the

reservation of appointments/promotions/provisions for filled vacancies of posts in favour of any backward class of citizens under the State.

Article 46- Special care for educational and economic interests of weaker section, in particular SC and STs. Also protect them from social injustice and all forms of exploitation

Article 335: Claims of Scheduled Castes and Scheduled Tribes to services and posts – The claims of the members of the Scheduled Castes and Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the marking of appointments to services and posts in connection with the affairs of the Union or a State. [82nd Amendment in 2000: Provided that nothing in this Article shall prevent in marking of any provision in favour of the members of the Scheduled Castes and Scheduled Tribes for relaxation in qualifying marks in any examination or lowering the standards of evaluation, for reservation in matters of promotion to any class or classes of services or posts in connection with the Union or a State.]

Appointment of two separate commissions as per Articles 338 and 338a of the constitution of India

(1) Scheduled castes and (2) scheduled tribes union

SUMMARY

1. National Commission for Scheduled Castes constituted on 24-2-2004 and notified on 25-2-2004 as under:

One Chair Person, One Vice Chair Person and Three Members.

2. National Commission for Scheduled Tribes constituted on 28-2-2004 and notified on 31-3-2004 as under

One Chair Person, One Vice Chair Person and Three Members.

3. Tenure of Office: 3 years

4. Status

- | | | |
|-------|------------------|---|
| (i) | Chairperson | Rank of Cabinet Minister |
| (ii) | Vice Chairperson | Rank of Minister of State |
| (iii) | Members | Rank of Secretary to the Govt. of India |

RELAXATION/CONCESSIONS FOR SC/ST/OBC

		SC/ST	OBC
1.	Upper Age Limit	5 Years	3 years
2.	TA to attend Interview Test	Reimbursable- By 2 nd Class- Shortest Route- To and Fro- from nearest Railway Station to place of Interview/test	Not applicable
3.	Application Fee	Fully Exempted	No exemption
4.	Examination Fee	Fully Exempted	No exemption
5.	Experience/Qualification for Direct Recruitment	Relaxable at the discretion of Competent Authority	Not relaxable
6.	Standard of suitability	Relaxable	Relaxable
7.	Rule of Exclusion (Creamy Layer)	Not applicable	Applicable
8.	Reservation in Promotion	Applicable	Not applicable
9.	Candidates coming on merit in Direct Recruitment	Not to be adjusted against reservation quota	Not to be adjusted against reservation
10.	Liaison Officer	Separate for SC/ST	Separate for OBC

N.B.

1. Reservation for SC/ST/OBC put together not to exceed 50% of vacancies in a year.
2. Reservation for SC/ST/OBC put together not to exceed 50% of the cadre.

Post Based Roster

The reservation of jobs for the backward classes SC/ST/OBC should apply to posts and not to vacancies. The court further held that the vacancy based rosters can operate only till such time as the representation of persons belonging to the reserved categories, in a cadre, reaches the prescribed percentages of reservation. Thereafter, the rosters cannot operate & vacancies released by retirement, resignation, promotion, etc., of the persons belonging to the general and the reserved categories are to be filled by appointment of persons from the respective category so that the prescribed percentage of reservation is maintained.

2. The persons belonging to the reserved categories who are appointed on the basis of merit- and not on account of reservation are not to be counted towards the quota meant for

reservation.

3. With a view to streamline the implementation of reservation in line with policy, it has been decided that the existing 200-point, 40-point & 120-point vacancy -based rosters shall be replaced with post-based rosters.

4. The principles for preparing the rosters elaborated upon in the Explanatory Notes are briefly recapitulated below:-

(a) Since reservation for OBCs does not apply in promotions, there shall be separate rosters for direct recruitment and for promotions;

(b) The number of points in the rosters shall be equal to the number of posts in the cadre. In case there is any increase or decrease in the cadre strength in future, the rosters shall be expanded/contracted correspondingly;

(c) Cadre for the purpose of a roster, shall mean a particular mode of recruitment in terms of the applicable Recruitment Rules. Thus, in a cadre of, say, 200 posts, where the Recruitment Rules Prescribe a ratio of 50:50 for direct recruitment and promotion, two rosters – one for direct recruitment and one for promotion (when reservation in promotion applies)- each comprising 100-points shall be drawn up on the lines of the respective model rosters;

(d) Since reservation does not apply to transfer on deputation/transfer, Where the Recruitment Rules prescribe a percentage of posts to be filled by this method, such posts shall be excluded while preparing the rosters;

5. At the stage of initial operation of a roster, it will be necessary to adjust the existing appointments in the rosters. This will also help in identifying the excesses/shortages, if any, in the respective categories in the cadre. This may be done starting from the earliest appointment and making an appropriate remark-“ utilized by SC/ST/OBC/Gen.” as the case may be, against each model rosters. In making these adjustments of candidates belonging to SCs/SsT/OBCs that were made on merit (& not due to reservation) are not to be counted towards reservation so far as direct recruitment is concerned. In other words, they are to be treated as general category appointments.

6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

7. All Ministries/Departments have been requested to initiate immediate action to prepare and operate them according to these guidelines.

8. The existing orders on the subject are deemed to have been amended to the extent herein. While above orders took effect from the date of its issue, however, necessary adjustments in cases where selections have already been finalized were allowed to be made in future. In other cases, recruitment is to be withheld till the revised rosters are brought into operation and recruitment effected in accordance with these instructions.

Sample Questions

1. What is the constitution of National Commission for Scheduled Castes ?
2. What is the constitution of National Commission for Scheduled Tribes ?
3. Explain Post Based Roster
4. Reservation does not apply to transfer on deputation/transfer (T/F)
5. The number of points in the rosters shall be equal to the number of posts in the cadre (T/F)