

## Agenda Note

**Sub :** Comments of National Commission for Scheduled Tribes on Reservation Bill 2008.

### **I Background.**

A Draft Reservation Bill was forwarded by DoP&T in December, 2004 to National Commission for Scheduled Tribes for comments(Annexure – I). A joint meeting of NCSC and NCST was held on 13.12.2004 to finalize the comments on the draft reservation bill. Comments of National Commission for Scheduled Tribes were forwarded on 13.12.2004 (Annexure II). Again a meeting of National Commission for Scheduled Tribes was called on 17.12.2004 to formulate the views of the Commission on draft reservation bill for SCs, STs and OBCs. Supplementary comments on the draft reservation bill, 2004 were sent to DoP&T on 17.12.2004 (Annexure – III). A further supplementary comment was forwarded by NCST on 20.12.2004 to DoP&T (Annexure-IV).

The Reservation Bill, 2004 was introduced in the Rajya Sabha and Rajya Sabha Secretariat forwarded the Bill to National Commission for Scheduled Tribes for its views on the Bill. The earlier comments of the Commission forwarded to DoP&T were forwarded to the Rajya Sabha Secretariat. (Annexure – V)

Reservation Bill, 2008 for SCs and STs was introduced in Rajya Sabha and now tabled in Lok Sabha (Annexure – VI). It is understood that Government is planning to get the bill passed in the current Parliament Session. NCSC have forwarded their comments on the Reservation Bill, 2008 on 13.02.2009 to the President of India. (Annexure VII). Chairman, National Commission for Scheduled Castes has also recommended and forwarded the suggestions of a Forum of SCs and STs MPs to the Prime Minister of India on 21.02.2009 (Annexure VIII).

A statement showing provisions in the Draft Reservation Bill, 2004, the recommendations of National Commission for Scheduled Tribes and provisions in the reservation bill, 2008 has been prepared (Annexure IX).

## **II Earlier recommendations of the NCST on the subject of reservation in public services in its first report.**

The rule of reservation should be extended in promotion by selection within Group 'A' posts in terms of the Constitution (77<sup>th</sup> Amendment) Act, 1995 and the Constitution (85<sup>th</sup> Amendment) Act, 2001, which amended Article 16 (4) to provide inter alia for making reservation in matters of promotion, with consequential seniority, to any class or classes of posts in services under the State in favour of SCs and STs.

As per the existing instructions, there is a ban on dereservation of reserved posts in direct recruitment. A similar ban should be imposed on dereservation of posts to be filled by promotion in view of the implementation of the post-based roster, with a view to protect the interests of candidates belonging to Scheduled Tribes in the matter of their promotions.

The principle of positive discrimination i.e. the rule of reservation should be extended to private sector also to fulfill the constitutional obligations of bringing about social equality

The scientific and technical posts including those intended for conducting research, or for organizing, guiding and directing research were brought for the first time within the scheme of reservation for SCs and STs up to the lowest rung of Group 'A' vide DP&AR's O.M. dated 23 June 1975. The Commission recommends that the scheme of reservation for SCs and STs in scientific and technical posts should also be extended beyond the lowest rung of Group 'A' posts/ services (i.e. within Group 'A').

Judiciary, Lok Sabha/Rajya Sabha Secretariat and Armed Forces should also be brought within the purview of reservation for Scheduled Castes and Scheduled Tribes as per recommendations of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes as contained in para 4.75 and 4.77 of its Seventh Annual Report for the year 2001-02.

There should be reservation in appointments for work-charged posts as well as for appointments for a period of less than 45 days duration.

The scope of reservation for SC/ST candidates should be extended above the lowest rung of Group 'A' in respect of scientific and technical posts which are required for conducting research or for organizing, guiding and directing research. [As per the existing instructions, the reservation for SC/ST candidates in such posts is available only upto the lowest rung of Group 'A' posts.]

The minimum experience required for promotion to a post may be relaxed in the case of members of Scheduled Tribes if at any stage of their consideration for such promotion, sufficient number of candidates belonging to these communities possessing the requisite experience is not available to fill the reserved posts.

### **III Proposed Recommendations of the Commission**

It is proposed that Commission may consider the further action to be taken in respect of the Reservation Bill, 2008.