

No. 22/59/2020-1GS-III
Government of Haryana
General Administration Department
General Services-III Branch

Dated Chandigarh, the 22th December, 2021

To

1. All the Administrative Secretaries to Government, Haryana.
2. All Heads of Departments in the State of Haryana.
3. All the Managing Directors/Chief Administrators of Boards/Corporations/Public Sector Undertakings in Haryana.

Subject: Grant of reservation in promotion to the Persons with Benchmark Disabilities under the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act, 1995.

Sir/ Madam,

I am directed to invite your attention to the subject cited above and to say that State Government has formulated a draft policy regarding grant of reservation in promotion to the PwDs under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

2. The State Government has considered the matter and it has been desired to invite suggestions from all the stakeholders well as from the Administrative Secretaries of all the departments before taking final decision. A copy of draft PwD policy is enclosed herewith.

3. You are requested to send your comments on the draft policy at E-mail ID generalservices003@gmail.com latest by 10th January, 2022 please.

Yours faithfully,

Tilak Ram

Superintendent, General Services-III
for Chief Secretary to Government Haryana.

Endst. No. 22/59/2020-IGSI

Dated, Chandigarh, the 22nd, 2021

A copy is forwarded to the following for information and necessary action.

1. Secretary, Haryana Public Service Commission, Panchkula
2. Secretary, Haryana Staff Selection Commission, Panchkula
3. The commissioner for Persons with Disabilities, Old Antyodaya Bhawan, in Front of Command Hospital, Panchkula, Haryana

Tilak Ram

Superintendent, General Services-III
for Chief Secretary to Government Haryana.

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3. All the Managing Directors/Chief Administrators of Boards/ Corporations/Public Sector Undertakings in Haryana.
4. The Registrar General of Punjab & Haryana High Court, Chandigarh.
5. All the Divisional Commissioners in the State of Haryana.
6. All the Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.
7. The Registrars of all the Universities of the state of Haryana.

Subject: Grant of reservation in promotion to the Persons with Benchmark Disabilities under the Persons with Disabilities (Equal opportunities, protection of right and full participation) Act, 1995.

Sir/ Madam,

I am directed to invite your attention on the subject cited above and to say that to issue consolidated instructions in supersession of all the instructions issued vide No. 22/10/2013-1GS-III, dated 17/19.04.2017, No. 22/10/2013-1GS-III, dated 11.08.2017, No. 22/10/2013-1GS-III, dated 15.12.2017, No. 22/10/2013-1GS-III, dated 23.01.2018 and No. 22/10/2013-1GS-III, dated 15.05.2018.

I. APPLICABILITY: This instruction relates to Persons with Disabilities (Equal Opportunities, Protection of Rights and Full participation) Act, 1995. This Act came into effect on 07.02.1996 and repealed on 27.12.2016, therefore, these instructions apply to the PwD employees who covered under the PwD Act, 1995 for the period from 01.01.1996 to 26.12.2016.

Note: On 27.12.2016 the Rights of Persons with Disabilities Act, 2016 came into effect.

II. - QUANTUM OF RESERVATION

Three percent horizontal reservation in case of promotion to Group A, B, C and D posts shall be made for persons with benchmark disabilities. Out of this one per cent each for persons suffering from: -

- (i) blindness or low vision.
- (ii) hearing impairment; and
- (iii) locomotor disability or cerebral palsy.

in the posts identified for each disability. Horizontal reservation @ 3% shall be computed on the basis of total number of vacancies occurring in all Groups, i.e. Group A,B, C & D, to be filled by promotion in the establishment.

(In GoI, benefit has been allowed to Group C & D only)

III. EXEMPTION FROM RESERVATION:

If any Department considers it necessary to exempt any post/cadre partly or fully from the provision of reservation for persons with disabilities, it may make a reference to the Department of Social Justice and Empowerment, Haryana giving full justification for the

proposal. The grant of exemption shall be considered by a Committee set up by the Department of Social Justice and Empowerment, Haryana, constituted vide their notification No. 611/SW(4)2011, dated 03.08.2011.

(On Central Pattern)

IV. IDENTIFICATION OF JOBS/POSTS:

(i) In respect of identification of posts suitable for persons with disabilities in Groups A, B,C & D, the State Government has adopted the list circulated by *Ministry of Social Justice & Empowerment (Department of Disability Affairs), Government of India, New Delhi vide their Notification No. 16-15/2010-DDIII dated 29th July, 2013*. The adoption of such 'list' was conveyed vide notification bearing No.130-SW(4)/2017, dated 3rd February, 2017 of Social Justice & Empowerment Department, Haryana.

(ii) The 'list' of posts is not an exhaustive list. The Departments, Public Sector Undertakings and the Autonomous Bodies can further supplement the list.

(iii) If a post is already held by a person with disability, it shall be deemed to have been identified.

(iv) The nomenclature used in the 'list' includes any other nomenclature used for comparable posts with functions identical to the posts identified in the said notification.

(drawn from SJEM Deptt. Hr.)

V. RESERVATION IN POSTS IDENTIFIED FOR ONE OR TWO DISABILITY CATEGORIES:

If a post is identified suitable only for one category of disability, reservation in that post shall be given to persons with that disability only. Reservation of 3% shall not be reduced in such cases and total reservation in the post will be given to persons suffering from the disability 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, alternatively. It shall, however, be ensured that reservation in different posts in the establishment is distributed in such a way that the persons of three categories of disabilities, as far as possible, get equal representation.

(On Central Pattern)

VI. APPOINTMENT AGAINST UNRESERVED VACANCIES:

A person with disability cannot be denied the right to appointment by promotion on seniority-cum-merit basis against an unreserved vacancy. Hence a person with disability can be appointed on his turn against an unreserved vacancy also, provided the type of post is identified suitable for persons with disability of the relevant disability category.

(On Central Pattern)

VII. DEFINITIONS OF DISABILITIES:

Definitions of categories of disabilities for the purpose of these instructions are given below:

(1) (a) Blindness: "Blindness" refers to a condition where a person suffers from any of the following conditions, namely:-

- (i) total absence of sight; or
- (ii) visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses; or
- (iii) limitation of the field of vision subtending an angle of 20 degree or worse;

(b) Low vision:

"Person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device.

(2) Hearing Impairment:

"Hearing Impairment" means loss of sixty decibels or more in the better ear in the conversational range of frequencies.

(3)(a) Locomotor disability: "Locomotor disability" means disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy.

(b) Cerebral Palsy: "Cerebral Palsy" means a group of non- progressive conditions of a person characterised by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, peri-natal or infant period of development.

(c) All the cases of orthopaedically handicapped persons would be covered under the category of "locomotor disability or cerebral.

(On Central Pattern)

VIII. DEGREE OF DISABILITY FOR RESERVATION:

Only such persons would be eligible for reservation in promotion who suffer from not less than 40 per cent of relevant disability. A person who wants to avail the benefit of reservation would have to submit a Disability Certificate issued by a competent authority in the prescribed format.

(On Central Pattern)

IX. COMPETENT MEDICAL AUTHORITY TO ISSUE DISABILITY CERTIFICATE:

The competent medical authority to issue Disability Certificate shall be a Medical Board duly constituted by the State Government. The State Government may constitute Medical Board(s) consisting of at least three members out of which at least one shall be a specialist in the particular field for assessing locomotor / cerebral/visual / hearing disability, as the case may be. The Medical Board shall, after due examination, give a permanent disability certificate in cases of such permanent disabilities where there are no chances of variation in the degree of disability. The Medical Board shall indicate the period of validity of the certificate, in cases where there are chances of variation in the degree of disability. No refusal of disability certificate shall be made unless an opportunity is given to the applicant of being heard. On representation by the applicant, the Medical Board may review its decision having regard to all the facts and circumstances of the case and pass such orders in the matter as it thinks fit. At the time of promotion against a vacancy reserved for persons with disability, the appointing authority shall ensure that the person is eligible to get the benefit of reservation.

X. COMPUTATION OF RESERVATION:

Horizontal reservation @ 3% for the persons with disabilities shall be computed on the basis of total number of vacancies occurring in all Groups (i.e. Group A, B, C & D) to be filled by promotion in the establishment. All vacancies in promotion quota shall be taken into account while computing reservation in promotion. Since reservation in promotion is limited to identified posts only and number of vacancies reserved is computed on the basis of total vacancies (in identified posts as well as unidentified posts), it is possible that number of persons appointed by reservation in an identified post may exceed 3 per cent.

(Based on Central pattern except for Group A & B)

XI. EFFECTING RESERVATION - MAINTENANCE OF ROSTERS:

(i) All establishments shall maintain separate 100 point reservation roster registers for determining / effecting reservation for the disabled persons. There shall be separate register each for Group 'A', 'B', 'C' and 'D' posts filled by promotion.

(ii) Each register shall have cycles of 100 points and each cycle of 100 points shall be divided into three blocks, comprising the following points:

1st Block -point No.1 to point No.33

2nd Block -point No.34 to point No.66

3rd Block -point No.67 to point No.100

(iii) Points 1, 34 and 67 of the roster shall be earmarked reserved for persons with disabilities - one point for each of the three categories of disabilities. The Appointing Authority shall decide the categories of disabilities for which the points 1, 34 and 67 is to be reserved keeping in view all relevant facts.

(iv) All the vacancies of promotion quota arising in a cadre shall be entered in the relevant roster register. If the post falling at point no.1 is not identified for the disabled person or the Appointing Authority considers it desirable not to fill it up by a disabled person or it is not possible to fill up that post by the disabled person for any other reason, one of the vacancies falling at any of the points from 2 to 33 shall be treated as reserved for the disabled person and filled as such. Likewise a vacancy falling at any of the points from 34 to 66 or from 67 to 100 shall be filled by the disabled. The purpose of keeping points 1, 34 and 67 as reserved is to fill up the first available suitable vacancy from 1 to 33, first available suitable vacancy from 34 to 66 and first available suitable vacancy from 67 to 100 by persons with disabilities subject to eligibility.

(v) There is a possibility that none of the vacancies from 1 to 33 is suitable for any category of the disabled. In that case two vacancies from 34 to 66 shall be filled/treated as reserved for persons with disabilities. If the vacancies from 34 to 66 are also not suitable for any category, three vacancies shall be filled/treated as reserved from the third block containing points from 67 to 100. This means that if no vacancy can be reserved in a particular block, it shall be carried over into the next block. After all the 100 points of the roster are covered, a fresh cycle of 100 points shall start.

(vi) If the number of vacancies in a year is such as to cover only one block or two, discretion as to which category of the disabled person should be accommodated first shall vest in

the Appointing Authority, who shall decide on the basis of the nature of the post, the level of representation of the specific disabled category in the concerned cadre/post etc.

(On Central pattern except Group A & B)

(Note : No benefit of reservation in promotion has been granted in Group A & B posts by GoI in spite of Supreme Court directions. However, benefit of reservation in direct recruitment has been given to all groups by GoI)

XII. CREATION OF SUPERNUMERARY POST:

(i) **Retired employees:** Where the benefit of reservation is to be granted to a Government employee of benchmark disability who has retired from service during the period 01.01.1996 till 26.12.2016. First of all his name will be considered for promotion admissible under these instructions for deemed date of promotion from 01.01.1996 onwards, thereafter, for next one promotion if admissible. he will be considered for deemed date promotion for the immediate post next to the post actually last held by him only, if otherwise eligible, and not for further promotional post(s) in the hierarchy. For this purpose, a supernumerary post for the limited period, if necessary, will be got created with the approval of Finance Department.

(ii) **Serving employees:** To grant the benefit of reservation in promotion to the Government employees of benchmark disabilities who are in service, the junior most may be reverted, if necessary, after following due procedure.

For example, Mr. X, a disabled employee, retired from service as Assistant after 25 years' service on this post. He is to be granted the benefit of reservation in promotion. As per service rules, the next promotional post(s) in the hierarchy are Deputy Superintendent, Superintendent, Administrative Officer and so on. His name will be considered for a promotional post next to Assistant, i.e. for the post of Deputy Superintendent only and not for Superintendent and Administrative Officer and so on.

(Newly inserted by GAD to clarify the point raised by Departments)

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

(a) Against the posts of promotion to be filled by non-selection method, i.e. on seniority-cum-merit basis, the eligible persons with disabilities shall be considered for promotion against the reserved vacancies and in case no eligible employee of the appropriate category of disability is available, the vacancy can be exchanged with other categories of disabilities identified for it. If it is not possible to fill up the post by reservation even by exchange, the post to be filled up by reservation shall be carried forward for a period upto three subsequent recruitment years whereafter it shall lapse.

(b) Where the promotional posts are filled by selection method, i.e. on merit basis, the disabled employees who are within the normal zone of consideration shall be considered for promotion. Where adequate number of disabled employees of the appropriate category of disability are not available within the normal zone, the zone of consideration may be extended to five times the number of vacancies and the persons with disabilities falling within the extended zone may be considered. In the event of non-availability of candidates even in the extended zone, the reservation can be exchanged so that post can be filled by a person with other category of

disability, if possible. If it is not possible to fill up the post by reservation, the post may be filled by a person other than a person with disability and the reservation shall be carried forward for a period upto three subsequent recruitment years, where after it shall lapse.

(On Central Pattern)

XIV. HORIZONTALITY OF RESERVATION FOR PERSONS WITH DISABILITIES:

(a) Reservation for Scheduled Castes and Backward Classes is called vertical reservation and the reservation for categories such as persons with disabilities and ex-servicemen is called horizontal reservation. Horizontal reservation cuts across vertical reservation (which is called inter-locking reservation) and persons selected against the quota for persons with disabilities have to be placed in the appropriate category viz.SC/BC/Unreserved category employees depending upon the category to which they belong in the roster meant for reservation of SCs/BCs.

(b) To illustrate, if in a given year there are two vacancies reserved for the persons with disabilities and out of two persons with disabilities appointed, one belongs to a Scheduled Caste and the other to Unreserved (general) category then the disabled SC candidate shall be adjusted against the SC point in the reservation roster and the Unreserved (general) candidate against unreserved point in the relevant reservation roster. In case none of the vacancies falls on point reserved for the SCs, the disabled candidate belonging to SC shall be adjusted in future against the next available vacancy reserved for SCs.

(c) Since the persons with disabilities have to be placed in the appropriate category viz. SC/BC/ Unreserved in the roster meant for reservation of SCs/BCs, the application form for the post should require the candidates applying under the quota reserved for persons with disabilities to indicate whether they belong to SC/BC or Unreserved category.

(On Central Pattern)

XV. BENEFIT OF RESERVATION TO THE EMPLOYEES WHO GET DISABLED IN SERVICE:

The PwD Act does not make any distinction between persons acquiring disability before or after entering into service. A Government employee who acquires disability after entering into service will be equally entitled to get the benefit of reservation as provided to the disabled employees at the time of entry into service, with effect from the date he produces a certificate of disability to the Appointing Authority issued by the competent medical authority.

(a) To grant the benefit of reservation in promotion to persons of benchmark disabilities who acquire any disability in service, the junior most employee, if necessary, may be reverted after following due procedure subject to the condition that disabled person of specific category has not already been promoted in the block.

(b) If a person of benchmark disability is promoted on higher post (which is a roster point based vacancy), the original seniority for promotion on his normal line of hierarchy shall remain intact. Meaning thereby the original seniority of a disabled employee shall not be disturbed even if he has been promoted from feeder to higher post by virtue of availability of vacant roster point reserved for Persons with Disabilities. He shall also be entitled to pay and allowances of promotional post like other employees of the cadre.

(c) Further promotion of disabled employee to the higher post shall again be subject to availability of roster based vacancy and that he otherwise, fulfills the minimum experience, eligibility qualification/criteria on his feeder post.

(c) The disabled persons given accelerated promotion under reservation quota shall neither be entitled to consequential seniority nor they would have any right for treating their claim for deemed/notional promotion with effect from the date of availability of vacant roster point under PwD quota.

(New inserted by GAD to clarify the point raised by Departments)

XVI. NO BENEFIT OF STEPPING UP OF PAY TO OTHER EMPLOYEES:

Where the benefit of promotion under these instructions has been granted to a person with disabilities who was junior to others in the seniority list, no benefit of stepping up of pay or pay scale shall be admissible to others who were senior to him in the feeder post. However, as per their original seniority on the feeder post, when such senior employee is promoted on the higher post upon which his junior (as per original seniority) has already got promotion from PwD quota, then the pay and allowances of such senior employee shall be fixed at par with that of disabled employee.

4. These instructions may please be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Superintendent, General Services-III
for Chief Secretary to Government Haryana.

Endst No. 22/59/2020-1GS-III

Dated, Chandigarh, the

A copy of each is forwarded to the following for information and necessary action:-

1. Secretary, Haryana Public Service Commission, Panchkula.
2. Secretary, Haryana Staff Selection Commission, Panchkula.
3. Commissioner for Persons with Disabilities, Social Justice and Empowerment Department, Haryana, Laxmi Bhawan, Room No. 101&102, Shree Mata Mansa Devi Pooja Sathal, Panchkula.

Superintendent, General Services-III
for Chief Secretary to Government Haryana.

