

No.36012/23/2009-Estt(Res)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training
North Block

New Delhi, dated 4th May, 2009

OFFICE MEMORANDUM

Subject : Judgement of the High Court of Delhi in W.P.(C) No.15828/2006
National Federation of Blind Vs. UOI & Ors. – reg.

The Hon'ble High Court of Delhi in W.P. (C) No.15828/2006 in the matter of National Federation of the Blind Vs. UOI & Ors. has held that reservation for persons with disabilities should be computed on the basis of total strength of cadre i.e. both identified as well as unidentified posts and issued following directions :-

“i. We direct the respondents to constitute a committee consisting of the Chief Commissioner for Disabilities (Chairman), Joint Secretary, Department of Personnel and Training, Joint Secretary, Ministry of Social Justice and Empowerment, Joint Secretary, Department of Public Enterprises, and Secretary, Staff Selection Commission to do the following acts in terms of this order :

(a) To solicit information with regard to recruitments made by departments/public sector undertakings/government companies from the date when the Disabilities Act came into force in 1996 and to work out backlog of vacancies for the disabled on the total cadre strength in different establishments within one month from the date of this order.

(b) To undertake special recruitment drive by organising centralised recruitment against backlog so worked out so as to fill up the vacancies by utilising at least 50% of the vacancies available with the respective establishments for this purpose only.

(c) To organise further special recruitment drive as required so as to fill up the remaining backlog of vacancies by 31st December, 2010.

- ii Respondent No.1 will issue an appropriate order modifying the OM dated 29.12.2005 and the subsequent OMs consistent with this Court's order.
- iii. The respondent No. 1 shall issue instructions to all the departments/public sector undertakings/government companies declaring that the non observance of the scheme of reservation for persons with disabilities should be considered as an act of non-obedience and the Nodal Officer in departments/public sector undertakings/government companies responsible for the proper strict implementation of reservation for person with disabilities to be departmentally proceeded against for his default.
- iv. The Respondent No. 1 is further directed to issue instructions to all the departments/public sector undertakings/government companies as well as recruiting agencies not to undertake recruitment for any department/public sector undertaking/government company unless the department/public sector undertaking/government company makes provisions for reservation for persons with disabilities in terms of the order of this Court and a clearance is granted by the Committee headed by the Chief Commissioner for Disabilities.
- v. The Committee headed by the Chief Commissioner for Disabilities shall submit a status report on implementation for the above directions of this Court within three months from the date of this order.”

2. The Union of India has filed an SLP No.7541/2009 in the Supreme Court in the matter and has also filed an Interim Application for staying the operation of the order of the Hon'ble High Court. Meanwhile the National Federation of the Blind has filed a Contempt Case in the matter. The Hon'ble High Court has desired that since the Hon'ble Supreme Court has not stayed the operation of the order, it should be implemented. Without prejudice to the outcome of the order of the Hon'ble Supreme Court, the undersigned is directed to say that all the establishments may implement the order of the Hon'ble High Court of Delhi. It may be pointed out that this Department (Respondent No.1), without prejudice to the outcome of the order of the Hon'ble Supreme Court, has already constituted a Committee on 23.3.2009 to workout the backlog on the basis of the judgment of the Hon'ble High Court and is in the process of modifying the OM No.

36035/3/2004-Estt.(Res.) dated 29.12.2005 regarding reservation for persons with disabilities.

3. All the Ministries/Departments etc. are requested to bring the contents of this OM to the notice of all concerned.



(K.G. Verma)

Director

Tel: 23092158

To

1. All the Ministries/Departments.
2. All Officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate offices of this Ministry.
3. Department of Economic Affairs, New Delhi.
4. Department of Financial Services, New Delhi.
5. Department of Public Enterprises, New Delhi.
6. Railway Board.
7. Union Public Service Commission/Supreme Court of India/Election Commission/Lok Sabha Secretariat/Rajya Sabha Secretariat/Cabinet Secretariat/Central Vigilance Commission/President's Secretariat/Prime Minister's Office/Planning Commission/Staff Selection Commission.