

No. 22/73/92—3GS-III

From

The Chief Secretary to Govt., Haryana

To

1. All Heads of Departments, Commissioners,
Ambala, Hisar, Rohtak and Gurgaon Divisions.
2. All Deputy Commissioners and Sub Divisional Officers (Civil) in Haryana.
3. The Registrar,
Punjab and Haryana High Court,
Chandigarh.

Dated Chandigarh, the 16-6-1998.

Subject :—Implementation of the decision of Supreme Court of India regarding reservation in promotion etc.

Sir,

I am directed to invite your attention to Haryana Government instructions issued vide No. 38/30/78-2GSI, dated 9-2-79 and No. 4/12/79-GSIII, dated 18-9-79 on the Subject mentioned above and to say that the Supreme Court of India vide its judgement dated 16-11-1992 (delivered in the case of Inlira Sawhney Versus Union of India) held that wherever reservations have been provided in the matter of promotions viz. the Central or State Services, such reservations will continue to be in operation for a period of five years from the date of judgement.

2. Consequent to the judgement in Inlira Sawhney's case, the constitution of India was amended by the 77th amendment Act. 1995 and Article 16 (4A) was incorporated in the constitution. This Article enables the States to provide for reservation in the matters of promotions, in favour of Scheduled Castes and Scheduled Tribes which in the opinion of the State are not adequately represented in the services under the States.

3. In view of the 77th amendment to the Constitution of India and the legal position emerging therefrom, the State Govt. can extend the benefit of reservation in promotions only to the employees belonging to the category of Scheduled Castes beyond 15-11-1997. At present, reservation in promotions is being given to Scheduled Caste employees in Haryana in Class-III and Class-IV posts (20%). Therefore, it has been decided that the benefit of reservation in promotions to employees belonging to the category of Scheduled Castes in Class-III and Class-IV posts will continue to be extended beyond 15-11-1997.

4. However, as far as the reservation in promotions to employees belonging to the category of Other Backward Classes is concerned, in view of the judgement of the Hon'ble Supreme Court cited above such reservation in promotion provided to the employees belonging to the Other Backward Classes cannot continue beyond 15-11-1997 and comes to an end with effect from this date. Hence this benefit is discontinued with effect from 16-11-1997 as directed by the Hon'ble Supreme Court.

5. It may be added that recently the Hon'ble Punjab & Haryana High Court in CWP No. 5037 of 1998 Shri Yash Pal Gupta and others Versus State of Haryana (Haryana Civil Sectt.—

Establishment Branch-I) has specifically held as under :—

"Any promotion on the basis of reservation that may be made during the pendency of the Writ Petition would abide the final order that may be passed in the writ petition. The respondents are directed to clearly mention in the orders of promotion of reserved categories that their promotion is subject to the decision in this case."

In view of the above directions given by Hon'ble High Court, all promotions of reserved categories in pursuance of para 3 above in future will be subject to the decision by Hon'ble High Court in CWP No. 5037 of 1993-Shri Yash Pal Gupta and others versus State of Haryana (Haryana Civil Sectt.— Establishment Branch—I).

6. These instructions may be brought to the notice of all concerned for strict compliance.

Yours faithfully,

Sd/—

Under Secretary, General Administration,
for Chief Secretary to Govt., Haryana.