

No. 22/73/92-3GS-II

From

The Chief Secretary to Govt., Haryana.

To

1. All Heads of the Departments,  
Commissioners' Ambala, Rohtak, Gurgaon and Hisar Divisions, All Deputy Commissioners & Sub Divisional Officers (Civil) in Haryana State.
2. The Registrar,  
Punjab and Haryana High Court,  
Chandigarh.

Dated Chandigarh, the 10th January, 1997.

**Subject :—** Reservation of posts for Scheduled Castes, Backward Classes and Ex-servicemen under the services of Haryana State.

Sir,

I am directed to invite your attention to Haryana Government letter No. 38/20/78-2GS-I, dated the 9th February, 1979, and all other instructions issued to this effect from time to time and to say that the said instructions does not envisage that the employees belonging to Scheduled Castes and backward classes categories who are promoted to the higher posts in the cadre earlier by virtue of the reservation policy, should be given the seniority on the higher post over and above their seniors in the feeder cadre. But it has come to the notice of the Government that in practice the employees belonging to Scheduled Castes and backward classes categories on their promotion to the next higher posts in the cadre by applying the rule of reservation get accelerated seniority over their seniors in the feeder cadre.

2. The Hon'ble Supreme Court in its judgement dated 1-3-1996 in Ajit Singh Januja Vs. State of Punjab and others has specifically held as under :—

"We respectfully concur with the view in Union of India Vs. Virpal Singh Chauhan, (Supra) that seniority between the reserved category candidates and general candidates in the promoted category shall continue to be governed by their panel position i. e. with reference to their inter seniority in the lower grade. The rules of reservation gives accelerated promotion, but it does not give the accelerated 'consequential seniority'. If a Scheduled Castes/Scheduled Tribe candidate is promoted earlier because of the rule of reservation/roster and his senior belonging to the general category candidate is promoted latter to that higher grade the general category candidate shall regain his seniority over such earlier promoted scheduled caste/tribe candidate. As already pointed out above that when a scheduled caste/tribe candidate is promoted earlier by applying the rule of reservation/roster against a post reserved for such scheduled caste/tribe candidate in this process he does not supersede his seniors belonging to the general category. In this process there was no occasion to examine the merit of such scheduled caste/tribe candidate vis-a-vis his seniors belonging to the general category. As such it will be only rational, just and proper to hold that when the general category candidate is promoted later from the lower grade to the higher grade, he will be considered senior to a candidate belonging to the scheduled caste/tribe who had been given accelerated promotion against the post reserved for him. Whenever a question arises for filling up a post reserved for scheduled caste/tribe candidate in still higher

grade then such candidate belonging to scheduled caste/tribe shall be promoted first but when the consideration is in respect of promotion against the general category post in still higher grade then the general category candidate who has been promoted later shall be considered senior and his case shall be considered first for promotion applying either principle of seniority cum merit or merit cum seniority. If this rule and procedure is not applied then result will be that majority of the posts in the higher grade shall be held at one stage by persons who have not only entered in service on basis of reservation and roster but have excluded the general category candidates from being promoted to the posts reserved for general category candidates merely on the ground of their initial accelerated promotions. This will not be consistent with the requirement or the spirit of Article 16(4) or Article 335 of the Constitution."

3. On the basis of this judgement various employees of different departments belonging to general category have got decisions in their favour from the Punjab and Haryana High Court. The Hon'ble High Court in its judgement dated July 10th, 1996, given in CWP No. 3587 of 1966 titled Madan Lal Duggal and S.M. Arora Vs. the State of Haryana and others has held as under :—

"For the reasons stated above, petitioners succeed and the writs filed on their behalf deserve to be allowed. The employees belonging to reserved category, simply on account of their accelerated promotions over their seniors in the lower post, can not claim promotion earlier to the general category employees. In other words, the mere fact that the reserved category employees have been promoted prior in point of time from their admitted seniors, they can not claim promotion to the next higher post in Class-I or II service on the basis of their having been promoted from the lower posts earlier in point of time. The authorities concerned are, thus, directed to consider the case of all the concerned employees in light of observations made by us in this judgement and accordingly promote them to the next higher posts i. e. in Class-I and II service."

In view of the aforesaid judgements of Hon'ble Supreme Court and Punjab & Haryana High Court; it is thus clear that under the reservation policy, the employees belonging to Scheduled Castes and backward classes categories can be given accelerated promotions but not accelerated consequential seniority and that the inter-se seniority of the employees of general category and reserved categories should continue to be governed by their original seniority in the feeder cadres.

5. The matter has been carefully examined and it has been decided that from the date of pronouncement of the judgement by Hon'ble Supreme Court in the case of R. K. Sabharwal Versus State of Punjab i. e. 10-2-1995, no employee belonging to reserved categories of scheduled castes or backward classes be given the benefit of accelerated seniority and other consequential benefits over his/her senior on account of his/her accelerated promotion from the feeder services under the policy of reservation in Class III and IV services.

Yours faithfully,

Sd/-

Joint Secretary General Administration,  
for Chief Secretary to Government, Haryana.