

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

R.B.E. NO.113/97

No. 95-E(SCT)I/49/5(1)

New Delhi, dated 21.8.97

The General Managers,

All Indian Railways/Production Units (including CLW, DLW, ICF, RCF & W&AP)/ MTP(Rlys.), Calcutta/CORE, Allahabad /GM(Const.), N.F.Rly.

OSDs: East Coast Zone, Bhubhaneshwar/North Central Zone, Allahabad /East Central Zone, Hazipur/ North-Western Zone, Jaipur/ South-Western Zone, Bangalore/ West-Central Zone, Jabalpur.

The C.A.O.:DCW,Patiala.

The Director General,R.D.S.O., Lucknow, etc. (as per standard list)

Sub: Reservation rosters - posts based - Group 'C' and 'D' posts of Direct Recruitment category- Implementation of the Supreme Court's judgement of R.K. Sabharwal Vs.State of Punjab(AIR) 1995 SC 1371), Union of India Vs. Virpal Singh Chauhan (AIR 1996-SC 442) and Union of India Vs J.C.Malik.

Under the existing instructions, vacancy based rosters have been prescribed in order to implement the Government's policy relating to the reservation of jobs for the Scheduled Castes, Scheduled Tribes and Other Backward Classes(OBCs). The application of reservation on the basis of these rosters was called in the question before the courts. The Constitution bench of the Supreme Court in the case of R.K. Sabharwal Vs. State of Punjab as well as Union of India Vs J.C. Malik has held that the reservation of jobs for Backward Classes- SC/ST/OBCs should apply to the posts and not to the vacancies. The Court further held that the vacancy based rosters can operate only till such time as the representation of the persons belonging to the reserved categories, in a cadre, reaches the prescribed percentage of reservation. Thereafter, the rosters cannot operate and vacancies released by retirement, resignation, promotion etc., of the persons belonging to the general and the reserved categories are to be filled by the appointment of the persons from the respective category so that the prescribed percentage of reservation is maintained.

2. The Courts also held that persons belonging to reserved categories, who are appointed on the basis of merit and not on account of reservation- are not be counted towards the quota meant for reservation.

3. With a view to bringing the policy of reservation in line with the law laid down by the Supreme Court, it has been decided that the existing 200 point and 100 point vacancy based rosters of direct recruitment shall be replaced by post based rosters. All the Zonal Railways, Production Units and Associated Offices of the Railway Board should therefore, prepare the rosters for Group C posts (where the minimum of scale of pay is Rs. 1400 (RPS) and above) based on principles elaborated in the Explanatory Notes given in Annexure-I and illustrated in the Model Roster as given in Annexure-II and Annexure III. Similarly, the concerned authorities may prepare rosters to replace the existing 100 point rosters in respect to local recruitment to Gr. 'C' and Gr. 'D' posts where the minimum of scale of pay is less than 1400(RPS) and normally attracting candidates from a locality/region on the basis of the same principles.

4. The principles for preparing the rosters elaborated upon in Explanatory notes are briefly recapitulated below:-

(a) The number of points in the roster shall be equal to the number of posts in the cadre. In case there is any increase or decrease in the cadre strength in future, the rosters shall be expanded or contracted correspondingly;

(b) Cadre, for the purpose of roster, shall mean a particular grade and shall comprise the number of the posts to be filled by a particular mode of recruitment in terms of the codal/manual provisions or Railway Board's instructions issued from time to time. Thus, in a cadre of, say, 200 posts where the recruitment rules prescribed a ratio of 50:50 for direct recruitment and promotion, 2 rosters- one for direct recruitment and another for promotion (where reservation in promotion applies) - each comprising 100 points shall be drawn up on the lines of the respective model rosters. The cadre also means the sanctioned temporary posts, workcharged posts, supernumerary posts, shadow posts in the grade.

(c) Since, reservation does not apply to transfer on deputation/transfer where rules prescribed a percentage of posts to be filled by this method, such number of posts of the grade shall be excluded while preparing the rosters.

(d) In the small cadre upto '13' posts the method prescribed for preparation of rosters does not permit the reservation to be made for all three categories- SC/ST/OBCs. In such cases the Zonal Railways/Production Units etc. may consider the grouping of the posts in different cadres in terms of the instructions contained in Board's letter No. E 50 CN-1/7/3 dt. 18.6.1953 [Chapter VI at page 154 of the Brochure on Reservation for SCs and STs in Railway Services(Third Edition - 1985)] and prepare a common roster for such group. In the event it is not possible to resort to such grouping, the enclosed roster(Annexure-III) for cadre strength upto 14 posts may be followed. The principles of operating the rosters has been detailed in the Explanatory Notes. The reservation even in single post have been held as constitutional and valid recently by the Hon'ble Supreme Court in the case of Union of India and others Vs Madhav s/o Gajanan Chauhan and others (JT 1996 (9) SC 320).

5. At the stage of initial operation of a roster it will be necessary to adjust the existing appointments in the roster. This will also help in identifying the excesses/shortage, if any, in respect of categories in the cadre. This will be done starting from the earliest appointment made and making appropriate remarks "utilised by SC/ST/OBCs/General", as the case may be, against each point in the rosters as explained in Explanatory Note as given in the Annexure I. In making these adjustments, the appointments of candidates belonging to the SC/ST/OBCs which were made on merit (and not due to the reservation) are not to be counted towards reservation. In other words they are to be treated as general category appointments.

6. Excess, if any, would be adjusted through future appointments and the existing appointments would not be disturbed.

7. While preparing post based rosters, care should be taken to ensure that reserve roster points are spread over evenly and not kept together as far as possible.

8. The existing instructions regarding single vacancy would not be applicable in the post based roster system.

9. Post reserved for SC/ST/OBCs should not be dereserved and should be carried forward as per extent rules. The reserve posts may also continue to be exchanged between SCs and STs in the 3rd

year of carry forward as per extent orders. Thus, there may be a situation where a SC may be occupying a post earmarked for STs and vice versa. When such a situation will arise, the combined reservation shall not exceed more than 22.5% or the total of other percentages as prescribed for SCs & STs for local recruitment at any given point of time. However, whenever either Scheduled Caste(s) or Scheduled Tribe(s) is/are occupying post(s) meant for the SCs or STs as case may be, the possibility of filling up of the post by SCs or STs as the case may be, at the earliest opportunity, against a subsequent reserved post may be kept in view. As far as OBCs unfilled posts are concerned, these will be carried forward as per extant instructions.

10. At any given point of time, the rule of maximum 50% quota will be followed on the cadre as a whole and not on the basis of individual recruitment where it may happen that all posts may be falling in share of SCs/STs & OBCs due to the application of post based reservation as the posts may be vacated by these segments only.

11. SC/ST & OBC candidates appointed earlier on compassionate grounds or the surplus staff adjusted in a new cadre against unreserved roster point will not be required to be adjusted against the reserved points of the rosters whereas if, a reserved point is filled up by compassionate/ surplus staff appointee who has/have been the member of SC/ST/OBC, reserved point will be deemed to be consumed and adjusted against reserve point in the new roster. The OBC(s)/SC(s)/ST(s) if appointed in future against Sports/Cultural/Scouts quota etc. posts these will not be adjusted against reserve points as their appointment(s) is/are due to their excellence in these fields.

12. All Zonal Railways/ Production Units etc. are requested to initiate immediate action to prepare the roster and operate them according to these guidelines. The post based rosters will require concerned CPO's approval.

13. The existing orders on the subject are deemed to have been ammended to the extent herein.

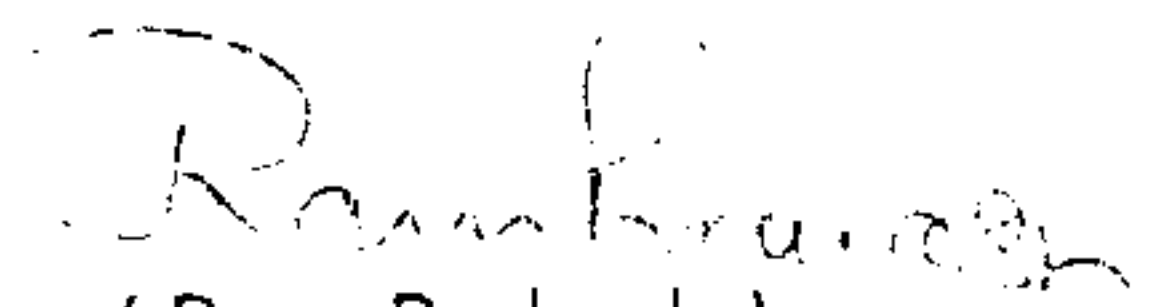
14. These orders shall take effect from the date of their issue. However, where recruitments have already been finalised, they need not be disturbed and necessary adjustments in such cases will

be made in future. In other cases, recruitments may be withheld till the revised rosters are brought into the operation and recruitments effected in accordance with these instructions.

Please acknowledge the receipt.

(Hindi version will follow)

DA: as above


(Ram Prakash)
Executive Director Estt.(Res.)
Railway Board
21.8.77

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Annexure-I of letter No.95-E(SCT)/49/5(1) dated 21.8.97

EXPLANATORY NOTES :-

Principles for making & operating post based roster.

1. As hitherto, these rosters are only an aid to determine the entitlement of different categories with regard to the quota reserved for them.

2. The model rosters have been drawn up keeping in mind two fundamental principles - the reservation for the entitled categories is to be kept within the prescribed percentage of reservation as far as possible as the rounding off of fractions may cause variation. However the total reservation should in no case exceed 50% of the cadre.

3. There should be separate rosters for direct recruitment and for promotions where reservation in promotion applies.

4. The number of points in each roster shall be equal to the number of posts in a cadre.

5. While cadre is generally to be construed as the number of posts in a particular grade, for the purpose of preparation of roster, it shall comprise posts required to be filled by a particular mode of recruitment in terms of the codal/manual provisions or Railway Board's instructions issued from time to time. To illustrate, in a cadre comprising 200 posts, where the recruitment rules prescribe ratio of 50 :50 for direct recruitment and promotions, the roster for direct recruitment shall have 100 points and that for promotion shall have 100 points - thus making a total of 200. The cadre also means the sanctioned temporary posts, workcharged posts, supernumerary posts, shadow posts etc. in the grade.

6. For making a post based roster, the first step is to calculate the reservation for each category separately on the basis of prescribed percentage. If the number of posts are coming in fraction number, they will be rounded off to a whole number and distributed on the roster points which should be spread over evenly as far as possible subject to the condition that total reservation in any case may not exceed 50% of the cadre posts as illustrated in the model roster of 15 posts to 200 posts. (Annexure-II)

7. Since reservation does not apply to transfer/transfer on deputation, where rules prescribe a percentage of posts to be filled by this method, the corresponding proportion of posts should be excluded while drawing up the rosters.

8. Whenever there is any increase or decrease in the cadre strength, the roster shall be correspondingly expanded or contracted. The same will also apply whenever there is a change in recruitment rules which affects the proportion of posts to be filled by a particular mode of recruitment.

9. The roster is to be operated on the principle of replacement and not as a "running account" as hitherto. In other words, the points at which reservation for different categories applies are fixed as per the roster and vacancies caused by retirement etc. of persons occupying those points shall be filled by appointment of persons of the respective categories.

10. While operating the roster, persons belonging to communities for whom reservation has been made, but who are appointed on merit and not owing to reservation, should not be shown against reserved points. They will occupy the unreserved points.

11. In the case of small cadres (upto 14 posts), all the posts shall be earmarked on the same pattern as in the Annexure-III. Initial recruitment against these posts shall be by the category for which the post is earmarked. Replacement of incumbents of posts shall be by rotation as shown horizontally against the cadre strength as applicable. Railways and other units should also make their own rotational rosters for small cadres for which recruitments are made on local/regional basis i.e. for post of which starting grade is less than 1400(RPS). While operating the relevant roster, care will have to be taken to ensure that on no occasion the percentage of reserved category candidates exceed 50%. If such a situation occurs at any time, the relevant reserved point occurring as a result of rotation will be skipped and carried forward to next unreserved point.

INITIAL OPERATIONS:-

1. At the point of initial operation of the roster, it will be necessary to determine the actual representation of the incumbents belonging to different categories in a cadre vis-a-vis the points earmarked for each category viz. SC/ST/OBC and General in the roster. This may be done by plotting the appointments made against each point of roster starting with the earliest appointee. Thus, if the earlier appointee in the cadre happens to be a candidate belonging to the Scheduled Castes, against point No.1 of the roster, the remark "utilised by SC" shall be entered. If the next appointee is a general category candidate, the remark "utilised by general category" shall be made against point No.2: and so on and so forth till all appointments are adjusted in the respective rosters. In making these adjustments, SC/ST/OBC candidates on merit, in direct recruitment, shall be treated as general category candidates

2. After completing the adjustment as indicated above, a tally should be made to determine the actual percentages of representation of appointees belonging to the different categories in the cadre. If there is an excess representation of any of the reserved categories, or if the total representation of the reserved categories exceeds 50%, it shall be adjusted in the future recruitment. Vacancies arising from retirement etc. of candidates belonging to such categories shall be filled by appointment of candidates belonging to the categories to which the relevant roster points, against which the excesses occur, belong.

3. Since recruitment is generally vacancy based, it may happen that the actual number of promotees and direct recruits in the cadre does not correspond to the number of posts earmarked in the respective reservation roster. For the purpose of calculations of representation of reserved category in a cadre, total of promotees and direct recruits may be taken. Rectification of the representation as per prescribed percentage by the prescribed mode of recruitment at the earliest possible should however be the goal.