

**GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT**

Public Services - Andhra Pradesh State and Subordinate Service Rules, 1996 - Implementation of Horizontal Reservation to Women, Persons with Benchmark Disabilities, Ex-Servicemen and Meritorious Sportspersons in the matter of direct recruitment and promotions and Amendments to Rule- 22 - Orders/Notification - Issued.

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**GENERAL ADMINISTRATION (SERVICES-D) DEPARTMENT**

G.O.Ms.No.77

Dated The 2<sup>nd</sup> August, 2023

Read the following:-

1. Judgment, dated 28 July, 1995 of the Hon'ble Supreme Court of India, New Delhi in the Anil Kumar Gupta, Etc vs State Of Uttar Pradesh And Ors on Equivalent citations: 1995 SCC (5) 173, JT 1995 (5) 505 .
2. Judgment, dated 18.7.2007 of the Hon'ble Supreme Court of India, New Delhi, in Rajesh Kumar Daria Vs. Rajasthan Public Service Commission (2007(8)(SCC 785).
3. Judgment, dated 03.06.2010 of the Hon'ble Supreme Court in Public Service Commission, Uttaranchal vs. Mamta Bisht (2010(12) SCC 204).
4. Order, dated 07-11-2022 of the Hon'ble Supreme Court of India, New Delhi, in Writ Petition (Civil) No. 55 of 2019, Janhit Abhiyan Versus Union of India.
5. G.O.Ms.No.436, G.A. (Ser.D) Deptt., dated 15-10-1996.
6. G.O.Ms.No.175, Home (Genl.C) Deptt., dated 10-02-2005.
7. G.O.Ms.No.310, G.A. (Ser.D) Deptt., dated 19.7.2005.
8. G.O.Ms.No.23, Dept. for WCDA&SC (DW), dated 26.05.2011.
9. G.O.Ms.No.42, Dept. for WCDA&SC (DW), dated 19.10.2011.
10. G.O.Ms.No.74, Youth, Advancement, Tourism and Culture (Sports) Department, dated 9.8.2012.
11. G.O.Ms.No.99, G.A. (Ser.D) Deptt., dated 04.03.2013.
12. G.O.Ms.No.40, Dept. for WCDA&SC (Prog.II), dated 25.07.2016.
13. G.O.Ms.No.17, Youth, Advancement, Tourism and Culture (Sports&YS) Department, dated 9.8.2017.
14. G.O.Ms.No.188, G.A. (Ser.D) Deptt. dated 18.12.2017.
15. G.O.Ms.No.13, G.A. (Ser.D) Deptt., dated 23.01.2018.
16. G.O.Ms.No.63, G.A. (Ser.D) Deptt., dated 17.04.2018.
17. G.O.Ms.No.60, B.C. Welfare (F) Deptt, dated 27.7.2019.
18. G.O.Ms.No.2, Dept. for WCDA&SC, dated 19.02.2020.
19. Judgement dated 05.03.2021 of the Hon'ble Court of Andhra Pradesh in W.P. 23770 of 2017 and batch cases.
20. G.O.Ms.No.65, G.A.(Ser.D) Deptt., dated 14.7.2021.
21. G.O.Ms.No.66, G.A.(Ser.D) Deptt., dated 14.7.2021.
22. G.O.Ms.No.73, G.A.(Ser.D) Deptt., dated 4.8.2021.

23. G.O.Ms.No.121, G.A.(Ser.D) Dept. dated 12.10.2022.
24. G.O.Ms.No.140, G.A.(Ser.D) Dept., dated 16.11.2022.
25. G.O.Ms.No.36, G.A.(Ser.D) Dept., Dated 29.03.2023.
26. From the Prl. Secretary to Govt., Social Welfare Department and Chairperson of the Committee to study Horizontal Reservations Lr.No.1841934/PESHI/2023, dated 10.04.2023.

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## ORDER:

### (I) Background

In the judgment first read above, the Hon'ble Supreme Court of India, New Delhi, in Anil Kumar Gupta, Etc vs State Of Uttar Pradesh And Ors on Equivalent citations: 1995 SCC (5) 173, JT 1995 (5) 505 has disposed of the case with the following directions:-

*"..... Now, coming to the correctness of the procedure prescribed by the revised notification for filling up the seats, it was wrong to direct the fifteen percent special reservation seats to be filled up first and then take up the O.C. (merit) quota (followed by filling of O.B.C., S.C. and S.T. quotas). The proper and correct course is to first fill up the O.C. quota (50%) on the basis of merit: then fill up each of the social reservation quotas, i.e., S.C., S.T. and B.C; the third step would be to find out how many candidates belonging to special reservations have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied - in case it is an over-all horizontal reservation - no further question arises. But if it is not so satisfied, the requisite number of special reservation candidates shall have to be taken and adjusted/accommodated against their respective social reservation categories by deleting the corresponding number of candidates there from. (If, however, it is a case of compartmentalised horizontal reservation, then the process of verification and adjustment/accommodation as stated above should be applied separately to each of the vertical reservations. In such a case, the reservation of fifteen percent in favour of special categories, overall, may be satisfied or may not be satisfied.) Because the revised notification provided for a different method of filling the seats, it has contributed partly to the unfortunate situation where the entire special reservation quota has been allocated and adjusted almost exclusively against the O.C. quota.*

*"In this connection, we must reiterate what this Court has said in Indra Sawhney. While holding that what may be called "horizontal reservation" can be provided under clause (1) of Article 16, the majority judgment administered the following caution in para 744: "(B)ut at the same time, one thing is clear. It is in very exceptional situation - and not for all and sundry reasons - that any further reservations of whatever kind, should be provided under clause (1). In such cases, the State has to satisfy, if called upon, that making such a provision was necessary (in public interest) to redress the specific situation. The very presence of clause (4) should act as a damper upon the propensity to create further classes deserving special treatment. The reason for saying so is very simply. If reservations are made both under clause (4) as well as under (1), the vacancies available for free competition as*

well as reserved categories would be correspondingly whittled down and that is not a reasonable thing to do". Though the said observations were made with reference to clauses (1) and (4) of Article 16, the same apply with equal force to clauses (1) and (4) of Article 15 as well. In this case, the reservation of fifteen percent of seats for special categories was on very high side. As pointed out above, two categories out of them representing six percent out of fifteen percent are really reservations under Article 15(4), wrongly treated as reservations under Article 15(1). Even otherwise, the special reservation would be nine percent. The respondents would be well advised to keep in mind the admonition administered by this Court and ensure that the special reservations (horizontal reservations) are kept at the minimum.

"Having pointed out the errors in the rule of reservation and its implementation, the question arises what should be done now? Should we interfere with the admissions already finalised? We think it inadvisable to do so. It may be remembered that the admissions now finalised (in June- July, 1995) are really the admissions which ought to have been finalised one year back. The delay has occurred on account of the first faulty notification (issued on May 17, 1994). When a writ petition was filed in this court - probably some writ petitions in the High Court also - the Government realised its mistake and issued the revised notification on December 17, 1994. It dropped the reservation in favour of women in stages. The University had then to issue a corrigendum asking the special category candidates to indicate their social status. This was a delayed exercise which ought to have been undertaken at the beginning itself. Even the manner in which the seats have been filled up, as indicated above, is faulty. What we have laid down herein is more for the purpose of future guidance for the respondents. At the same time, we have to rectify the injustice done to the open competition candidates in the admissions in question, to the extent feasible. Accordingly, we direct that in the matter of admissions made pursuant to C.P.M.T.1994, while the admissions already finalised shall not be disturbed, the Uttar Pradesh Government shall create thirty four additional seats in the M.B.B.S. course and admit thirty four students from the O.C. category against those seats. If any seats are vacant as on today, they shall also be filled from the O.C. category alone. (It is made clear that O.C. category means the merit list and no distinction shall be made among the candidates in the O.C. list on the basis of their social status because it is well settled that even a S.T./S.C./O.B.C. candidate is entitled to obtain a seat in the O.C. category on the basis of his merit.) The counsel for the petitioners complain that fifty four students belonging to O.C. category have been deprived on account of respondents' faulty actions and that it should be directed to be made up. We cannot agree. The factual basis of this submission is debatable in view of the ambiguity mentioned hereinbefore. We have directed creation of thirty four seats (making a total of 780 seats this year) having regard to all the facts and circumstances of the case. This creation of additional seats is restricted to current admissions only and shall not be a permanent feature. The Uttar Pradesh Government/concerned authorities shall allocate the said thirty four additional seats appropriately among the government medical colleges and make admissions thereto as early as possible.

"We hope and trust that the respondents will ensure that a similar situation does not arise for the ensuing admissions.

"The writ petitions are disposed of with the above terms. No costs".

2. In the judgment second read above, the Hon'ble Supreme Court in *Rajesh Kumar Daria Vs. Rajasthan Public Service Commission and others* has disposed of the case as follows:-

*".....In the Judgement read above, the Supreme Court, in Rajesh Kumar Daria Vs. Rajasthan Public Service Commission [2007(8) SCC 785] held that, 'Social reservations in favour of SC, ST and OBC under Article 16(4) are 'vertical reservations'. Special reservations in favour of physically handicapped, women, etc. under Articles 16(1) or 15(3) are 'horizontal reservations''. Where a vertical reservation is made in favour of a Backward Class under Article 16(4), the candidates belonging to such Backward Class, may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota reserved for the respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said that the reservation quota for SCs stood filled. The entire reservation quota will be intact and available in addition to those selected under open competition category.*

*" But the said principle applicable to vertical (social) reservations, will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for SCs, the proper procedure is first to fill up the quota for SCs in order of merit and then find out the number of candidates among them who belong to the special reservation group of 'Scheduled Caste Women". If the number of women in such list is equal to or more than number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste Women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes".*

3. In the judgment third read above, the Hon'ble Supreme Court in *Public Service Commission, Uttaranchal vs. Mamta Bisht (2010(12) SCC 204)*" has disposed of the case with the following directions:-

*" ..... But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Where a special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the special reservation group of "Scheduled Caste women". If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent, horizontal (special) reservation differs from vertical (social)*

reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women." (Emphasis added)

14. In view of the above, it is evident that the judgment and order of the High Court is not in consonance with law laid down by this Court in *Rajesh Kumar Daria (supra)*. The judgment and order impugned herein is liable to be set aside and all consequential orders become unenforceable and inconsequential.

*"Thus, appeals succeed and are allowed. Judgment and order of the High Court dated 26.10.2005 passed in Writ Petition no.780/2003 (M/B) is hereby set aside. No costs"*

4. In the light of the above judgements given by Hon'ble Supreme Court of India, it became necessary for the Government to examine the existing policies of Horizontal reservations, an amendment to the Rule 22 of AP State and Subordinate Rules, 1996 and thereby issue detailed operational guidelines.

5. In the judgment fourth read above, the Hon'ble Supreme Court of India in Writ Petition (Civil) No. 55 of 2019, *Janhit Abhiyan Versus Union of India* vide its order dated 07.11.2022 has disposed of the case with following directions:-

*"In view of the decision rendered by the majority consisting of Hon'ble Mr. Justice Dinesh Maheshwari, Hon'ble Ms. Justice Bela M. Trivedi and Hon'ble Mr. Justice J.B. Pardiwala, the challenge raised to 103rd Amendment to the Constitution fails and the decision rendered by Hon'ble Mr. Justice S. Ravindra Bhat remains in minority.*

*"Consequently, the Writ Petitions and other proceedings stand disposed of".*

## **(II) Extracts of Existing Policies of Horizontal Reservations.**

i) In the G.O. fifth read above, Andhra Pradesh State and Subordinate Service Rules, 1996 have been issued.

ii) In the G.O. sixth read above, orders have been issued allotting the following Roster points to Ex-Servicemen for the direct recruitment:

*"RP No.13 & RP No.37*

*Out of 13 and 37 roster points for ex-servicemen, whether proviso can be made for giving preference to one of the two points for women and if not available, both the points with men may also be looked into."*

iii) In the G.O. seventh read above; orders have been issued amending Rule-22 of A.P.State and Subordinate Service rules, 1996 as follows:

*"In the case of appointments to a post referred to in sub-rule © the 13<sup>th</sup> and 37<sup>th</sup> turns in each unit of hundred vacancies shall be reserved for ex-*

servicemen. Out of 13<sup>th</sup> and 37<sup>th</sup> roster points, preference to one of the two points for women can be given and if women candidates are not available, both the points with men shall be considered. However, wherever the special or adhoc rules provide that there shall be no reservation for ex-servicemen or if a qualified and suitable candidate is not available from ex-servicemen, the turn allotted to ex-servicemen shall be deemed to be allotted to Open Competition".

- iv) In the G.O. eighth read above, orders have been issued providing 3% of vacancies in case of Direct Recruitment for persons or class of persons with disability of which one per cent, each shall be reserved for persons suffering from:- a) blindness or low vision; b) hearing impairment; c) locomotor disability or cerebral palsy. It was also ordered that the Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notifications, exempt any establishment from the provisions of this reservation, as per the procedure prescribed, duly placing the proposal before the Inter Departmental Committee headed by the Secretary, Department for Women, Children, Differently Abled and Senior Citizens.
- v) In the G.O. eleventh read above, orders have been issued amending Rule 22 of the A.P. State and Subordinate Service Rules, 1996 as follows:-

*"In rule-22 of the said rules, in sub-rule (2) in clause (e),--*

*(1) for the existing order of rotation points 6th, 31st and 56th, the following shall be substituted, namely,-*

*"6. Blindness or Low Vision (women)  
31. Hearing Impaired (Open)  
56. Locomotor Disability or Cerebral Palsy (Open)"*

*(2) in the proviso, for item (ii), the following shall be substituted namely,*

*"(ii) In the Second cycle of 100 roster points, the following points shall be reserved as follows:-*

*"106. Blindness or Low Vision (Open)  
131. Hearing Impaired (Women)  
156. Locomotor Disability or Cerebral Palsy (Open)"*

*In the third cycle of 100 roster points, the following points shall be reserved as follows:-*

*"206. Blindness or Low Vision (Open)*

231. Hearing Impaired (Open)

256. Locomotor Disability or Cerebral Palsy (Women)"

The 6<sup>th</sup>, 31<sup>st</sup> and 56<sup>th</sup> turns in each cycle of hundred(100)vacancies shall be allotted to the Blindness or Low Vision (Visually Handicapped), Hearing Impaired (Hearing Handicapped) and Locomotor Disability or Cerebral Palsy (Orthopaedically Handicapped) persons respectively as stated above and where qualified and suitable candidates are not available from among them, the turn allotted for them in the unit referred to above shall be carried forward to the succeeding recruitment year for being filled from the same category. If, in that year also, qualified candidates of the same category are not available, the same shall be notified for being filled up by interchanging from among the three categories. Only when there is no person with disability of any of the 3 categories available for the post, the vacancy shall be filled up by the employer by appointment of a person, other than a person with disability. Provided that if qualified women candidates are not available for the posts reserved for women, qualified men candidates of the same category of disabled may be appointed."

- vi) In the G.O. ninth read above, orders have been issued providing 3% reservations in promotions for each of the categories of disabled, i.e. 6<sup>th</sup>, 31<sup>st</sup> and 56<sup>th</sup> Roster Points prescribed under Rule 22 of the Andhra Pradesh State and Subordinate Service Rules.
- vii) In the G.O. fourteenth read above, orders have been issued amending Rule 22 of the A.P. State and Subordinate Service rules, 1996 as follows:-

*"In rule 22, of the said rules;*

(1) *In sub-rule (1) in clause (ii): for the words, "Scheduled Castes and Scheduled Tribes" the words "Scheduled Castes, Scheduled Tribes and Physically Handicapped Persons" shall be substituted.*

(2) *In sub-rule 2(a)(i) for the words "and six for Scheduled Tribe employees", the words "six for Scheduled Tribe and three for Physically handicapped employees" shall be substituted.*

*(ii) in Clauses A,B,C,D & E,-*

*For the words "Scheduled Castes and Scheduled Tribes" the words "Scheduled Castes, Scheduled Tribes and Physically Handicapped Persons" shall be substituted.*

*(iii) in Clause C,-*

*The word "both" shall be omitted"*

(iv) After Clause (E), the following shall be inserted, namely:-

*"F -If any department considers that it is not possible to provide reservation in promotions for any category of Persons with Disabilities, keeping in view the nature of duties to be performed by the employees in that particular department, the department may seek partial or full exemption from such reservation in promotions, however such exemption or modification shall be decided by an Inter Departmental Committee as specified by the G.O.Ms.No.23, dated:26.5.2011, Dept. for Women, Child, Disabled & Senior Citizen.*

*The Departments who wish to seek exemptions may do so within (90) days from the date of issue of these orders during which period the Rule of Reservation shall not apply to such departments for the posts identified by them for exemption. The orders issued by the Committee thereafter shall be final and further action taken accordingly".*

- viii) In the G.O. eighteenth read above, orders have been issued stating that as per Section-34 of the Rights of Persons with Disabilities Act, 2016, four percent (4%) reservation has been provided in appointment and in promotions in every Government establishment in favour of persons with Benchmark Disabilities.

The following Roster Points are fixed:

6 Blindness and Low Vision (Women)

31 Deaf and Hard of Hearing (Open)

56 Locomotor Disability (Open)

86 Autism, Intellectual Disability, Specific Learning Disability, Mental Illness and Multiple Disabilities (Open)

- ix) In the said G.O., a provision was also made therein to give exemption to Government establishments from this reservation by placing the matter before the Inter Departmental Committee.
- x) Based on the said orders, in the G.O. twenty third read above, orders have been issued providing four percent (4%) reservation to the persons with Benchmark disabilities in appointments and promotions. It has also been directed therein that if any Department consider that exemption is necessary in Government establishments from this reservation, they shall place the matter before the Inter Departmental Committee along with due justification.
- xi) In the G.O. twelfth read above, orders have been issued providing 33 1/3% reservation to Women horizontally, in each category i.e.,

OC, BC-A, BC-B, BC-C, BC-D, BC-E, SC, ST, Persons with Bench Mark Disabilities, Ex-serviceman and Meritorious Sportspersons in the matter of direct recruitment to the posts, for which men and women are equally suited, by superseding the earlier orders issued in the matter.

- xii) In the G.O. sixteenth read above, accordingly orders have been issued amending Rule-22 of A.P. State and Subordinate Service rules, 1996 substituting sub-rule (2) of Rule-22-A of A.P. State and Subordinate Service Rules, 1996, providing reservation to women Horizontally to an extent of 33 1/3% of the posts in each category of Open Competition, Backward Classes (Group-A), Backward Classes (Group-B), Backward Classes (Group-C), Backward Classes (Group- D), Backward Classes (Group-E), Scheduled Castes, Scheduled Tribes and Physically Handicapped and Ex-servicemen and Meritorious Sportsperson quota.
- xiii) In the G.O. tenth read above, orders have been issued providing a sports quota reservation of two percent (2%) for meritorious sports persons in all posts of State Government Departments, Educational Institutions, Local Bodies, Corporations, Boards, Authorities, Grandhalaya Samsthas, Market Committees and other establishments which are funded or aided by the State Government where direct recruitment is one of the methods of appointment, hereinafter, as per the sports policy.
- xiv) Further, in the G.O. thirteenth read above, orders have been issued providing two percent (2%) reservation to Meritorious Sports persons horizontally in Direct recruitment in the existing 100 roster points as per Rule-22(2)(e) of the A.P.State and Subordinate Service Rules, 1996. Roster Points 48 and 98 meant for Open Competition have been earmarked to reservation under Sports quota in Direct recruitment. Further, in the event of non availability of eligible sports persons, the points reserved for them should be deemed to be allotted to open competition in the same recruitment.
- xv) In the G.O. fifteenth read above, orders have been issued amending Rule-22 of A.P.State and Subordinate Service rules, 1996, providing two percent (2%) reservation to meritorious Sports persons horizontally in all categories of posts. Roster Points i.e., 48 (meritorious sportsperson) (open) and 98 (meritorious sportsperson) (open) have been fixed. It has also been ordered that in the event of non availability of eligible sports persons, the points reserved for them should be deemed to be allotted to open competition in the same recruitment.

- xvi) In the G.O. seventeenth read above, orders have been issued for implementation of 10% reservation to the Economically Weaker Sections (EWS) for admissions into Educational Institutions in accordance with the purport of the Constitution (One Hundred and Third Amendment) Act, 2019 and as per the guidelines issued by Government of India in this regard.
- xvii) Based on the policy decision taken by Backward Classes Welfare (F) Department, in the reference twentieth read above, orders have been issued extending revised/ reiterated operational guidelines for admission to Educational Institutions. Further, in the G.O. twenty first read above, operational guidelines have been issued for implementation of 10% reservation to the Economically Weaker Sections (EWS) for initial appointments in the Posts and Services under the State Government. It has been specified therein that the persons who are not covered under existing scheme of reservations for the Scheduled Castes, the Scheduled Tribes and the Socially and Educationally Backward Classes and whose gross annual family income is below Rs.8.00 lakhs are to be identified as Economically Weaker Sections (EWS) for the benefit of reservation. The Income shall also include income from all sources i.e. salary, agriculture, business, profession, etc. for the financial year prior to the year of application.
- xviii) Further in the G.O. twenty second read above, orders have been issued amending Rule-22 of A.P. State and Subordinate Service rules, 1996, fixing Roster Point Nos.12,21,32,42,50,61,73,82, 88 & 96, out of 100 Roster Points to Economically Weaker Sections(EWS) category.

**(III) Need to study the existing policies of Horizontal Reservations:**

i) In the G.O. twenty fourth read above, orders have been issued constituting a Committee of officials under the Chairpersonship of Principal Secretary to Government, Social Welfare Department to study the Horizontal Reservation in respect of Women, Persons with Benchmark Disabilities, Ex-servicemen, Meritorious Sports persons, in the light of the Hon'ble Supreme Court orders and directed to furnish appropriate proposals and guidelines for implementation of Horizontal Reservation, and on how to operate 100 Roster Points horizontally in appointments by Direct recruitment and by promotions for various categories of posts. The Committee consists of:-

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|--|---------------|
| 1. Principal Secretary to Government<br>Social Welfare Department. | : Chairperson |
| 2. Principal Secretary to Government<br>B.C. Welfare Department.   | : Member      |
| 3. Principal Secretary to Government,                              | : Member      |