

RTI MATTER

No. 10/02/2014-RTI/00037&00038
Government of India
Ministry of Power

Shram Shakti Bhawan, Rafi Marg,
New Delhi-110001
Dated: 6th Feb, 2014

To,
Nodal Officer/CPIO (RTI),
All Organizations under the Ministry

Sub:- Application of Ms.Anju Sharma, D/o.Shri M.R.Sharma, H.No.WZ-1095, Gali No. 10, Sadh nagar, Palam Colony, delhi-110045 under RTI Act, 2005.

Sir,

The RTI application dated 13th Jan, 2014 of Ms.Anju Sharma (Reg. no. POWER/R/2014/00037 & 00038) is also being transferred under Section 6(3) of the RTI Act, 2005 with the request to provide the requisite information directly to the applicant as per the provisions of the RTI Act, 2005.

Encl. As above.

Yours faithfully,

S. Benjamin
(S. Benjamin)
CPIO & Under Secretary (RTI)

Copy for necessary action to;

- i) CPIO&US(SC&ST) and US(Admn.2), M/o.Power- The RTI application has already been forwarded online after registration.
- ii) DDO, Ministry of Power with the request to deposit IPO for Rs.10/-(ten) only with PAO, Ministry of Power and receipts of the fee may be provided to RTI Cell.

Copy for information to;

Ms.Anju Sharma, D/o.Shri M.R.Sharma, H.No.WZ-1095, Gali No. 10, Sadh nagar, Palam Colony, delhi-110045. You are requested to pursue the matter with addressees of this letter incase non-receipt of reply.

IMMEDIATE/COURT MATTER

To

The Secretary to the Government of India,
Ministry of Power, Sharam Shakti Bhawan,
~~Sachin Bhawan~~, New Delhi.

POWER R/R/2014/00037
00038
24/01/14

Subj:-Reservation to the persons with disabilities – Computation of reservation – Implementation of the judgment of Hon’ble Supreme Court in the matter of Union of India & Anr V/S National Federation of Blind & Ors.

Ref:- Supreme Court Judgment dated 08.10.2013 in the Civil Appellate No. 9096 of 2013 (arising out of SLP (Civil) No. 7541 of 2009) titled Union of India & Anr V/S National Federation of Blind & Ors displayed on the website.

Sir,

I am to invite your attention to the OM No.35035/3/2004-Estt(Res) dated 29.12.2005 vide which M/O Personnel, Public Grievances & Pensions, DOPT, issued consolidated instructions with regard to reservation policy for the persons with Disabilities by superseding all the previous instructions in consonance with the provisions of the Persons with Disabilities (Equal Opportunity, Protection of Rights & Full Participation Act, 1995 duly addressed to all the Secretaries of the Ministries/Departments of the Government of India, Secretary, DPE, New Delhi, Secretary Deptt. of Financial Services (Banking & Insurance Divn.), New Delhi, , Secretary Railway Board, Rail Bhawan, N.Delhi, Chief Commissioner for the Persons with Disabilities, all the Chief Secretaries of all States/UTs, Secretary SSC, CGO Complex, Lodhi Road, New Delhi, C&AG of India , Cabinet Secretariat, PMO, Planning Commission, UPSC etc and also got displayed on the website by the NIC on the subject cited above. Despite the statutory provisions made under the above Act of 1995 which came into force w.e.f 07. 02.1996. & also DOPT issued executive orders on various occasions for launching the Special Recruitment Drive by all the Ministries/Departments for filling up the vacant posts reserved for the persons with disabilities by fixing the target date and called for various reports and returns through prescribed procedures, even than the desired results is far away from the target fixed for the implementation of the Reservation policy for the persons with disabilities. Here, I may mention that earlier I initiated the matter for providing the information under the Provisions of RTI Act 2005 with the Ministries/Departments to the Govt of India, consequently after circulation by the Ministries/Departments, response were received from their subordinate offices stating matter referred to so and so authority and finalization is awaited and thus on one pretext or the other matter regarding filling up against such vacant post proved as NIL for indefinite period. In nutshell, neither it is denied nor filled up and matter remained silent for a long time, in other words an eye-wash show of the implementation of the reservation for the persons with disabilities

Registered online
Bit
Forwarded also to
all organization under
the ministry

All organizations
under msp
VB (SCEST)
VB (Admission)

27/01/14

Gatd at P-- 2/-

came to my notice and wherever such cases are pending with the subordinate offices for want of any type of decision same may kindly be ordered for finalization expeditiously.

2. In para 13 and Para 14 of the OM earlier issued by DOPT OM dated 29.12.2005, it provides reservation for the persons with disabilities in case of direct recruitment as well as promotion for group C and Group D posts shall be computed on the basis of total number of various vacancies occurring in Group C & Group D posts as the case may be in the establishment although the recruitment of the persons with disabilities would only be in the posts identified suitable for them. Para 14 of the OM dated 29/12/2005 issued by DOPT provides that Reservation for the Persons with disabilities in Group 'A' posts shall be computed on the basis of various vacancies occurring in direct recruitment quota in all the identified Group 'A' posts and the same method of computation applies in Group 'B' posts.

3. Now, as per the Judgment given by the Hon'ble Supreme Court of India in r/o reservation for the persons with disabilities, Section 32 and Section 33 of the above Act of 1995 by pointing out the intention of the legislature, it is now very much clear regarding the scope of identification of posts which comes only at the time of appointment of a person in the post identified for disabled persons and not necessarily relevant at the time of computing 3% reservation under the Section 33 of the Act as laid down in para 29 of the decision dated 8.10.2013 given by the Hon'ble Supreme Court of India. Moreover, as per para 35 of the decision dated 8.10.2013, the intention of the legislature while framing the Act can also be inferred from the Draft Rights of Persons with Disabilities Bill 2012 which is pending in the Parliament for approval. In Chapter 6 of the Bill, Special Provisions for the Persons with Benchmark Disabilities like Sections 32 & 33 in the Act have been incorporated under Sec 38 & 39 viz "Section 38. Identification of Posts which can be reserved for the Persons with Bench Mark Disabilities, Sec 39 provides that at periodical intervals not exceeding three years review and revise the list of identified posts taking into consideration developments in technology, if sufficient number of qualified persons with bench mark disabilities are not available in a particular year, then the reservation may be carried forward for upto the next three recruitment years, and if in such succeeding recruitment years also a suitable person with bench mark disability is not available, then the post in the fourth year may be first filled by interchange among the three of disabilities and only when there is no person with any benchmark disability available for the post in that year, the vacancy may be filled by appointment of a person other than a person with benchmark disability"

2. Thus, after thoughtful consideration, Hon'ble Supreme Court of India has given the decision vide order dated 08.10.2013 for implementation of the reservation policy for the persons with disabilities. DOPT has, accordingly issued orders vide O.M. No. 38012/24/2009-Estt (Res) dated 3rd Dec 2013 with further directions for the implementation of reservation for the persons with disabilities by way of prescribed method of computation of reservation for the persons with disabilities duly addressed to all the Secretaries of the Ministries/Deptts of the Government of India, Secretary DPE, New Delhi, Secretary Department of Financial Services (Banking & Insurance Division), New Delhi, Secretary Railway Board, Rail Bhawan, New Delhi, the Chief Commissioner for the Persons with Disabilities, to all the Chief Secretaries of all States/UTs, the Secretary SSC, CGO Complex, Lodhi Road, New Delhi, C&AG of India, Cabinet Secretariat, PMO, Planning

Control at P--3/-

Commission, UPSC etc (a Copy of DOPT orders dated 3/12/2013 is enclosed for ref.) wherein has inter-alia held :-

3. It is provided in the above DOPT orders that the computation of reservation for the persons with disabilities has to be computed in case of Group A,B,C & D posts in an identical manner viz "Computing 3% reservation on total number of vacancies in the cadre strength" which is the intention of the legislature"

Also, the Hon'ble Supreme Court of India has, inter-alia, directed that the following action to be taken in order to ensure proper implementation of the reservation policy for the disabled and to protect their rights:-

- (i) To issue an appropriate order modifying the O.M. dated 29.12.2005 and the subsequent OMs consistent with this Court's Order within three months from the date of passing of the Judgment.
- (ii) The "appropriate Government" to compute the number of vacancies available in all the "establishments" and further identify the posts for disabled persons within a period of 3 months from today and implement the same without default".
- (iii) The DOPT shall issue instructions to all the departments/public sector undertakings/Government companies declaring that the non- observance of the scheme of reservation for the persons with disabilities should be considered as an act of non- obedience and Nodal Officer in department/public sector undertaking/Government companies, responsible for the proper strict implementation of reservation for persons with disabilities, be departmentally proceeded against for the default.

In view of the directions of the Hon'ble Supreme Court, Para 14 of the OM dated 29.12.2005, DOPT has already issued the orders duly modified to the following extent vide their OM No. 36012/24/2009-Estt(Res) dated 03.12.2013 (copy enclosed).

"Reservation for persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group 'A' posts or Group 'B' posts respectively, in the cadre."

Other provisions of the OM viz. quantum of reservation, horizontality of the reservation, affecting reservation and maintenance of rosters etc would remain the same as per orders dated 3.12.2013 issued by the DOPT.

Thus, DOPT has issued OM No. 36012/24/2009-Estt(Res) dated 03.12.2013 addressed to all the Ministries/Departments/Organizations of the Government of India in the light of the decision given by the Hon'ble Supreme Court of India vide order dated 08.10.2013 and have asked from all concerned to compute the number of vacancies available in all the cadres under their control including attached offices,

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public sector undertakings, Government Companies, cantonment Board etc in the aforesaid orders manner and further identify the posts for disabled persons within a period of three months from the date of the judgment of the Hon'ble Supreme Court (i.e. 8.10.2013) and implement the same without default.

DOPT has provided in the Orders No. 36012/24/2009-Estt(Res) dated 03.12.2013, by clearly mentioning for strict compliance in accordance with the directions of the Hon'ble Supreme Court by all the Ministries/Departments including their Public Sector Undertakings/Government companies, Cantonment Boards etc. Non-observance of the provisions of reservation for the persons with Disabilities shall be considered as an act of disobedience and the Nodal Office concerned in Department/Public Sector Undertaking/Government Company, responsible for the proper strict implementation of reservation for the persons with Disabilities, be departmentally proceeded against for the default.

Therefore, I, being a physically handicapped with 65% disability is directly affected by virtue of Decision given by the Hon'ble Supreme Court of India, request to provide me para-wise/point wise information relating to the computation of implementation of the reservation for the persons with disabilities as per the Judgment given by the Hon'ble Supreme Court of India as well as as per the orders issued by DOPT vide their order dated 03rd Dec 2013 as above and provide the information in relation to computation of reservation for the persons with disabilities and further filling up of the vacant posts as per the procedure laid down as under:-

Computation of reservation for the persons with disabilities which has been ordered and required to be computed in case of Group A,B,C & D posts in an identical manner viz:-

"computing 3% reservation on total number of vacancies in the cadre strength" is required to be carried out by Ministry/Department/Company/Undertaking/Subordinate office etc. which is the intention of the legislature" as per the orders given by the Hon'ble Supreme Court of India vide order dated 08,10,2013.

Therefore, please provide ^{point wise} information under the provisions of RTI Act 2005 with confirmation ^{in the following}

POINTS FOR RTI REPLY

- (a) Please intimate that Computation of the number of vacancies available has been carried out in all the establishment' and further identified the posts for disabled persons within a period of three months (i.e. in ref to Hon'ble Supreme Court orders dated 08.10.2013) and implemented the same without fail." as per provisions made.
- (b) Please provide information indicating specifically that the Nodal officer of the concerned Ministry/Department including their Public Sector undertaking/Government Companies, Cantonment Boards etc has strictly observed the provisions of the reservation for the persons with Disabilities in accordance with the directions of the Hon'ble Supreme Court of India and complied with the directions as issued for the proper strict implementation of reservation for persons with disabilities.
- (c) Please provide information by confirming that Reservation for Persons with disabilities in Group 'A' or Group 'B' posts has been computed on the basis of total number of vacancies occurring in direct recruitment in all the Group 'A' posts or Group 'B' posts respectively, in the Cadre" and same stand reported to the Examination conducting authority viz. SSC,UPSC,DSSSAB, NCT Govt Delhi and Commissions/Recruitment board etc. for onward advertisement in the Newspapers for inviting the applications from the candidates of the reserved category i.e. from the persons with disabilities wherever applicable so as get the vacant posts filled up from the persons with disabilities.
- (d) after computation of the number of vacancies as per yard-sticks and also after identifying the posts for the persons with disabilities in compliance with the orders dated 08.10.2013 given by the Hon'ble Supreme Court of India, please intimate the No. of vacancies so arisen out/arrived at after the re-

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casting and identifying the posts for the persons with disabilities which has been carried out by your Ministry/Deptt within three months and has also been reported to the SSC,DSSSAB,UPSC,Recruitment Board or Commission for advertisement of the vacant posts in respect of the persons with disabilities for inviting the application for filling up the posts since the period of three months as ordered by the Supreme Court of India is effective from 8.10.2013 and will be over by 7th Jan 2014 by which date the computation work is required to be completed. Please confirm the status of compliance done as proforma at Appendix "A" below:-

I am enclosing herewith a Postal order No 13 822-889 dt. 3/1/2014. for Rs. 10/- on a/c of RTI Fee as per the Provisions laid down under RTI Act 2005. Appendix 'A'

Name of the Post identified Suitable for the The Persons with disabilities	No. of post as per the Judgment dated 08.10.2013 given by the Supreme Court of India computed and arrived at the figure declaring as vacant post reserved for the persons with disabilities and yet to be filled up.	Status of Action Taken on the No. of Vacant reserved posts arrived at after fresh computation as per the Judgment given by the Supreme Court of India and Reporting thereof to the SSC,DSSSAB UPSC & Railway Recruitment Board, Banking Recruitment Board etc. for further Advertisement by the Commission/Board. (Indicate date of Advt)
(1)	(2)	(3)

by the Secretary of Power.

Yours faithfully,

Anju Sharma
(Anju Sharma)

Physically Handicapped
d/o Sh.M.R.Sharma,
H.No.WZ-1095,Gali No.10,
Sadh Nagar, Palam Colony,
Delhi-110045.

Encl: As above.
+ Postal order for Rs. 10/-

IMMEDIATE/COURT MATTER

No.36012/24/2009-Estt(Res)
Government of India
Ministry of Personnel, Public Grievances and Pensions
Department of Personnel and Training

North Block, New Delhi.
Dated the 3rd December 2013

OFFICE MEMORANDUM

Subject: Reservation for persons with disabilities- Computation of reservation- implementation of the judgement of Hon'ble Supreme Court in the matter of Union of India & Anr. Vs. National Federation of Blind & Ors.

The undersigned is directed to refer to this Department's OM No.36035/3/2004-Estt(Res) dated 29.12.2005, a copy of which is enclosed for ready reference, through which this Department had issued consolidated instructions regarding reservation for persons with disabilities. The instructions were in consonance with the provisions of the Persons with Disabilities (Equal Opportunity, Protection of Rights and Full Participation) Act, 1995.

2. Para 13 of the Office Memorandum of 29.12.2005 provides that reservation for persons with disabilities in case of direct recruitment as well as promotion for Group C and Group D posts shall be computed on the basis of total number of vacancies occurring in Group C and Group D posts as the case may be in the establishment although the recruitment of the persons with disabilities would only be in the posts identified suitable for them. Para 14 of the said O.M. provides that Reservation for persons with disabilities in Group 'A' posts shall be computed on the basis of vacancies occurring in direct recruitment quota in all the identified Group 'A' posts in the establishment. The same method of computation applies for Group 'B' posts.

3. The Hon'ble Supreme Court in its judgement dated 8.10.2013 in the matter of Civil Appeal No.9096 of 2013 (arising out of SLP (Civil) No.7541 of 2009) titled Union of India & Anr. Vs. National Federation of Blind & Ors. has, inter-alia, held :

"Thus, after thoughtful consideration, we are of the view that the computation of reservation for persons with disabilities has to be computed in case of Group A, B, C and D posts in an identical manner viz., "computing 3% reservation on total number of vacancies in the cadre strength" which is the intention of the legislature."

4. The Hon'ble Supreme Court has, inter alia, directed that the following action be taken in order to ensure proper implementation of the reservation policy for the disabled and to protect their rights:-

(i) to issue an appropriate order modifying the O.M. dated 29.12.2005 and the subsequent O.Ms consistent with this Court's Order within three months from the date of passing of the judgment.

(ii) the "appropriate Government" to compute the number of vacancies available in all the "establishments" and further identify the posts for disabled persons within a period of three months from today and implement the same without default.

(iii) the DoPT 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 Nodal Officer in department/public sector undertakings/Government companies, responsible for the proper strict implementation of reservation for person with disabilities, be departmentally proceeded against for the default.

5. Keeping in view the directions of the Hon'ble Supreme Court, Para 14 of the OM dated 29.12.2005 is modified to the following extent:

"Reservation for persons with disabilities in Group 'A' or Group 'B' posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group A posts or Group 'B' posts respectively, in the cadre."

6. Other provisions of the OM viz. quantum of reservation, horizontality of reservation, effecting reservation and maintenance of rosters etc. would remain the same.

7. All the Ministries/Departments/Organisations of the Government of India are requested to compute the number of vacancies available in all the cadres under their control including attached offices, subordinate offices, public sector undertakings, Government companies, cantonment Board etc. in the aforesaid manner and further identify the posts for disabled persons within a period of three months from the date of the judgement of the Hon'ble Supreme Court (i.e. 8.10.2013) and implement the same without default.

8. This is for strict compliance in accordance with the directions of the Hon'ble Supreme Court in respect of all the Ministries/Departments including their Public Sector Undertakings/Government companies, Cantonment Boards etc. Non-observance of the provisions of reservation for persons with disabilities shall be considered as an act of disobedience and the Nodal Officer concerned in Department/Public Sector Undertaking/Government company, responsible for the

proper strict implementation of reservation for person with disabilities, be departmentally proceeded against for the default.

G. Srinivasan

(G. Srinivasan)

Deputy Secretary to the Government of India

Tel.No.23093074

To

- (i) The Secretary, All the Ministries/Departments of the Government of India
- (ii) The Secretary, Department of Financial Services (Banking and Insurance Division), New Delhi
- (iii) The Secretary, Department of Public Enterprises, New Delhi
- (iv) The Secretary, Railway Board, Rail Bhavan, New Delhi.
- (v) Union Public Service Commission, Supreme Court of India, Election Commission of India, Lok Sabha Secretariat, Rajya Sabha Secretariat, Cabinet Secretariat, Prime Minister's Office, Planning Commission.
- (vi) The Secretary, Staff Selection Commission, CGO Complex, Lodhi Road, New Delhi.
- (vii) Office of the Chief Commissioner of Disabilities, Sarojini House, 6 Bhagwan Das Road, New Delhi-110001;
- (viii) Office of the Comptroller & Auditor General of India, 10, Bahadur Shah Zafar Marg, New Delhi.
- (ix) All officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all the attached/subordinate offices of this Ministry.
- (x) Information and Facilitation Centre, North Block, New Delhi - 25 copies.

Copy to Chief Secretaries of all States/Union Territories - for information

Copy to Director (NIC), DOP&T- with a request to place this on the website of this Ministry for information of all concerned.