

**Frequently Asked Questions (FAQs) on the Policy of Reservation to SCs,
STs and OBCs:**

Q.1. What is the policy of the Government on reservation for SCs, STs and OBCs?

Ans: Reservation to the SCs, STs and OBCs in case of direct recruitment on all India basis by open competition is given at the rate of 15%, 7.5% and 27% respectively. In case of direct recruitment on all India basis otherwise than by open competition, reservation for SCs, STs and OBCs is 16.66%, 7.5% and 25.84% respectively. In case of direct recruitment to Group C and D posts which normally attract candidates from a locality or a region, percentage of reservation for SCs/STs is generally fixed in proportion to the population of SCs and STs in the respective States/UTs. For OBCs it is fixed keeping in view the proportion of their population in the concerned State/UT and the fact that total reservation for SCs/STs/OBCs remains within the limit of 50% and reservation for OBCs remains within the limit of 27%.

Reservation in promotion by non-selection method is available to SCs and the STs in all groups of services viz. A, B, C and D at the rate of 15% and 7.5% respectively. In case of promotion by selection method reservation is available upto the lowest rung of Group 'A' at the same rates. In promotion by selection to posts within Group 'A' which carry an ultimate salary of Rs. 18,300/- or less (in pre-revised scale), there is no reservation, but the Scheduled Caste/Scheduled Tribe officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list is to be drawn up, would be included in that list provided they are not considered unfit for promotion.

Q.2 *What are the key provisions of Reservation Policy?*

Ans: Following are the key provisions of Policy of Reservation for SCs, STs and OBCs:

- (i) SCs/ STs get reservation in all groups of posts under the Government in case of direct recruitment and in case of promotions made by non-selection method. In case of promotions made by selection, reservation is available to them when promotions are made in Group B, C, D posts and from Group B to the lowest rung in Group 'A' posts.
- (ii) SC/ST/OBC candidates appointed by direct recruitment and SC/ST candidates also promoted on their own merit are adjusted against unreserved posts.
- (iii) In promotion by selection to posts within Group 'A' which carry an ultimate salary of Rs.18,300/- or less (pre-revised), there is no reservation, but the Scheduled Caste/Scheduled Tribe officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list is to be drawn up, would be included in that list provided they are not considered unfit for promotion.

- (iv) There is a general ban on dereservation of posts in case of direct recruitment.
- (v) In case of direct recruitment various relaxations, like relaxations in age limit by 5 years; exemption from payment of examination/application fees; relaxation in qualification of experience at the discretion of UPSC/competent authority; relaxation in standard of suitability, etc. are available to members of SCs and STs.
- (vi) In case of direct recruitment, OBCs get relaxation of 3 years in upper age limit, relaxation in standards of suitability, etc.
- (vii) In case of promotion, zone of consideration is extended upto five times the number of vacancies in case suitable candidates are not available within normal zone of consideration; minimum qualifying marks/ standards of evaluation are relaxable; upper age limit is relaxable by five years where upper age limit for promotion is prescribed not more than 50 years.
- (viii) There is a provision of appointment of liaison officers in all Ministries/ Departments to ensure proper implementation of reservation policy.

Q. 3: What are the relaxations available to SCs / STs?

Ans: The relaxations that are available for the SCs and STs in direct recruitment are as follows: -

- a) Relaxation in the upper age limit by five years;
- b) Exemption from payment of examination / application fees;
- c) Where interview is a part of the recruitment process, SC / ST candidates should be interviewed separately;
- d) Qualification regarding experience can be relaxed in respect of SC / ST candidates at the discretion of UPSC / Competent Authority;
- e) Standards of suitability can be relaxed etc.

The relaxations that are available for the SCs / STs in promotions are as follows:-

- a) The zone of consideration is extended to five times the number of vacancies in case suitable SC / ST candidates are not available within the normal zone of consideration;
- b) Minimum qualifying marks / standards of evaluation are relaxable;
- c) Upper age limit relaxable by five years where upper age limit for promotion is prescribed not exceeding fifty years, etc.

Q.4. What are the relaxations available to OBCs?

Ans: Relaxations available to OBCs in direct recruitment are as follows:

- (i) Relaxation in the upper age limit by 3 years.

- (ii) Qualification regarding experience can be relaxed at the discretion of Competent Authority.
- (iii) Standards of suitability can be relaxed, etc.

Q:5 *Who is an own merit candidate?*

Ans: A candidate belonging to SC/ST/OBC who is selected on the same standard as applied to general category candidates and who appears in the general merit list is treated as own merit candidate. Such candidate is adjusted against unreserved point of the reservation roster. Department of Personnel and Training O.M. No36011/1/98-Estt.(Res.) dated 1-7-1998 clarifies that only such SC/ST/OBC candidates who are selected on the same standard as applied to general candidates shall not be adjusted against reserved vacancies. In other words, when a relaxed standard is applied in selecting an SC/ST/OBC candidate, for example in the age limit, experience qualification, permitted number of chances in written examination, extended zone of consideration larger than what is provided for general category candidates, etc., the SC/ST/OBC candidates are to be counted against reserved vacancies. Such candidates would be deemed to be unavailable for consideration against unreserved vacancies.

Q.6. What is the difference between post based reservation and vacancy based reservation?

Ans: Reservation to SCs, STs and OBCs prior to 2.07.1997 was implemented through vacancy based rosters in which case calculation of reserved vacancies depended on the total number of vacancies to be filled. The Supreme Court in the case of R.K. Sabharwal held that reservation in a cadre should be calculated on the basis of total number of posts in the cadre and not the vacancies. It means that if reservation for SCs is 15% and cadre strength in a grade is 100, 15 posts will be reserved for SCs i.e. at any point of time 15 posts in this cadre should be held by SCs appointed by reservation. Whenever their representation comes down, it would be completed.

Q.7: What is a Backlog vacancy and why are so many backlog vacancies in services?

Ans: Backlog Reserved Vacancies of a category are those vacancies which were earmarked reserved for that category in an earlier recruitment year but remained unfilled in the previous recruitment attempt on account of non-availability of suitable candidates belonging to that category and are still lying unfilled.

As per instructions issued by the DoP&T, if sufficient number of suitable SCs, STs and OBC candidates do not become available to fill up the vacancies reserved for them in the first attempt of recruitment, a second attempt is made for recruiting suitable candidates belonging to the concerned category in the same recruitment year or as early as possible before the next recruitment year so that backlog reserved vacancies are not created. However, even after making such efforts the reserved vacancies are not filled

up and backlog vacancies are created which are carried forward to the subsequent recruitment year, in which concerted efforts are made to fill up the backlog reserved vacancies as soon as possible.

It may be observed that reason of creation of backlog reserved vacancy is non-availability of reserved category candidates for some posts.

Q.8 Whether the ceiling of 50% reservation would apply to backlog reserved vacancies of SCs, STs and OBCs.

Ans. Backlog reserved vacancies are treated as special and distinct group and ceiling of 50% reservation in a recruitment year does not apply to backlog reserved vacancies.

Q.9 What is the policy of Government about appointment of less qualified SCs, STs and OBCs candidates?

Ans: Instructions provide that in direct recruitment whether by examination or otherwise, if sufficient number of Scheduled Caste candidates are not available on the basis of the general standard to fill all the vacancies reserved for them, candidates belonging to this community should be selected to fill up the remaining vacancies reserved for them provided they are not found unfit for such post or posts. Thus, to the extent the number of vacancies reserved for Scheduled Castes cannot be filled on the basis of general standard, candidate belonging to SC community are taken by relaxed standard to make up the deficiency in the reserved quota, subject to the fitness of these candidates for appointment to the post/ posts in question.

In addition to the concession referred to above, instructions further provide that in cases where the requisite number of SC candidates fulfilling even the relaxed standards admissible in their cases are not available to fill the vacancies reserved for them in non-technical and quasi-technical Group C

and D services/posts required to be filled by direct recruitment otherwise than by written examination, the selecting authorities should, to the extent of the vacancies reserved for SC. select for appointment the best among the SC candidates who fulfill the minimum educational qualification laid down in the notice for recruitment of advertisement. In order to bring such candidates to the minimum standard necessary for the posts and for the maintenance of efficiency of administration, they should be given in-service training.

Where some period of experience is prescribed as an essential qualification for direct recruitment to a post, and where, in the opinion of the Ministry/ Department concerned, the relaxation of the experience qualification is not inconsistent with efficiency, a provision is inserted under the "essential qualification" in the relevant recruitment rules to the effect that UPSC/ Competent Authority may relax the experience/qualification in the case of SC/ST/OBC candidates.

Q.10. Why there is no reservation in case of promotion within Group A?

Ans: Reservation to SCs and STs is available at all levels in the matter of promotion by non-selection method. In case of promotion by selection, they get reservation up to the lowest rung of Group 'A'. Though there is no reservation in promotion by selection within Group A, in case of promotion by selection from a Group 'A' post to another Group 'A' post having a maximum salary of Rs.18,300/- or less(in pre-revised scale), the Scheduled Caste/Scheduled Tribe officers who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list is to be drawn up, are included in that list provided they are not considered unfit for promotion. Thus sufficient care is taken to ensure that the SC/ST officers get promotion to such higher posts even if they do not meet the criterion laid down for general category candidates.

The Supreme Court in Indra Sawhney's case had declared reservation in promotion ultra virus. However, in order to continue reservation in promotion, the 77th Amendment was made to the Constitution incorporating clause (4A) in Article 16 of the Constitution which enabled the State to continue reservation in promotion. The statement of Objects and Reasons of the Constitution (Eight-Sixth Amendment) Bill which became the Constitution (77th Amendment) Act, stated that the object was to continue the then existing dispensation. Since reservation in promotion was not available when promotions were made by selection within Group 'A' posts even before the judgment of the Supreme Court in Indra Sawhney case, the Department's O.M. dated August 13, 1997 issued in pursuance of Article 16 (4A) has restored the previously existing dispensation, which did not provide for reservation in promotion by selection within Group 'A' posts.

Q.11 What is the objective behind the issuance of caste certificates to Scheduled Castes and Scheduled Tribes?

Ans. The main objective of issuance of caste certificate is to facilitate access of bonafide candidates belonging to the Scheduled Castes Scheduled Tribe and Other Backward Class to the reserved posts and services under the State and other facilities provided by the State to them.

Q.12 Whether the Government have achieved the objective behind the issue of caste certificate?

Ans. On the basis of caste certificates, large number of reserved category candidates have been able to secure employment in Government establishments, PSUs, Banks, autonomous bodies etc.; secure admissions to educational institutions; and get other facilities provided by the Government

to the members of Scheduled Castes, Scheduled Tribes and Other Backward Classes.

Q.13 What is the procedure for issuing of Scheduled Caste/Scheduled Tribe/Other Backward Class certificates? Who is the competent authority to issue the same? Is any other authority other than specified, in any circumstances allowed to issue such certificates. If so, elaborate.

Ans. The instructions contained in this Department's OM No.36012/6/88-Estt.(Res.) dated 24.4.90 and OM No.36012/22/93_Estt.(Res.) dated 15.11.1993 provide the Authorities who are competent to issue of caste certificates and also the proforma However, the Central Government accepts the certificates issued only by the following authorities in the prescribed proforma:

- (1) District Magistrate / Additional District Magistrate/Collector/ Deputy Commissioner/Additional Deputy Commissioner/Deputy Collector/Ist Class stipendiary Magistrate/Sub Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner.
- (2) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.
- (3) Revenue Officer not below the rank of Tehsildar and
- (4) Sub-Divisional Officer of the area where the candidate and /or his family normally resides.

Q.14 What are the guidelines that have been issued to the appointing authorities in regard to scrutiny and verification of caste certificates of candidates at the time of their entry into Government service? Whether the present guidelines on the subject are fool proof so that genuine SC/ST are not deprived of their Constitutional rights.

Ans. The Government of India has issued instructions regarding scrutiny and verification of the caste certificates of the candidates at the time of initial appointment and at every important upturn of employee's career. This Department re-iterated the instructions vide O.M. No.36011/3/2005-Estt. (Res.) dated 9th September 2005.

Q.15 What are the guidelines in case of migration of a reserved category person from one state to another State?

Ans. When a person migrates from the portion of the State in respect of which his community is Scheduled to another part of the same State in respect of which his community is not scheduled, he will continue to be deemed to be a member of the Scheduled Caste or the Scheduled Tribe or the Other Backward Class, as the case may be in relation to that State;

When a person who is a member from one State to another, he can claim to belong to a Scheduled Caste or a Scheduled Tribe only in relation to the State to which he originally belonged and not in respect of the State to which he has migrated.

Q.16 What action is taken when complaints are received about the genuineness of caste certificate once the appointments have been given or on detection of a prima facie case of a false SC/ST certificate at any stage of employment? Is there a set procedure to be followed for punishing such an employee?

Ans. The instructions contained in The Department of Personnel & Training's O.M.No.11012/7/91-Estt.(A) dated 19-5-93 provide that wherever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment rules etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If he is a probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Govt. Servant, an inquiry as prescribed in Rule 14 of CCS (CCA) Rules, 1965 may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any other penalty be imposed. Necessary action may also be taken under the provisions of the IPC for production of false certificates.

Q. 17 What is 'Creamy Layer' amongst OBCs?

Ans. The Supreme Court in Indra Sawhney case has upheld 27% reservation for OBCs in civil posts and services under the State subject to exclusion of

socially advanced persons/ sections (creamy layer) from OBCs within 4 months from the date of judgment.

2. Following the above judgment of the Supreme Court, the Government had constituted an Expert Committee to make recommendations on the socio-economic criteria to be adopted for excluding the creamy layer amongst OBCs. The report of the Expert Committee was considered and accepted by the Government and the categories of the persons/ selections to be excluded from the purview of reservation orders for OBCs were notified in the Schedule to the OM dated 8.9.1993 issued by this Department. Initially, the Income limit of 'creamy layer' vide the aforesaid O.M. for exclusion of reservation was fixed Rs.1 Lakh.

3. Last time, this income ceiling was revised from Rs.2.5 lakh to 4.5 lakh vide OM No.36033/3/2004-Estt.(Res.) on 14.10.2008.

Q.18 What is the criteria to determine the 'creamy layer' amongst OBCs Employees working in PSUs ?

Ans. The criteria prescribed for determining creamy layer status of some and daughters of persons in Government service mutatis mutandis applies to the sons and daughters of persons holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities etc. and also holding equivalent or comparable posts and positions under private employment. The creamy layer status of the sons and daughters of employees of organizations where evaluation of the posts on equivalent or comparable basis has not been made is determined on the basis of 'Income/ Wealth Test' given in the Schedule. The income/ wealth Test prescribes that the gross annual income of Rs.4.5 lakh or above or possessing wealth above the exemption limit as prescribed in Wealth Tax Act for a period of three consecutive years would be treated to fall in creamy layer.