

**COMMITTEE ON THE WELFARE
OF SCHEDULED CASTES AND
SCHEDULED TRIBES**

(FIFTH LOK SABHA)

TENTH REPORT

CABINET SECRETARIAT

(DEPARTMENT OF PERSONNEL)

Further Replies of the Cabinet Secretariat (Department of Personnel) to the observations of the Committee contained in their Eighteenth Report (Fourth Lok Sabha)

(Presented on the 31st May, 1972)



**LOK SABHA SECRETARIAT
NEW DELHI**

May, 1972 / Jyaishta, 1894 (S)

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CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND SCHEDULED TRIBES	(iii)
INTRODUCTION	(v)
Further Replies of Cabinet Secretariat (Department of Personnel) to the Observations contained in the Eighteenth Report (Fourth Lok Sabha)	I

COMMITTEE ON THE WELFARE OF SCHEDULED CASTES AND
SCHEDULED TRIBES

Sardar Buta Singh—*Chairman*

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25. Shri B. T. Kemparaj
26. Shri K. P. Subramania Menon

*Resigned from the Committee with effect from 23rd May, 1972.

(iv)

****27. Shri Brahmananda Panda**

28. Shri Roshan Lal

****29. Shri Sukhdev Prasad**

30. Shri Melhupra Verq

SECRETARIAT

Shri B. K. Mukherjee—*Deputy Secretary*

Shri J. R. Kapur—*Under Secretary.*

****Ceased to be member of the Committee on his retirement from Rajya Sabha with effect from 2nd April, 1972 and re-elected on 24th May, 1972.**

INTRODUCTION

1, the Chairman, Committee on the Welfare of Scheduled Castes and Scheduled Tribes, having been authorised by the Committee to submit the Report on their behalf, present this Tenth Report containing replies of the Cabinet Secretariat (Department of Personnel) to the observations of the Committee contained in their Eighteenth Report on the Ministry of Home Affairs and Department of Social Welfare: Action taken by Government on the recommendations contained in the Fourth Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes (Fourth Lok Sabha) on the Ministry of Home Affairs and Department of Social Welfare—Reservations for Scheduled Castes and Scheduled Tribes in Public Services.

2. The Fourth Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes (Fourth Lok Sabha) was presented to Lok Sabha|Rajya Sabha on the 24th February, 1970. The Eighteenth Report of the Committee, containing the replies of the Government to the recommendations contained in the Fourth Report and observations of the Committee thereon, was presented to Lok Sabha|Rajya Sabha on the 14th November, 1970. The Cabinet Secretariat (Department of Personnel) have now furnished statements showing action taken or proposed to be taken on those observations of the Committee. The Committee have decided to present the same to Parliament.

NEW DELHI;

May 26, 1972.

Jyaishta 5, 1894 (S).

BUTA SINGH,

Chairman,

*Committee on the Welfare
of Scheduled Castes and
Scheduled Tribes.*

Further Replies of the Cabinet Secretariat (Department of Personnel) to the observations contained in the Eighteenth Report on the Ministry of Home Affairs and Department of Social Welfare—Action taken by Government on the recommendations contained in the Fourth Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes (Fourth Lok Sabha) on the Ministry of Home Affairs and Department of Social Welfare—Reservations for Scheduled Castes and Scheduled Tribes in Public Services.

Recommendations (Sl. Nos. 1 & 2, Paras Nos. 1.11 & 1.12)

The Committee welcome the constitution of the Committee under the Chairmanship of the Minister of Home Affairs to review the performance in the matter of recruitment of Scheduled Castes and Scheduled Tribes in the services under the Government of India, Union Territories and Public Undertakings. The Committee hope that the Committee would meet at regular intervals, submit its reports on its findings, suggest ways and means to remedy the situation and ensure the speedy implementation of its recommendations.

The Committee also desire that the recommendations made by that Committee together with action taken thereon by Government should be laid on the Table of the Lok Sabha and Rajya Sabha.

[Fourth Report]

Reply of Government

The Committee set up under the Chairmanship of the Minister of Home Affairs to review the performance in the matter of recruitment of Scheduled Castes and Scheduled Tribes in the services under the Government of India, Union Territories and public undertakings under the control of the Government of India meets at regular intervals. The Committee, however, does not submit any report. The Committee deliberates on the various aspects relating to the policy regarding reservations for Scheduled Castes and Scheduled Tribes in services. The important measures taken by the Government in regard to representation of Scheduled Castes and Scheduled Tribes in pursuance of the recommendations of the Committee are mentioned in the Annual Report of the Ministry of Home Affairs, copies of which are circulated to Members of Parliament. The Committee being in the nature of a Consultative Committee, it is not considered necessary that the Committee should submit any formal report or

that such report with action taken thereon be placed on the Table of the Lok Sabha and Rajya Sabha.

[Ministry of Home Affairs O.M. No. 27/4/70-Est (SCT), dated 21-8-70]

[Eighteenth Report]

Comments of the Committee

The Committee feel that the purpose of appointing the High Power Review Committee would be defeated if its findings and recommendations are not known to the authorities concerned and to the Committee on the Welfare of Scheduled Castes and Scheduled Tribes. It is not understood how such a committee could be in the nature of a Consultative Committee. That was perhaps not the Intention of the Yardi Working Group. The annual report of the Home Ministry cannot obviously contain much about even the most important findings and recommendations of this Committee. If the Government do not propose to lay the reports of the Committee together with action taken thereon on the Table of the two houses, they should send a summary of discussions and decisions taken in each of the periodical meetings of the Committee to the Commissioner of Scheduled Castes and Scheduled Tribes as well as to the Committee on the Welfare of Scheduled Castes and Scheduled Tribes, for their information. An annual review of the action taken by the different Ministries/Departments on the Committee's recommendations may also be made available to them.

[Eighteenth Report]

Further Reply of Government

In the High Committee set up to review the performance of the departments concerned in the matter of recruitment of Scheduled Castes and Scheduled Tribes in the services under the Government of India, Union Territories and public undertakings, the Commissioner for Scheduled Castes and Scheduled Tribes is a permanent invitee. A summary of discussions/decisions taken in the periodical meetings of the Committee is therefore already being sent, among others, to the Commissioner for Scheduled Castes and Scheduled Tribes. The summary of discussions/decisions taken in the periodical meetings of the above committee will also now be sent to the Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes as desired by them.

The action taken by the Ministries concerned on the recommendations made in the meeting of the High Power Committee is reported to the Committee in its subsequent meeting in the form of a

statement. A copy of this statement is sent to the Commissioner for Scheduled Castes and Scheduled Tribes and will also now be sent to the Parliamentary Committee as desired by the Committee.

Incidentally, the High Power Committee to review the performance in the matter of recruitment of Scheduled Castes and Scheduled Tribes has since been reconstituted under the Chairmanship of the Prime Minister *vide* Department of Personnel Resolution No. 27|9|70-Ests. (SCT), dated 23rd November, 1970.

[Department of Personnel O.M. No. 27|2|71-Est(SCT), dated
15-4-1972]

Recommendation (Sl. No. 3, Para No. 1.21)

The Committee note that in consonance with the instructions issued by the Ministry of Home Affairs all the Ministries|Departments have since appointed Liaison Officers to ensure due compliance by the appointing authorities with the orders and instructions pertaining to the reservation of vacancies in favour of Scheduled Castes and Scheduled Tribes and other benefits admissible to them. The Committee observe that there have been insignificant improvement in regard to the employment of Scheduled Castes and Scheduled Tribes in Class I and Class II Services during the period 1964-66 and there is still, according to the Ministry's own admission, a backlog to carry. So far as Class III posts are concerned, the position is still worse in spite of the fact that there is no dearth of suitable candidates. The Committee would like to stress that it should be the responsibility of the appointing authorities|Liaison Officers to see that the instructions issued by the Ministry of Home Affairs in the matter of reservation of posts are scrupulously observed. In case any instance of non-observance of the orders comes to the notice of the Ministry of Home Affairs, the appointing authorities|Liaison Officers concerned should be held personally responsible for the laps.

[Fourth Report]

Reply of Government

A statement showing the total number of employees and the Scheduled Castes and Scheduled Tribes amongst them as on 1st January, 1964, 1st January, 1965 and 1st January, 1966, is attached (Appendix I). As would be seen from this statement, the number of Scheduled Castes in all classes of service is increasing every year. In the case of Scheduled Tribes also, there is increase in Class I and IV. The Scheduled Castes and Scheduled Tribes are being appointed against

the full quota of vacancies reserved for them for the past several years not only in the I.A.S. and I.P.S. but also in the various Central services to which recruitment is made on the basis of I.A.S. etc. combined competitive examinations. It has to be noted that the reservation is provided in respect of vacancies arising from time to time and not as a proportion of the total strength of any class of service. If the representation of these communities in the services does not yet correspond to the percentages of reservation, it is mainly because when the reservation orders came into force, their representation was very poor. It was in this context that it was stated that there is still a backlog to carry. The period for carry forward of reserved vacancies has now been increased from two to three recruitment years. Certain further concessions and facilities have also been provided to Scheduled Castes and Scheduled Tribes officers for their promotion in Class I. With these measures, it is expected that the pace of progress in the representation of Scheduled Castes and Scheduled Tribes in all classes will be accelerated.

The duties of the Liaison Officers who have been nominated in each Ministry|Department and in offices under the Heads of Departments include "ensuring due compliance by the subordinate appointing authorities with the orders and instructions pertaining to the reservation of vacancies in favour of Scheduled Castes and Scheduled Tribes and other benefits admissible to them." Besides the Commissioner for Scheduled Castes and Scheduled Tribes who by vested with the powers to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under the Constitution keeps a vigilant watch on the observance of the reservation orders. As regards the recommendation that the appointing authority|Liaison Officer should be held personally responsible for any lapse of non-observance of the reservation orders, it may be stated that all Government servants would be liable for disciplinary action for any act of commission or omission which results in non-implementation of the Governments orders and so it is not necessary to issue any separate instructions in this regard.

[Ministry of Home Affairs O.M. No. 27|4|70-Est(SCT) dated 21st August, 1970].

[Eighteenth Report]

Comments of the Committee

The Committee do not accept the argument that all Government servants are liable for disciplinary action for any acts of commission or omission, which results in non-implementation of Government

orders and therefore it is not necessary to issue any special directives or instructions in this regard. It is a basic policy of the Administration that responsibility should be fixed on a particular individual if implementation of orders etc. is not carried out.

Hence the Committee reiterate their recommendation that it should be the responsibility of the appointing authorities|Liaison Officers to see that the instructions issued by the Ministry of Home Affairs in the matter of reservation of posts are scrupulously observed. In case any instance of non-observance of the orders comes to the notice of the Ministry of Home Affairs, the appointing authorities|Liaison Officers concerned should be held personally responsible for the lapse.

[Eighteenth Report]

Further reply of Government

The matter has been considered. A copy of the instructions issued to Ministries etc. in this regard is enclosed (O.M. No. 27|2|71-Est(SCT) dated 24th March, 1972) (Annexure).

[Department of Personnel O.M. No. 27|2|71-Est(SCT) dated the 15th April, 1972]

Recommendations (Sl. Nos. 8 and 9, paras 2.15 and 2.16)

The Committee are unhappy to note from the statement given in the Report that at the time of the initial constitution of the Indian Forest Service, only 9 Scheduled Caste and 8 Scheduled Tribe Officers should be selected out of 22 Scheduled Caste and 21 Scheduled Tribe Officers considered for the purpose, the percentage to the total number of Officers appointed being only 1.3 for Scheduled Castes and 1.1 for Scheduled Tribes. They are also unhappy that no reservations for Scheduled Castes and Scheduled Tribes are provided in the initial constitution of the Indian Medical and Health Service which was constituted in February, 1969. The Committee do not expect any appreciable increase in the number of Scheduled Castes and Scheduled Tribes in Public Service unless the orders regarding representation of Scheduled Castes and Scheduled Tribes are made applicable to the Services as a whole (i.e. in posts) and not merely to the vacancies, as and when they occur.

The Committee are in agreement with the views of the Elayaperumal Committee that the existing rules, particularly of the newly constituted services should be so amended as to provide for adequate reservation for the Scheduled Castes and Scheduled Tribes at the initial stage of recruitment. The Committee suggest that Govern-

ment should urgently review the present policy in regard to making reservations for Scheduled Castes and Scheduled Tribes at the time of initial constitution of an All India Service.

[Fourth Report]

Reply of Government

Article 335 of the Constitution provides that the claims of the members of Scheduled Castes and Scheduled Tribes shall be taken into consideration consistently with the maintenance of efficiency of administration in the making of appointments to services and posts in connection with the affairs of the Union or of a State. This constitutional obligation is fully discharged when reservations are provided for these communities in the vacancies being filled up from time to time in a service or post.

When new services are constituted, at the initial constitution, Departmental candidates who may be holding posts which are incorporated in the new services, are screened and considered for absorption in the service. These are not new vacancies which are being filled and, therefore, the question of applying reservation at the stage of initial constitution, when only departmental candidates are considered, does not arise. If, however, direct recruitment has to be resorted to at the time of initial constitution also due to non-availability of suitable departmental candidates, the usual reservation for Scheduled Castes and Scheduled Tribes would apply in such direct recruitment. If reservation is introduced even at the initial constitution of a Service when only departmental candidates are considered, some of the general candidates whose posts are incorporated in the new service will remain unabsorbed and they would have no post on which they could continue. It may be stated that the Supreme Court had observed in the case of *Rangachari Versus Southern Railway* that the problem of adequate representation of the backward class of citizens must be fairly and objectively considered and an attempt must always be made to strike a reasonable balance between the claims of backward classes and the claims of other employees as well as the important consideration of efficiency of administration. It is, therefore, not possible to make reservations for Scheduled Castes and Scheduled Tribes at the time of initial constitution of an All India Service.

[Ministry of Home Affairs O.M. No. 27/4/70-Est-(SCT) dated 21-8-70]
[Eighteenth Report]

Comments of the Committee

The Committee feel that the practical difficulties enumerated by the Ministry are not such as cannot be overcome. Keeping in view the judgment of the Supreme Court in the Devadasan's case, the Government may re-examine the whole issue.*

[Eighteenth Report]

Further reply of Government

It was not possible to provide reservation for Scheduled Castes and Scheduled Tribes at the initial constitution of the Services due to the following reasons:—

- (i) When new services are constituted, at the initial constitution, departmental candidates who may be holding posts which are incorporated in the new services are screened and considered for absorption in the service. These are not new vacancies which are being filled and therefore the question of applying reservation at the stage of initial constitution when only departmental candidates are considered would not arise.
- (ii) Reservations are being provided for Scheduled Castes and Scheduled Tribes in all posts filled by direct recruitment. Therefore when the posts which are being encadred to a service at the initial constitution, were originally filled, due reservations would have been provided for Scheduled Castes and Scheduled Tribes. The purpose of initial constitution being mainly to screen and absorb (subject to their suitability) the candidates already working in the encadred posts, further reservation at this stage would not be justified as it would amount to double reservation.
- (iii) If reservations are introduced at the initial constitution of a service, some of the candidates whose posts are encadred in the new service will remain unabsorbed and they might have no posts on which they could continue.

*This relates to paras 2.15 and 2.16 of the 4th Report in which after considering the poor intake of Scheduled Castes and Scheduled Tribes Officers at the time of initial constitution of the Indian Forest Service, the Committee had observed that there could not be any appreciable increase in the number of Scheduled Castes and Scheduled Tribes in Public Services unless the orders regarding representation of Scheduled Castes and Scheduled Tribes were made applicable to the services as a whole (*i.e.* in posts). The Committee had suggested that Government should urgently review the present policy in regard to making reservations for Scheduled Castes and Scheduled Tribes at the time of initial constitution of an All India Service.

This matter has been considered further. Where the recruitment at the initial constitution of a service is made from out of the departmental candidates who are holding the posts incorporated in the service, the above mentioned three grounds would apply in such cases and reservation at the initial constitution would not be possible. However if at the initial constitution of a service, candidates other than those recruited against the encadred posts are considered for appointment to that service, the method of recruitment would be akin to direct recruitment, attracting the orders providing reservations for Scheduled Castes and Scheduled Tribes. Each case of initial constitution of a service would therefore have to be considered separately on its merits so as to determine whether the reservations for Scheduled Castes and Scheduled Tribes would apply at the initial constitution taking into account the exact method followed for recruitment at such initial constitution. Instructions will be issued to the Ministries etc. that whenever it is proposed to constitute a new service, the Department of Personnel should be consulted as regards the applicability of reservations for Scheduled Castes and Scheduled Tribes at the initial constitution.

2. As regards the Supreme Court judgment in the case of Devadasan referred to in the recommendation of the Committee, the Court do not appear to have made any specific observation in regard to reservation in the initial constitution of a service. The Government have not at any time provided reservation of posts in a service but have provided reservation of vacancies arising from time to time. This has indeed been taken note of in the judgment under reference to the Supreme Court. As stated in the preceding paragraph, the question of applicability of reservations for Scheduled Castes and Scheduled Tribes at the initial constitution of a service would be examined in each case taking into account the method of recruitment at the initial constitution of a service.

[Department of Personnel O.M. No. 27|2|71-Sst(SCT) dated the 15th April, 1972].

Recommendations (Sl. Nos. 11 and 12, paras 2.36 & 2.37)

The Committee have noted the orders issued by the Ministry of Home Affairs regarding standards of 'suitability' which are to be observed by the appointing authorities in the case of recruitment of Scheduled Castes and Scheduled Tribes. They are, however, unhappy to be told that the term 'suitability' is more or less of a subjective character and that it is difficult to ascertain the reason on account of which a particular candidate is considered suitable either by Union Public Service Commission or by any other recruiting authority.

The Committee would like to impress upon the Ministry of Home Affairs the desirability of devising adequate checks to ensure the rigid application of relaxed standards by the appointing authorities in the case of Scheduled Castes and Scheduled Tribes. They suggest that the standards especially regarding *viva voce* fixed for Scheduled Castes and Scheduled Tribes should be further relaxed if they cannot be abolished altogether.

The Committee also suggest that the feasibility of appointing Scheduled Castes and Scheduled Tribes, possessing minimum qualifications, to some categories of posts, without any written or *viva voce* test, may be considered.

[Fourth Report]

Reply of Government

The existing orders giving full discretion to the Union Public Service Commission or other recruiting authority to relax standards in favour of Scheduled Castes and Scheduled Tribes candidates while considering their selection against reserved vacancies provided such a relaxation of standards as also other matters relating to selection of administration. However, the question of laying down the extent of relaxation of standards as also other matters relating to selection of Scheduled Caste and Scheduled Tribe candidates against reserved vacancies has been further considered by Government and it has been decided as follows *vide* O.Ms. No. 1|1|70-Est(SCT) dated 25th July, 1970 and 31st July, 1970.

- (1) Scheduled Caste|Scheduled Tribe candidates would be selected for the vacancies reserved for them unless they are found unfit for appointment to the post|posts in question.
- (2) In posts filled otherwise than through an examination, if all vacancies on a particular occasion are to be filled up exclusively by Scheduled Caste and|or Scheduled Tribe candidates, advertisements would be issued inviting applications from the candidates of the concerned community only without any provisions for consideration of non-Scheduled Caste|Tribe candidates. When some of the vacancies are reserved and other are unreserved, a single advertisement would be issued but in such cases also non Scheduled Caste|Tribe candidates would not be considered against reserved vacancies on this occasion.

If Scheduled Caste|Tribe candidates are not forthcoming as a result of the advertisements as above, the vacancies would be advertised again providing for consideration of general candidates as well, if suitable candidates belonging to the Scheduled Castes|Scheduled Tribes are not available. In the meanwhile, if the post is required to be filled up urgently the appointing authority can appoint a suitable candidate of the community for which the post is reserved, on an *ad hoc* basis:

- (3) Where candidates for any particular post|posts required to be interviewed, the interview of Scheduled Castes|Scheduled Tribes candidates for posts reserved for them would be held on a date or sitting of the Selection Committee other than the one on which general candidates are interviewed so that the interviewing authority may be fully aware of the need of judging the Scheduled Castes and Scheduled Tribes candidates by relaxed standards.

With the issue of these orders, the position regarding selection of Scheduled Castes|Tribes candidates against reserved vacancies is expected to improve considerably. It would, however, neither be feasible nor conducive to the maintenance of efficiency in administration, to appoint Scheduled Caste|Tribe candidates on the basis of mere eligibility for a post without going through the procedure for selection by relaxed standards or on the basis of fitness.

[Ministry of Home Affairs O.M. No. 27|4|70-Est (SCT) dated the 21st August, 1970].

[Eighteenth Report]

Comments of the Committee

The Committee feel that justice has not been done to the Scheduled Caste|Tribe candidates at the time of recruitment by the appointing or selecting authorities on account of the 'suitability' clause. They feel that improvement in the position cannot be effected merely by issue of executive orders to the Union Public Service Commission or other recruiting authorities. The Committee suggest that all selections of Scheduled Caste|Tribe candidates to the reserved vacancies should be done on the basis of 'eligibility'. Efficiency can be acquired if such appointees are given in-service training and also

special training, if necessary. The Committee would also reiterate their recommendation* that there should be rigid application of relaxed standards by the appointing authorities in the case of Scheduled Caste|Tribe candidates.

[Eighteenth Report]

Further reply of Government

The Committee has already been informed in reply to paras 2.36 and 2.37 of the 4th Report about the provisions of the orders issued in M.H.A.O.M. No. 1|170-East(SCT) dated 25th July 1970 and 31st July 1970. These orders provide *inter-alia* as follows:—

- (1) Scheduled Castes|Scheduled Tribes candidates should be selected for the vacancies reserved for them unless they are found unfit for appointment to the post|posts in question.
- (2) The reserved vacancies in posts filled by selection should be advertised calling for applications from Scheduled Castes|Scheduled Tribes candidates, as the case may be, against such vacancies in the first instance. Should this advertisement prove infructuous, a second advertisement should be issued calling for applications for Scheduled Castes|Scheduled tribes candidates as well as general candidates. The general candidates are, however, to be considered only if Scheduled Caste|Scheduled Tribe candidates

*In paras 2.36 and 2.37 of their Fourth Report, the Committee had recommended as follows:

“2.36. The Committee have noted the orders issued by the Ministry of Home Affairs regarding standards of ‘suitability’ which are to be observed by the appointing authorities in the case of recruitment of Scheduled Castes and Scheduled Tribes. They are, however, unhappy to be told that the term ‘suitability’ is more or less of a subjective character and that it is difficult to ascertain the reason on account of which a particular candidate is considered unsuitable either by Union Public Service Commission or by any other recruiting authority. The Committee would like to impress upon the Ministry of Home Affairs the desirability of devising adequate checks to ensure the rigid application of relaxed standards by the appointing authority in the case of Scheduled Castes and Scheduled Tribes. They suggest that the standards, specially regarding *viva voce* fixed for Scheduled Castes and Scheduled Tribes should be further relaxed, if they cannot be abolished altogether.”

“2.37. The Committee also suggest that the feasibility of appointing Scheduled Castes and Scheduled Tribes, possessing minimum qualifications, to some categories of posts, without any written or *viva voce* test, may be considered.”

are considered unsuitable for appointment against such vacancies.

- (3) Scheduled Castes|Scheduled Tribes candidates should be called for interview on a separate day or a separate sitting of the Selection Committee.

The Committee's recommendation in their Fourth Report that all Selection Boards or Recruiting Authorities should include among them at least one Scheduled Caste|Tribe member has also been forwarded to all Ministries|Departments requesting them to keep in view as far as possible the said recommendation while nominating members on the Selection Boards|Recruiting Authorities. As regards the Committee's suggestion that all selections of Scheduled Castes|Scheduled Tribes candidates against reserved vacancies should be done only on the basis of eligibility, it may be stated that having regard to the paramount need for maintenance of at least the minimum standards of efficiency of administration, the criterion of suitability for appointment cannot be entirely dispensed with even in respect of Scheduled Caste|Tribe candidates. The basic objective of maintaining public services is to give an efficient administration and it is in furtherance of this objective that a constitutional body like the Union Public Service Commission is charged with the responsibility of recruiting personnel to the higher posts in the Government. Keeping in view the requirements of initiative, judgment and administrative abilities, recruiting authorities fix the qualifying standards for recruitment to various posts. Recruitment to class I and II posts|services is ordinarily made through Union Public Service Commission. If a Scheduled Caste|Tribe candidate is judged by the Union Public Service Commission to be unfit for appointment to a post even after applying the relaxation in standards provided for Scheduled Castes| Tribes, it has to be necessarily inferred that the appointment of such candidate even though fulfilling conditions of eligibility, would result in impairment of efficiency. In Class III and IV posts which are non-technical and quasi-technical and are filled by direct recruitment otherwise through written examination, it has already been provided in the orders issued in O.M. No. 24|7|67 (I)Est(SCT) dated 24th September 1968 that if the requisite number of Scheduled Caste|Tribe candidates fulfilling even the lower standards are not available to fill the vacancies reserved for them, the best among the candidates belonging to these communities who fulfil the minimum educational qualifications should be taken. Such candidates are to be given in-service training to enable them to acquire the requisite proficiency. The question of extending this concession to Class II non-technical and quasi-technical posts would also be considered after watching

the impact of the present orders as has already been stated in reply to the recommendation in para 2.64 of the 4th Report of the Committee.

[Department of Personnel O.M. No. 27|2|71-Est (SCT) dated 15th April, 1972].

Recommendation (Sl. No. 13, Para 2.38)

The Committee also feel that in order to give impetus and encouragement to the Scheduled Castes and Scheduled Tribes, such of them, who of their own come on the merit list in a competitive examination, should be taken against the general seats and not against the reserved quota of vacancies. The Committee suggest that the Union Public Service Commission|State Public Service Commission should give this matter urgent consideration.

[Fourth Report]

Reply of Government

Article 16(4) of the Constitution permits reservation of appointment or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State. The percentages of reservation for Scheduled Castes and Scheduled Tribes in the services under the Government of India have already been fixed according to the population of these communities in the country. The principle of reservation is meant to ensure requate representation of candidates of the backward communities concerned even by applying relaxed standards. The number of Scheduled Castes|Scheduled Tribes available in the merit list would therefore go to reduce the number of the candidates of these communities to be taken by relaxed standards. If, however, the number of Scheduled Castes|Scheduled Tribes candidates included in the select list on the basis of merit exceeds the quotas reserved for them, all of them would be taken in, and it would not be necessary to consider any other candidates of these communities by relaxed standards. In view of the position indicated above, it would not be possible to accept the suggestion of the Committee.

[Ministry of Home Affairs O.M. No. 27|4|70-Est (STC) dated the 21st August, 1970]
[Eighteenth Report]

Comments of the Committee

The Comimittee are not convinced by the reply given by the Government. In view of the fact that vacancies reserved for Scheduled Castes and Scheduled Tribes have in the past been filled by non-Scheduled Castes|Tribes candidates on account of non-availability of

suitable candidates, there does not appear to be any reason why Scheduled Caste|Tribe candidates coming in the merit list should not be adjusted against general seats. The Committee therefore reiterate their recommendation.*

[Eighteenth Report]

Further reply of Government

Under the existing orders, if Scheduled Castes|Scheduled Tribes candidates are not available on the basis of the general standards of suitability, candidates of these communities would be selected on the basis of relaxed standards to make up the deficiency in the reserved quota of vacancies. The Committee have been informed in reply to para 2.38 of their Fourth Report that the percentages of reservations for Scheduled Sastes and Scheduled Tribes in Services under the Government of India have already been fixed according to the proportion of the population of these communities in the country and this would ensure adequate representation for them. The position has been further examined in the light of the recommendation now made by the Committee. Article 16(4) of the Constitution is an exception to the general rule of equality of opportunity in public employment guaranteed by article 16(1) of the Constitution enabling the State to make reservations in favour of any backward class of citizens which in the opinion of the State, is not adequately represented in the Services of the State. The condition precedent to the exercise of the powers conferred by article 16(4) is that the State is to be satisfied that a particular backward class of citizens is not adequately represented in its Services. In this connection attention is invited to the following observation of the Supreme Court in Devdasan's case:—

“It is clear . . . that the problem of giving adequate representation to members of Backward Classes enjoined by article 16(4) of the Constitution is not to be tackled by framing a general rule without bearing in mind its repercussions from year to year. What precise method should be adopted for this purpose is a matter for the Government to decide. It is enough for us to say that while any method can be evolved by the Government. It must strike a reasonable balance between the claims of the Backward Classes and claims of other employees as poin-

*In para 2.38 of their 4th Report, the Committee had felt that in order to give impetus and encouragement to the Scheduled Castes and Scheduled Tribes, such of them who of their own come on the merit list in a competitive examination, should be taken against the general seats and not against the reserved quota of vacancies. The Committee had suggested that the Union Public Service Commission /State Public Service Commissions should give this matter urgent consideration.

ted out in Balaji's case." . . . "What the percentage ought to be must necessarily depend upon the circumstances obtaining from time to time."

In a recent case of the Supreme Court (A. Periakaruppan Vs. State of Tamil Nadu, the Supreme Court again observed:

"But all the same the Government should not proceed on the basis that once a class is considered as a backward class it should continue to be backward class for all times. Such an approach would defeat the very purpose of the reservation. The Government should always keep under review the question of reservation of seats and only the classes which are really socially and educationally backward should be allowed to have the benefit of reservation. Reservation of seats should not be allowed to become a vested interest." (A.I.R. 1971 S.C. 2302).

It is clear from these observations of the Supreme Court that the question of reservation would arise only if in the services of the State, candidates belonging to a backward class (here Scheduled Castes|Tribes) are not adequately represented. The very fact that some candidates belonging to Scheduled Castes|Tribes qualify on their own merit from time to time warrants a review regarding the percentages of reservation to be provided in recruitment to a particular service or post. As stated, through fixed quotas of reservations are provided for Scheduled Castes|Tribes, candidates to be selected by relaxed standards in each year would be determined by deducting the number of Scheduled Castes|Tribes who qualify on their own merit from the fixed quota of reservations thereby providing an inherent process of review in each year regarding the adequacy of reservations and consequent adjustment in the effective reservations provided. Ministry of Law have advised that any other way of looking at the problem of providing reservations would offend the provisions of article 16(1) & (2) of the Constitution. Incidentally, the Committee have stated in the present recommendation that in view of the fact that vacancies reserved for Scheduled Castes and Scheduled Tribes have in the past been filled by non-Scheduled Castes|Tribes candidates on account of non-availability of suitable candidates belonging to these communities, there does not appear to be any reason why Scheduled Caste|Scheduled Tribe candidates coming in the merit list should not be adjusted against the general seats. In this connection, it may be stated that the orders regarding reservation for Scheduled Castes and Scheduled Tribes already provide that in the event of non-availability of Sche-

cluded Caste/Tribe candidates to fill the vacancies reserved for them, the vacancies could be filled by general candidates after dereservation but the reservations have to be carried forward to subsequent recruitment years for adjustment subject to normal reserved vacancies and the carried forward reserved vacancies together not exceeding 45 per cent of the total vacancies filled by any year. The period for carry forward of reserved vacancies has been increased from two to three recruitment years with effect from 25th March, 1970. In the third year of carry forward of reserved vacancies, the vacancies reserved for Scheduled Tribes can be exchanged for Scheduled Castes and *vice versa*. Adequate provision therefore already exists for recruiting additional number of Scheduled Castes and Scheduled Tribes candidates so as to make up the backlog in their representation in the previous years.

[Department of Personnel O.M. No. 27|2|71-Est (SCT) dated 15th April, 1972].

Recommendation (Sl. No. 15, Para 2.48)

In view of the poor intake of Scheduled Castes and Scheduled Tribes in the Central Secretariat Stenographers' Service, as is evident from the statement given at para 2.46 of the Report, the Committee would like the Ministry of Home Affairs to reconsider whether the rules for the recruitment of Stenographers, so far as they are applicable to Scheduled Castes and Scheduled Tribes, could be further relaxed.

[Fourth Report]

Reply of Government

Prior to the reorganisation of the Central Secretariat Stenographers' Service with effect from 1st August, 1969, all the posts of Grade II Stenographers of the service were filled on the basis of competitive examinations held by the Union Public Service Commission. The number of vacancies reserved for Scheduled Castes and Scheduled Tribes and the number of candidates belonging to these communities recruited through the Stenographers' Examinations held during 1965-68 is indicated below:

Year of Examination.	No. of vacancies reserved for		No. of SC/ST candidates Nominated	
	S.C.	S.T.	S.C.	S.T.
1965	95	38	5 (out of 11 qualified)	..
1966	83	33	4 (out of 9 qualified)	..
1967	48	19	12 (out of 19 qualified)	..
1968	29	13	12 (out of 14 qualified)	..

The rule for the above Examinations provided for relaxations of standards in the case of Scheduled Castes and Scheduled Tribes candidates. Sufficient number of Scheduled Castes candidates were, however, not available to fill all the vacancies reserved for them, despite relaxation of standard, and Scheduled Tribes were not available at all.

The Central Secretariat Stenographers' Service has been reorganised with effect from 1st August, 1969 to consist of the following grades:

Grades	Classification
(i) <i>Selection Grade</i>	
(Private Secretaries to Secretaries/Special Secretaries/Addl. Secys./ First P. As. to Ministers and P. S. to Deputy Ministers).	Central Civil Service Class II Ministerial.
(ii) <i>Grade I—</i>	
(Senior P.As. to Joint Secretaries and Officers of equivalent ranks and A.P.S. to Ministers).	Do.
(iii) <i>Grade II—</i>	
(P. As.)	Do.
(iv) <i>Grade III—</i>	
(For stenotypists)	Central Civil Service Class III—Ministerial.

The posts in Selection Grade and Grade I of the service are filled entirely by promotion. As regards Grade II of the service 62½ per cent of the posts in grade are to be filled by direct recruitment and the remaining 37½ per cent by promotion from Grade III Stenographers. All the posts in Grade III of the Service are to be filled on the basis of competitive examination held by the Secretariat Training School, and the examination would be confined only to the members of the C.S.C. S. Necessary reservation is made for Scheduled Castes and Scheduled Tribes in Grade III and Grade II posts filled by direct recruitment. The rules also provide for relaxation of standards in the case of Scheduled Castes and Scheduled Tribes. If any reserved vacancies remain unfilled due to non-availability of Scheduled Caste/Tribe candidates, the reservations are carried forward. The period for carry forward of the reservation has been increased from two to three subsequent recruitment years and the reserved vacancies for Scheduled Castes and Scheduled Tribes have been made interchangeable in the third year of carry forward. Thus there is hardly any scope for further relaxation in the case of Scheduled Castes and Scheduled Tribes in recruitment to the posts of Stenographers.

9 pre-examination training centre sponsored by the Department of Social Welfare has recently been opened in Delhi for coaching of Scheduled Caste/Tribe candidates appearing for subordinate examination to be held for recruitment to the grades of Assistants, Stenographers, U.D.Cs. and Lower Division Clerks. The intake of Scheduled Castes and Scheduled Tribes in the Stenographers Service is, therefore, likely to improve in the future.

[Ministry of Home Affairs O.M. No. 27/4/70-Est (SCT) dated 21st August, 1970].

[Eighteenth Report]

Comments of the Committee

The Committee are unhappy to observe from the** statement given above that all the Scheduled Caste candidates, who qualified in the Stenographers' Examinations held in the years 1965 to 1968, were not appointed as Stenographers. In the circumstances the Committee cannot accept that relaxed standards are being applied in the recruitment of Scheduled Castes and Scheduled Tribes. The Committee feel that all those Scheduled Castes and Scheduled Tribes who qualify in the written examinations, should automatically be absorbed especially in such posts as Stenographers, when there are large number of reserved vacancies available. The Committee would like the Ministry to further review the position in order to find ways and means for improving the representation of Scheduled Castes and Scheduled Tribes in the Stenographers Service.

[Eighteenth Report]

**This refers to the statement furnished in reply to the recommendation in para 2.48 of the Fourth Report of the Committee. This statement showing the number of vacancies reserved for Scheduled Castes and Scheduled Tribes and the number of candidates belonging to these communities recruited to the grade II of the Central Secretariat Stenographers' service through the Stenographers' Examinations held during 1965-68 is reproduced below:

Year of Examination	No. of vacancies reserved for		No. of SC/ST candidates nominated	
	S.C.	S.T.	S.C.	S.T.
1965	95	38	5 (out of 11 qualified)	
1966	83	33	4 (out of 9 qualified)	
1967	48	19	12 (out of 19 qualified)	
1968	29	12	12 (out of 14 qualified)	

Further reply of Government

The statement referred in the recommendation relate to the information regarding the number of vacancies reserved for Scheduled Caste/Tribe candidates in the CSSS as also the number of Scheduled Caste/Tribe candidates nominated to that service. The remaining Scheduled Caste candidates who qualified in the Stenographers' Examinations held during 1965—68 were nominated to other services/offices as indicated in the statement below:

Year of Examination	Total No. of SC/ST candidates who qualified.	Service, Office to which nominated			
		CSSS	IFS	Rly. Board	Others
1965	11	5	1	1	4
1966	9	4	1		4
1967	19	12	2		5
1968	14	12	1	1	

The observation of the Committee that all the Scheduled Castes/Scheduled Tribes candidates who qualified in the examination held in the years 1965—68 were not appointed as Stenographers is, therefore, not correct.

As already stated in the reply to para 2.48 of the 4th Report of the Committee, the Rules provided for relaxation of standards in the case of recruitment of Scheduled Caste/Tribe candidates. Orders have since been issued in July, 1970, that in case of Direct Recruitment whether by Examination or otherwise, if sufficient number of Scheduled Caste/Tribe candidates are not available on the basis of general standard to fill all the vacancies reserved for them, candidates belonging to these communities may be selected to fill up the remaining vacancies reserved for them provided they are not found unfit, for such post/posts. This to the extent the number of vacancies reserved for Scheduled Caste/Tribe candidates cannot be filled on the basis of general standard candidates belonging to these communities would as at present be 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. Necessary amendment to this effect has been made in the relevant Regulations governing recruitment to Grade II of the Central Secretariat Stenographers' Service in consultation with Union Public Service Commission *vide* Department of Personnel Notification No. 9/5/70-CS/II (ii) dated 3rd September, 1971.

As regards the recommendation of the Committee that all those Scheduled Castes|Tribes who qualified in the written examination should automatically be absorbed as Stenographers, it may be stated that the competitive examination for recruitment to Grade II of the CSSS held by the Union Public Service Commission consists of two papers viz. (a) written test and (b) shorthand tests. The candidates who qualify in the written paper only were allowed to take the shorthand test to assess their skill in shorthand. It will, therefore, obviously not be possible to appoint Scheduled Caste|Tribe candidates as stenographers merely on the basis of their qualifying in the written test, without testing their skill in shorthand which is very essential for appointment as a stenographer. As already stated above, the Scheduled Caste|Tribe candidates have now to be appointed against the reserved vacancies if they are not found unfit for such appointment. Thus there is hardly any scope for further relaxation in the case of Scheduled Castes|Scheduled Tribes in the recruitment to the posts of stenographers.

[Department of Personnel O.M. No. 27|2|71-Est(SCT) dated 15th April, 1972.]

Recommendation (Serial No. 17, Para 2.50)

The Committee further suggest that the Ministry of Home Affairs may hold an examination exclusively for Scheduled Castes and Scheduled Tribes for recruitment as Stenographers so that the intake of Scheduled Castes and Scheduled Tribes in Central Secretariat Stenographers' Service can be augmented.

[Fourth Report]

Reply of Government

According to the Supreme Court's judgment in the case of Devadasan versus Union of India, reservation in excess of 50 per cent would not be constitutional. In view of this position, special examination in which only Scheduled Castes|Tribes candidates are allowed to appear would go against the judgment of the Supreme Court and is, therefore, not possible. It may be stated that in direct recruitment through examinations, the standards of suitability are relaxed in the case of Scheduled Castes and Scheduled Tribes candidates. Further, the percentages of reservation for Scheduled Castes and Scheduled Tribes in direct recruitment and in promotion where applicable, have been enhanced with effect from 25-3-1970 *vide* resolution No. 27|25|68-Est(SCT) dated 25-3-1970. The Scheduled Castes|Tribes candidates who possess the necessary qualifications for appointment to the posts of Stenographers would, therefore, now have more chances to enter the

Stenographers' Service under the various Ministries etc. A pre-examination training centre sponsored by the Department of Social Welfare has recently been set up in Delhi for coaching of Scheduled Caste/Tribe candidates appearing for subordinate examinations to be held for recruitment to the grades of Assistants, Stenographers, Upper Division Clerks and Lower Division Clerks. This is likely to improve the intake of Scheduled Castes/Scheduled Tribes in future.

[Ministry of Home Affairs O.M. No. 27/4/70-Est (SCT) dated 21st August, 1970].

[Eighteenth Report]

Comments of the Committee

The Committee are not in agreement with the** views of the Ministry in the matter. In view of the fact that the Ministry of Railways (Railway Board) are having *ad-hoc* recruitment for Scheduled Castes and Scheduled Tribes in regard to services under the zonal Railways, they see no reasons why such *ad hoc* recruitments cannot be made in respect of Scheduled Castes and Scheduled Tribes as Stenographers. The judgment of the Supreme Court quoted above should not apply to only one segment of Government employees but to all the segments. The Committee hope that the Government will reconsider the matter.

[Eighteenth Report]

Further reply of Government

In the Zonal Railways, recruitment to Class III Services is made through the agency of Railway Service Commissions, who have instructions to recommend Scheduled Castes and Scheduled Tribes

**This has reference to the recommendation in para 2.50 of the Committee's Fourth Report where the Committee had suggested holding of an examination exclusively for Scheduled Castes and Scheduled Tribes for recruitment as Stenographers so that the intake of Scheduled Castes and Scheduled Tribes in the Central Secretariat Stenographer's Service could be augmented. In reply to this recommendation the Ministry of Home Affairs stated inter alia as follows:

"According to the Supreme Court's judgement in the case of Davadasan Vs. Union of India reservation in excess of 50% would not be constitutional. In view of this position special examination which only Scheduled Caste/Tribe candidates are allowed to appear would go against the judgment of the Supreme Court and is, therefore not possible. It may be stated that in direct recruitment through examinations the standards of suitability are relaxed in the case of Scheduled Castes and Scheduled Tribes candidates.

* * * * *

"A pre-examination training Centre sponsored by the Department of Social Welfare has recently been set up in Delhi for coaching of Scheduled Castes/Scheduled Tribes candidates appearing for subordinate examinations to be held for recruitment to the grades of Assistants Stenographers, Upper Division Clerks. This is likely to improve the intake of Scheduled Castes/Scheduled Tribes in future."

candidates who may obtain low place on the panel except where the minimum standard necessary for maintenance of efficiency of administration has not been reached. When the Railway Service Commissions fail to recommend sufficient number of candidates belonging to Scheduled Castes and Scheduled Tribes against the vacancies reserved for these communities, the General Managers have been delegated special powers to recruit, on a regular basis, candidates of these communities from the open market to wipe out the deficiency, on the basis of written examination as well as *viva voce*. The standard fixed for selection is the minimum required from the point of view of the efficiency of the administration.

The posts of Stenographers Grade II of the CSSS are Class II posts in the Scale of Rs. 210—530. Posts in the higher grades of the Service, carrying gazetted status, viz. Grade I (Rs. 350—770) and Selection Grade (Rs. 350—900) are filled entirely by promotion. Members of the Service are also eligible for promotion to Grade I of the C.S.S. (Under Secretary) in the scale of Rs. 900—1250. Direct recruitment to 62½ per cent of vacancies in Grade II of the C.S.S.S. is made on the result of an open competitive examination conducted by the Union Public Service Commission. According to existing instructions, candidates belonging to any of the Scheduled Castes or the Scheduled Tribes may, to the extent the number of vacancies reserved for the Scheduled Castes and Scheduled Tribes cannot be filled on the basis of general standard, be recommended by the Union Public Service Commission by a relaxed standard to make up the deficiency in the reserved quota, subject to the fitness of the candidates for selection to the Service, irrespective of their ranks in the order of merit at the examination. A separate examination was conducted earlier by the Union Public Service Commission in 1960 exclusively for Scheduled Caste and Scheduled Tribe candidates for filling up the reserved vacancies remaining unfilled on the results of the general examination. Only 11 candidates belonging to Scheduled Castes had qualified in that examination. In view of this poor result, it is considered that holding another examination exclusively for candidates of these communities will not be useful. The Grade II Stenographers examinations conducted by the Union Public Service Commission are given wide publicity through the Press and the Radio. It is highly improbable, therefore, that for the vacancies reserved for candidates of Scheduled Castes and Scheduled Tribes remaining unfilled on the basis of the examinations conducted by the Union Public Service Commission, suitable candidates of these communities would be forthcoming if recruitment thereto is entrusted to any other authority, on the analogy of the practice followed in the zonal Railways, unless the

standard for selection is lowered even below the relaxed standard adopted by the Commission. Further lowering of the standard for selection is not possible as it will adversely affect the efficiency of the Service. It is, however, expected that the coaching facilities provided by the Pre-examination Training Centre set up by the Department of Social Welfare in 1970 for Scheduled Castes and Scheduled Tribes candidates appearing for the examinations to be held for recruitment to the grades of Assistant, Stenographers, Upper Division Clerks, and Lower Division Clerks, will improve the intake of candidates of these communities into Grade II of the Central Secretariat Stenographers Service, in future.

[Department of Personnel O.M. No. 27/2/71-Est (SCT) dated the 15th April, 1970].

Recommendation (Serial No. 20, Para 2.59)

The Committee take note of the views of the Ministry of Home Affairs as also of the Department of Social Welfare that a Separate executive authority to nominate Scheduled Caste and Scheduled Tribe candidates against reserved vacancies would not be feasible. They, however feel that there should be no difficulty in appointing a separate executive authority to nominate Scheduled Caste and Scheduled Tribe candidates in all posts outside the purview of the U.P.S.C. They also suggest that the Department of Social Welfare should conduct periodical surveys so as to see to what extent the nomination of Scheduled Castes and Scheduled Tribes made by the Ministries/Departments of the Government of India against reserved posts were in accordance with the orders of the Ministry of Home Affairs. The Committee have no doubt that the Commissioner for Scheduled Castes and Scheduled Tribes would also include cases of non-implementation of these orders in his reports to the President.

[Fourth Report]

Reply of Government

The views of this Ministry expressed in connection with a similar recommendation made earlier by Seminar of Employment of Scheduled Castes and Scheduled Tribes are given in para 2.56 of the present Report of the Parliamentary Committee. Generally, Class III and IV posts are filled otherwise than through the U.P.S.C. and the Head of the Department or Head of Office is the appointing authority for such posts. Such authority makes recruitment both against reserved and unreserved vacancies and while filling reserved vacancies taken into account the orders regarding relaxation of standards

in favour of Scheduled Castes and Scheduled Tribe candidates. The present suggestion implies that in posts outside the purview of the U.P.S.C. while nomination against unreserved vacancies would continue to be made by the appointing authority concerned i.e. the Head of the Department|Head of Office etc., nomination against reserved vacancies would be made by a separate executive authority appointed for this purpose. The suggestion thus envisages two separate authorities in relation to a particular post or posts, one for nominating Scheduled Caste and Scheduled Tribe candidates against unreserved vacancies. The U.P.S.C. is a Statutory Body created under Article 315 of the Constitution. Another statutory body in the form of a Central executive authority, on the lines of the U.P.S.C., for nominating Scheduled Caste and Scheduled Tribe candidates cannot be visualised. The responsibility for selection of candidates both for reserved and unreserved vacancies in posts outside the purview of the U.P.S.C. is that of the appointing authority and only such appointing authority would be in the best position to judge the suitability of the candidates keeping in view the requirements of each category of post or posts. Further, recruitment to various Class III and IV posts is made on a local or regional basis and the candidates nominated by the local employment exchanges are generally considered. Since there is no centralised recruitment to such Class III and IV posts, it would not be practicable to have a central authority to nominate Scheduled Caste and Scheduled Tribe candidates only against reserved vacancies.

Instructions have been issued to Ministries etc. that where recruitment is made through the Employment Exchanges, if any of the vacancies reserved for Scheduled Castes|Scheduled Tribes|ex-servicemen is not filled by a candidate of the respective category sponsored by the Employment Exchange, specific reasons therefore should be communicated to the Exchange *vide* O.M. No. 14|12|67-Estt. (D) dated 10th April 1968. Prior approval of the Ministry of Home Affairs is required to be obtained where reserved vacancies have to be dereserved and filled by general candidates if the vacancies are those included in the roster for permanent and temporary appointments likely to become permanent or to continue indefinitely. These checks are adequate and it is not considered necessary to conduct periodical surveys of nomination of Scheduled Castes|Tribes candidates.

[Ministry of Home Affairs O.M. No. 27|4|70-Est(SCT) dated
21-8-1970]

Comments of the Committee

The intention behind the recommendation @ is not to have a separate executive authority in each Department|Office as a parallel body to the existing heads of departments etc.—as is made out by the Government. The suggestion is clearly for only one Central Executive authority to deal with all the reserved vacancies to be intimated to it by all the departments|offices. It was stated* by the Government earlier on this point that the office of the Director General of Employment and Training was already functioning more or less for a similar purpose. If that could be the justification there is obviously no reason now to object to the creation of a Central executive authority for better and effective implementation of reservation orders following for Constitutional provisions. The office of the Director General of Employment and Training cannot effectively serve that purpose. The Committee therefore do not accept the Government's explanation on this vital issue of suitable machinery for implementation of reservation orders.

[Eighteenth Report]

Further reply of Government

As recruitment to Class I and II posts|services is ordinarily made through the Union Public Service Commission the proposed Central executive authority, if created could be entrusted only with nominating Scheduled Castes|Scheduled Tribes candidates for vacancies reserved for them in Class III and IV services|posts. At present employment exchanges sponsor candidates against general as well as reserved vacancies notified to them in class III and IV posts|services and therefore the creation of a central executive authority for filling the reserved vacancies would amount to setting up of a parallel authority. The responsibility for selection of candidates both for reserved and unreserved vacancies for posts|services outside the purview of the Union Public Service Commission is with the appointing authority and only such appointing authority would be in the best position to judge the suitability of the candidates keeping in view the requirements of each category of posts|services. Further, recruitment to various Class III and IV posts is generally made on a local or regional basis and the reservations too have been provided for Scheduled

@ This refers to the recommendation in para 2.59 of the 4th Report of the Committee. The Committee had recommended that there should be no difficulty in appointing a separate executive authority to nominate Scheduled Castes and Scheduled Tribes candidates in all posts outside the purview of the Union Public Service Commission.

*The reference is to the reply given by Government to the recommendation of the Seminar on employment of Scheduled Castes and Scheduled Tribes held in January-February 1964 on the same subject reproduced in para 2.56 of the 4th Report of the Committee.

Castes|Scheduled Tribes in such recruitment depending upon the percentages of these communities in a particular State|Union Territory. The candidates nominated by the local employment exchanges are generally considered for such vacancies and it would not be practicable for a Central authority to nominate Scheduled Castes|Scheduled Tribes candidates against reserved vacancies recruitment to which is made on a local or regional basis. For the period from 1965 to June, 1970 the employment exchanges could secure 2,93,681 placements for Scheduled Castes candidates while only 70,535 vacancies reserved for Scheduled Tribes were notified to them. Similarly over the same period, the employment exchanges could secure placements for 79,439 Scheduled Tribes candidates as against 26,747 vacancies reserved for Scheduled Tribes were notified to them. Similarly Thus it could be seen that the employment exchange sponsor Scheduled Castes|Scheduled Tribes candidates not only against vacancies reserved for these communities but also against general vacancies and the overall placements for the candidates of these communities secured through employment exchanges by far outstrip the total number of notified reserved vacancies. Under the procedure prescribed for dereservation of vacancies reserved for Scheduled Castes and Scheduled Tribes, if suitable candidates of the reserved communities are not sponsored by the employment exchanges, such vacancies would have to be got advertised in the newspapers besides being notified to Scheduled Castes|Scheduled Tribes Associations recognised for this purpose. Then these Associations can also sponsor Scheduled Castes|Scheduled Tribes candidates for recruitment against the reserved vacancies.

In view of the position stated above, the creation of a Central Executive authority for sponsoring Scheduled Castes|Scheduled Tribes candidates against reserved vacancies is not considered to be necessary or practicable.

[Department of Personnel O.M. 27/2/71-Est(SCT) dated the
15th April, 1972]

Recommendation (Serial No. 35, Para 2.122)

The Committee consider that in view of the meagre representation of Scheduled Castes and Scheduled Tribes in public services, it is desirable to accord recognition to Unions|associations of Scheduled Castes and Scheduled Tribes which are of an all India character.

[Fourth Report]

Reply of Government

Certain welfare associations of Scheduled Castes and Scheduled Tribes have been recognised by this Ministry for the purpose of notifying vacancies reserved for Scheduled Castes and Scheduled Tribes. Associations of Scheduled Castes and Scheduled Tribes Government employees are, however, not being recognised as the policy of Government is not to recognise associations of Government employees which are formed on the basis of caste, tribe or religion. The Scheduled Castes and Scheduled Tribes employees can ventilate their service grievances through the service associations besides making individual representations as provided for under the rules. The Commissioner for Scheduled Castes and Scheduled Tribes is also exercising a vigilant watch to ensure that no injustice is done to Scheduled Castes and Scheduled Tribes employees.

As regards recognition of associations for purpose of notifying reserved vacancies, four associations of Scheduled Castes (with 16 Branches of one of them) and one association of Scheduled Tribe with its 47 Branches have already been recognised for this purpose. Publicity of reserved vacancies is at present being made also in a number of India Languages and English newspapers besides notifying vacancies to the Employment Exchange. In the light of much greater publicity that is now being given to employment opportunities for Scheduled Castes and Scheduled Tribes, it is not considered necessary to recognise any new associations for this purpose.

[Eighteenth Report]

Comments of the Committee

The Committee feel that the Scheduled Caste|Tribe employees are not able to ventilate their service grievances through the general unions|associations. Government should give recognition to some all India organisations of Scheduled Castes and Scheduled Tribes so that the legitimate grievances of Scheduled Castes|Tribes employees are ventilated through these organisations. The Committee hope that Government will reconsider this matter.

[Eighteenth Report]

Further reply of Government

The matter was carefully considered by Government in 1962 after taking into account all relevant factors and it was decided that no service association of Government servants which is formed on the basis of caste, tribe or religion should be accorded recognition for any purpose. It would not be desirable that any association of Gov-
1254 (Aii) LS—3.

ernment servants should be formed on the basis of castes or tribes. Once in service, the service interests of Government servants are common and cannot be compartmentalised on the basis of caste or community. Accordingly, no associations of Scheduled Castes and Scheduled Tribes Government servants have been recognised by Government. The Scheduled Castes/Tribes Government employees can ventilate their service grievances through the existing service associations besides making individual representations as provided for under the rules. Besides, the Commissioner for Scheduled Castes and Scheduled Tribes is already exercising a watch on the implementation of the various safeguards provided for Scheduled Castes and Scheduled Tribes in service matters and investigates into the complaints received in this regard. It is therefore not considered appropriate to organise any Scheduled Caste and Scheduled Tribe organisations for this purpose.

[Department of Personnel O.M. No. 272/71-Est(SCT) dated 15th April, 1972]

Recommendation (Serial No. 40, Para 3.15)

The Committee suggest that Government may examine whether there should be reservations for Scheduled Castes and Scheduled Tribes in appointments made by promotion on the basis of seniority subject to fitness.

[Fourth Report]

Reply of Government

When posts are filled by promotion on the basis of seniority subject to fitness, equality of opportunity is ensured in that every person gets his promotion in his own turn unless he is weeded out as unfit. It cannot be said that Scheduled Castes and Scheduled Tribes employees suffer any disability in this mode of promotion as their comparative merit with others is not judged but like others they too are promoted subject to their fitness. In a number of judgments the Supreme Court observed that the matter relating to employment in respect of which equality of opportunity has been guaranteed by article 16(1) and (2) of the Constitution do not fall within the scope of the exception in clause (4) of that article. It is, therefore, evident that provisions of article 16(4) of the Constitution cannot, therefore, be extended to cover promotions made on the basis of seniority subject to fitness. In view of this, it is not legally permissible and would also not be equitable to provide reservations

in posts filled by promotion on the basis of seniority subject to fitness.

[Ministry of Home Affairs O.M. No. 27/4/70-Est(SCT) dated
21-8-1970].

[Eighteenth Report]

Comments of the Committee

The Committee would like the Government to re-examine the whole* question by making a preference to the Ministry of Law on this matter. The Committee would like to be furnished with relevant judgments of the Supreme Court on this particular point. The opinion of the Ministry of Law may also be furnished to the Committee.

[Eighteenth Report]

Further reply of Government

Comments on this recommendation would be furnished separately as the matter is under consideration.

[Department of Personnel O.M. No. 27/2/71-Est(SCT) dated the
15th April, 1972.]

Recommendation (Serial No. 43, Para 3.28)

Having considered the figures supplied by the Ministry of Home Affairs and the Department of Social Welfare regarding the number of ex-cadre posts being held by Scheduled Castes and noting that not a single Scheduled Tribe is holding such a post in either the Ministry of Home Affairs or the Department of Social Welfare, the Committee cannot but conclude that the instructions of the Ministry of Home Affairs, as mentioned in para 3.25 of the Report, have had no impact in this behalf. The Committee feel that there should be no practical difficulty in providing for reservations for Scheduled Castes and Scheduled Tribes in the ex-cadre and deputation posts. Unless this is done, the Scheduled Castes and Scheduled Tribes will never get their due representation in such posts as the past experience has shown. The Committee, therefore, recommend that necessary reservations for Scheduled Castes and Scheduled Tribes should also be provided in the ex-cadre and deputation posts.

[Fourth Report]

*This has reference to para 3.15 of the 4th Report in which the Committee had suggested that Government might examine whether there should be reservations for Scheduled Castes and Scheduled Tribes in appointments made by promotions on the basis of seniority, subject to fitness.

Reply of Government

The principle of reservation for Scheduled Castes and Scheduled Tribes which applies to posts filled by direct recruitment and to certain categories of posts filled by promotion cannot be extended to posts filled by deputation or transfer. Due to the very nature of the posts filled by deputation or transfer, selection for such posts has to be from amongst the suitable candidates possessing the requisite experience etc. Further, reservations must have been applied when the original posts/services from which persons are sent on deputation to ex-cadre posts were initially filled. It is, therefore, not feasible to make reservation in posts filled by deputation or transfer.

[Ministry of Home Affairs O.M. No. 27/4/70-Est(SCT) dated the 21-8-1970].

[Eighteenth Report]

Comments of the Committee

The Committee find no justification for not providing reservation in ex-cadre posts when similar representation is made by the Ministry of Railways (Railway Board) in regard to services under the Zonal Railways. The Committee feel that there should be uniform policy for all the Ministries/Departments of the Government of India, including their attached and subordinate offices.

Further reply of Government

The position in this regard has been ascertained from the Ministry of Railways. On the Railways, the various ex-cadre posts such as Passenger Guides, Welfare Inspectors, Safety Inspectors, Platform Inspectors, Publicity Inspectors etc. are filled from amongst staff drawn from more than one branch. Since these ex-cadre posts are filled by promotion by selection, the Ministry of Railways have provided reservations for Scheduled Castes and Scheduled Tribes in them in accordance with the general orders issued in the Ministry of Home Affairs O.M. No. 1/12/67-Est(C) dated 11-7-1968 which provide that there would be reservation for Scheduled Castes and Scheduled Tribes in Class III and IV posts filled by promotion by selection in grades or services in which the element of direct recruitment does not exceed 50 percent. It has been ascertained from the Ministry of Railways that the reservation quota for Scheduled Castes and Scheduled Tribes is not admissible even on the Railways in the cases of

posts filled by deputation or transfer. Thus, the same orders as applicable to posts/services under all Ministries/Departments of the Government of India in this regard are followed by the Ministry of Railways.

[Department of Personnel O.M. No. 27|2|71-Est(SCT) dated the
15th April, 1972.]