

GOVERNMENT OF HARYANA
GENERAL ADMINISTRATION DEPARTMENT
GENERAL SERVICE-III BRANCH

No. 22/133/2013-1GS-III

Dated Chandigarh, the 09.06.2015

To

1. All the Administrator Secretaries to Government, Haryana.
2. All Head of the Departments in the State of Haryana.
3. The Commissioner, Ambala/ Hisar/ Gurgaon/ Rohtak Division.
4. All the CAs/MDs of Boards/Corporation/Public Sector Undertaking in the State of Haryana.
5. The Register General of Punjab and Haryana High Court, Chandigarh.
6. All the Deputy Commissioners in the State of Haryana.
7. All the Sub Divisional Officers (Civil) in the State of Haryana.
8. The Registrar of all the Universities in the State of Haryana.

Subject:- Grant of reservation in promotion to Scheduled Caste Category employee in Class-III & IV posts in the service of Haryana Government/Government undertaking and Public Sector Undertaking.

Sir,

I am directed to invite your kind attention to the Government instructions issued vide No. 22/10/2013-1GS-III, dated 15.05.2015 on the subject noted above vide which inter-alia it was decided to give 20% reservation in promotion with consequential seniority to Scheduled Caste employees in Class-III and IV posts, with effect from 1st April, 2013.

2. It is intimated that vide orders dated 27.05.2015 the Hon'ble Punjab and Haryana High Court, Chandigarh in Civil Writ Petition No. 11073 of 2015- titled as Dinesh Kumar Sharma & Others Vs State of Haryana has stayed the operation of the above referred instructions dated 15.05.2015. A copy of order dated 27.05.2015 may be downloaded from Government website i.e. www.csharyana.gov.in and www.haryana.gov.in for detailed information and necessary action.

Yours faithfully,

Waresh Kumar
Superintendent, GS-III Branch,
for Chief Secretary to Government, Haryana

Internal distribution:

Incharge NIC for hosting the above instruction on the State Government website.

Civil Writ Petition No.11073 of 2015

Dinesh Kumar Sharma & another Versus State of Haryana

Present: Mr.Narender Hooda, Senior Advocate with
Mr.Sudhir Hooda, Advocate,
for the petitioners.

The challenge in the present writ petition is to the notification dated 15.5.2015 (Annexure P-1), whereby the Council of Ministers, after accepting the report decided to give 20% reservation in promotion with consequential seniority to the Scheduled Caste Category employee in Class-III and IV posts w.e.f. 1.4.2013.

Learned Senior Counsel assisted by Mr.Sudhir Hooda, appearing on behalf of the petitioners submits that the notification based on the decision of the Council of Ministers, which had accepted the report, is not in consonance with the mandate of the judgment of the Hon'ble Supreme Court in M.Nagaraj Versus Union of India, 2006(8) S.C.C. 212 and as well as U.P.Power Corporation Ltd. Versus Rajesh Kumar and others, 2012(4) S.C.T. 258 inasmuch as that as per the principles culled out in U.P. Power Corporation's case, the appropriate Government for the purpose providing adequate representation was enjoined upon an obligation to consider the cadre strength as a unit in the roster, in order to ascertain whether a given class/group is adequately represented in the service or not and further the State, as per the principles culled out in U.P. Power Corporation's case, can also form its opinion on the quantifiable data regarding adequacy of representation. Learned Senior Counsel has further submitted that Chapter XVI, Article 341 of the Constitution of India

makes it clear that the State Legislature or its executive has no power in disturbing/tinkering with the presidential list of Scheduled Castes in the State.

Now by virtue of the notification, the State has not quantified the category of Scheduled Caste as cadre-wise, but has done it class-wise and in such eventuality, the representation of Scheduled Castes in particular cadre would increase more than 20%. In order to lend support to the aforementioned contention, he has drawn the attention of the Court to the statement of representation as on 31.3.2013 of Class/Group-C in the Haryana Civil Secretariat is 443 and there is already representation of Scheduled Castes in the said cadre to the extent of 105 employees, i.e., more than 20%, i.e., 24%. He has further submits that 20% reservation has been made effective w.e.f. 1.4.2013.

Notice of motion for 16.10.2015.

Notice re: stay as well.

In the meantime, operation of the notification shall remain stayed.

On the asking of Court, Mr.D.S.Nalwa, Addl.A.G.Haryana, accepts notice on behalf of the State and seeks time to file reply.

Learned counsel for the petitioners is directed to supply two copies of the writ petition to the learned State counsel during the course of the day.

May 27, 2015
ramesh

Sd/- (AMIT RAWAL)
JUDGE



8/11/15
4.6.15

added
issue?

30/5/15

1/6/15