

No. 22/59/2020-1HR-III
Government of Haryana
Human Resources Department
(Human Resources-III Branch)

Dated Chandigarh, the 11th July, 2023

To

1. All the Administrative Secretaries to Government of Haryana.
2. All the Heads of the Departments in the State.
3. All the CAs/MDs of all Boards/Corporations/Public Sector Undertakings.
4. All the Divisional Commissioners in Haryana.
5. The Registrar of Punjab and Haryana High Court, Chandigarh
6. All the Deputy Commissioners & Sub Divisional Officers (Civil).
7. The Registrar of all the Universities in the State of Haryana.

SUBJECT: Grant of Reservation in Promotion to the Persons with Disabilities under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

Sir/Madam,

I am directed to say that the matter regarding reservation in promotion for persons with disabilities has been under litigation before the Hon'ble High Court of Punjab & Haryana and the Commissioner for Persons with Disability for quite some time. Recently the Hon'ble High Court, in its order dated 26 May 2022 has questioned the provision for providing retrospective benefits to the disabled, which could not have been done so far, by reverting the persons who have already been promoted.

With a view to clarify certain issues, including procedural matters and to consolidate all the existing instructions, bringing them in line with the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995, the following instructions are issued with regard to reservation for persons with disabilities in Group A, B, C & D posts under the Government of Haryana.

These instructions are issued in supersession of all earlier instructions on the subject issued vide No. 22/10/2013-1GS-III, dated 17/19 April 2017, No. 22/10/2013-1GS-III, dated 11 August 2017, No. 22/10/2013-1GS-III, dated 15 December 2017, No. 22/10/2013-1GS-III, dated 23 January 2018, No. 22/10/2013-1GS-III, dated 15 May 2018 and No. 22/59/2020-1GS-III, dated 25 March 2022.

I. APPLICABILITY:-

The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (hereinafter referred to as 'PwD Act, 1995) came into effect from 01 January 1996 but later on repealed vide Section 102 of the Rights of Persons with Disabilities Act, 2016 notified on 19 April 2017. The new Act came into force w.e.f. 19 April 2017, therefore, these instructions shall be applicable

to the disabled employees who are covered under the PwD Act, 1995 for the period with effect from 01 January 1996 to 18 April 2017

II. QUANTUM OF RESERVATION:-

In case of promotion to Group A, B, C and D posts three percent horizontal reservation shall be made for persons with disabilities with effect from 01 January 1996 to 18 April 2017. Out of this, one per cent each shall be reserved 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 vacancy based reservation @ 3% shall be computed on the basis of total number of vacancies to be filled by promotion occurring in the identified post/cadre of Group A,B, C & D.

(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 August 2011 in consultation with the State Commissioner for Persons with Disabilities, Haryana.

(IV) IDENTIFICATION OF JOBS/POSTS.-

- (i) In respect of identification of posts suitable for persons with disabilities in Group A, B,C & D, the State Government has adopted the list circulated by the Ministry of Social Justice & Empowerment (Department of Disability Affairs), Government of India, New Delhi vide their Notification No. 16-15/2010/DDIII dated 29 July 2013. The adoption of such 'list' was conveyed vide notification bearing No. 130-SW(4)/2017, dated 3 February 2017 of the 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. If a post is already held by a person with disability, it shall be deemed to have been identified. However, no Department/PSU and Autonomous Bodies shall exclude any identified job/post from the purview of reservations at its own. 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.

(V) RESERVATION IN POSTS IDENTIFIED FOR ONE OR TWO DISABILITY CATEGORIES.-

If a post is identified as suitable only for one category of disability, reservation in that post shall be given to persons with that disability only. Reservation in promotion shall not be reduced from 3% and total reservation in the posts will be given to persons suffering from the disability for which it has been identified. Likewise in case the post is identified as 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 specific categories of disabilities, as far as possible, get equal representation.

(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 as suitable for persons with disability of the relevant disability category. The reserved vacancy will be filled up separately from amongst the eligible candidate with disability which will thus comprise physically handicapped candidates who is lower in merit than the last candidate in merit list but otherwise found suitable for appointment, if necessary, by relaxed standards. The backlog, if any shall be filled up within a period of six months from the date of issue of these instructions.

VII. DEFINITIONS OF DISABILITIES:-

Definitions of categories of disabilities for the purpose of these instructions with respect to 3% reservation 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 orthopedically handicapped persons would be covered under the category of "loco-motor disability or cerebral".

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 will have to submit a Disability Certificate issued by a duly constituted medical board in the prescribed format.

IX. COMPETENT MEDICAL AUTHORITY TO ISSUE DISABILITY CERTIFICATE.-

- (i) 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.

- (ii) The Rules for the Disability certificate shall be followed in accordance with Government of Haryana Gazette notification No. 32/05/2019-6HB-1 dated 5th August, 2021.

(X) COMPUTATION OF RESERVATION:-

In case of promotion, vacancy based horizontal reservation for the persons with disabilities shall be computed on the basis of total number of vacancies occurring in the cadre strength of each group, i.e., Group A, B, C and D posts, as the case may be, to be filled by promotion in the establishment. All vacancies in promotional quota shall be taken into account while computing reservation in promotion (identified posts as well as unidentified posts) and it is possible that number of persons appointed by reservation in promotion may exceed 3 percent in a cadre due to unidentified posts of another cadre of same group. In order to ensure proper implementation of reservation in promotion to , number of vacancies should be assessed/computed as accurately as possible. All clear vacancies arising against promotional share/quota in a cadre of each group viz A, B, C and D posts, due to death, retirement, resignation should be taken into account while calculating the number of vacancies meant for .

(XI) EFFECTING RESERVATION - MAINTENANCE OF ROSTERS:-

- (i) All establishments shall maintain separate 100 Points reservation roster for each Group A, B, C and D posts filled by promotion. Each register shall have cycle of 100 Points and each cycle of 100 Points shall be divided into three blocks, comprising the following points:-
- a) 1st Block - Point No. 1 to Point No. 33.
 - b) 2nd Block- Point No. 34 to Point No. 66.
 - c) 3rd Block- Point No. 67 to Point No. 100.
- (ii) 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 will be reserved keeping in view all relevant facts.
- (iii) All the vacancies of promotional quota arising in the establishment shall be entered in the relevant roster register. If the post falling at point no.1 is not identified for the disabled 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 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 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 from the disabled candidates. 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.

- (iv) 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 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 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 into the next block.
- (iv) After all the 100 points of the roster are covered, a fresh cycle of 100 points shall start.
- (V) 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 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 grade/Post etc.
- (VI) A separate roster shall be maintained for each group and also separate roster for direct recruitment and for appointment by promotion. All the posts of direct recruitment quota and vacancies of promotion quota arising in identified posts shall be entered and reservation shall be effected in the same way as explained above.

XII. CREATION OF SUPERNUMERARY POST.—

In case of PwDs employees, whether retired or in service, who are found eligible for deemed promotion/promotion and the vacant post is not available, supernumerary post, if necessary, shall be created for limited period, i.e., till the arising of actual vacancy in the cadre. Benefit of promotion to PwD person will be allowed if the disabled employee fulfils the conditions for the promotional post as per provisions of the service rules applicable.

XIII. CONSIDERATION ZONE, INTER SE EXCHANGE AND CARRY FORWARD OF RESERVATION IN CASE OF PROMOTION:-

- (a) While filling up the reserved vacancies by promotion by selection, i.e., seniority-cum-merit those PwD candidates who are within the normal zone of consideration, shall be considered for promotion. However, if adequate numbers of PwD of the respective category are not available within the normal zone, the zone of consideration may be extended to five times the number of vacancies and the PwD candidates falling within the extended zone may be considered for promotion. In the event of non-availability of candidates even in the extended zone, the vacancy shall not be filled and be carried forward to the subsequent year. In the subsequent year, if a PwD of the required category is not available, the

reservation can be exchanged with the other categories, so that post can be filled by a person with other category of disability, if possible. If a PwD candidate of other category is within the zone of consideration and within the number of vacancies available, he cannot be denied promotion on the grounds of disability. If it is not possible to fill up the post by reservation even in the 2nd year, the post may be filled by a person other than a PwD, where after it shall lapse.

- (b) While filling up vacancies by promotion by non-selection, the eligible candidates with benchmark disabilities within the normal zone of consideration shall be considered for promotion against the reserved vacancies. In case no eligible candidate of the respective category of disability is available in the normal zone of consideration, additional PwD candidates of respective category to the extent required shall be considered by going down the seniority list, provided they are eligible, and that the post is identified for them. In the event of non-availability of PwD candidates for promotion even in the extended zone, the vacancy shall not be filled and shall be carried forward. In the subsequent year, if PwD of respective category is not available, the same can be exchanged with other categories of disabilities identified for it. If it is not possible to fill up the vacancy by reservation even by exchange, the reservation shall be carried forward for two subsequent recruitment years, where-after it shall lapse.
- (c) In order to ensure that cases of lapse of reservation are kept to the minimum, any recruitment of the PwD candidates shall first be counted against the vacant posts brought forward from previous years, if any, in the chronological order. If candidates are not available for all the vacancies, the older carried-forward posts shall be filled first, and the current vacancies shall be carried forward, if not filled up, provided that in every recruitment, the number of vacancies reserved for PwD, including the carried forward vacancies, shall be announced beforehand, for the information of all aspirants.

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.

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 SCs, the disabled candidate belonging to SC shall be adjusted in future against the next available vacancy reserved for SCs.

- (b) 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.

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

- (a) 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.
- (b) If a person of benchmark disability is promoted on higher post against his earmarked 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 to higher post.
- (c) Further promotion of disabled employee to the higher post shall again be subject to availability of earmarked vacancy for the person with disabilities.

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 disability, 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/cadre.

XVII. APPOINTMENT OF GRIEVANCE REDRESSAL OFFICER (GRO-cum-NODAL OFFICER), HIS DUTIES AND SUBMISSION OF ANNUAL REPORTS:-

Nodal Officer appointed to look after reservation matters for scheduled castes shall also work as Nodal Officers for reservation

matters relating to PwD and shall ensure compliance of all the instructions issued by the Government from time to time regarding benefit of reservation in promotion to the persons of these categories.

XVIII. ANNUAL REPOSRT REGARDING REPRESENTATION OF PwD:-

Appointing authority of every establishment shall submit annual report to its administrative department in the prescribed proforma. All the Departments/Boards/ Corporations shall also upload data every year (by 31st January) on promotion alongwith data on representation/direct recruitment in respect of posts/services under the State Government on the URL, which will be informed in near future. All the Departments/Boards/Corporations will be provided respective user code and password with guidelines for operating the URL.

XIX. MAINTENANCE OF REGISTER OF COMPAINTS BY THE DEPARTMENT:-

Any person aggrieved with any matter relating to discrimination in promotion, may file a complaint with the Grievance Redressal Officer-cum-Nodal Officer of the respective Department. Every complaint filed, shall be inquired into within two months of its registration, and outcome thereof or action taken thereon, shall be communicated to the complainant/PwD.

XX. REMOVAL OF ANY DOUBT:-

In case of any doubt the matter may be referred to the Chief Secretary to Government Haryana in Human Resources Department for clarification.

2. These instructions may please be brought to the notice of all concerned for compliance in letter and spirit.

S. Singh
Deputy Secretary Human Resources-I,
for Chief Secretary to Government, Haryana

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

Dated: Chandigarh, the 11th July, 2023

A copy is forwarded to the State Commissioner for Persons with Disabilities, Haryana, for information.

Deputy Secretary Human Resources-I,
for Chief Secretary to Government, Haryana.