



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 21st August, 2012

No. LGL.128/2011/40.- The following Act of the Assam Legislative Assembly v received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XIX OF 2012

(Received the assent of the Governor on 16th August, 2012)

THE ASSAM SCHEDULED CASTES AND SCHEDULED TRIBES

(RESERVATION OF VACANCIES IN SERVICES AND POSTS)

(AMENDMENT) ACT, 2012

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ACT

further to amend the Assam Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1978

Preamble

Whereas it is expedient further to amend the Assam Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1978, hereinafter referred to as the principal Act, in the manner hereinafter appearing:

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It is hereby enacted in the Sixty-third Year of the Republic of India as follows :-

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| Short title, extent and commencement | 1. | (1) | This Act may be called the Assam Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) (Amendment) Act, 2012. |
| | | (2) | It shall have the like extent as the principal Act. |
| | | (3) | It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint. |
| Amendment of Heading | 2 | | In the principal Act, in the Heading, for the words "RESERVATION OF VACANCIES IN SERVICES AND POSTS", the words "RESERVATION OF POSTS IN SERVICES" shall be substituted. |
| Amendment of Long-title and Preamble | 3. | | In principal Act, in the Long-title and Preamble, for the words "reservation of vacancies in services and posts", the words "reservation of posts in services" shall be substituted. |
| Amendment of section 1 | 4 | | In the principal Act, in section 1, in sub-section (1), for the words "Reservation of Vacancies in Services and Posts", the words "Reservation of Posts in Services" shall be substituted. |
| Amendment of section 2 | 5. | | In the principal Act, in section 2, clause (e) shall be deleted. |
| Substitution of section 4 | 6. | | In the principal Act, for the existing section 4, the following shall be substituted, namely :- |
| "Reservation for Scheduled Castes and Scheduled Tribes in posts to be filled by direct recruitment | | 4. | At the commencement of this Act, all appointments to services and posts in the establishments which are to be filled up by direct recruitment shall be regulated in the following manner, namely :- |

- (a) Subject to other provisions of this Act, seven percent of the posts in each cadre shall be reserved for the candidates belonging to Scheduled Castes, ten percent for Scheduled Tribes (Plains) and five percent for Scheduled Tribes (Hills). The said percentage shall be worked out by every Appointing authority in relation to the number of posts comprising each cadre in a service. The Appointing authority shall ensure that once the prescribed percentage of reservation meant for the Scheduled Castes, Scheduled Tribes (Plains) and Scheduled Tribes (Hills) in a particular cadre is achieved, no further reservation would lie irrespective of the roster points. In other words, in case of conflict between roster and the prescribed percentage, the later shall prevail :

Provided that the State Government may, from time to time, review the implementation of the reservation policy and take adequate measures including increase of percentage, mentioned in this clause :

(Provided further that the candidates belonging to the Scheduled Castes and Scheduled Tribes who qualify for selection on merit shall be included in the general list and not against reserved quota :)

Provided also that in respect of the Assam Judicial Service, the percentage shall be seven for the Scheduled Castes and ten for the Scheduled Tribes (Plains) and five for the Scheduled Tribes (Hills) in Grade II and III of the Service;

- (b) Fees, if any, prescribed for any examinations for selection to any service or post shall be reduced to half in the case of candidates belonging to the Scheduled Castes or Scheduled Tribes.
- (c) The members of the Scheduled Castes and the Scheduled Tribes shall be entitled to a concession of five years over the prescribed maximum age limit for appointment to any service or post."

Substitution of section 5 7. In the principal Act, for section 5, the following shall be substituted, namely :-

* "Reservation for Scheduled Castes and Scheduled Tribes in posts to be filled up by promotion

5. Reservation for members of Scheduled Castes and Scheduled Tribes in posts to be filled up by promotion in any establishment shall be regulated in the following manner, namely :-

- (a) There shall be reservation at seven percent for members of the Scheduled Castes and ten percent for the members of Scheduled Tribes (Plains) and five percent for the members of the Scheduled Tribes (Hills) :

Provided that the State Government may, from time to time, review the implementation of the reservation policy and take adequate measures including increase of percentage, mentioned in this clause;

- (b) a separate post-based roster for recruitment and promotion for each cadre shall be maintained by every Establishment for reservation of candidates of the Scheduled Castes and the Scheduled Tribes as contained in clause (a) of this section."

Amendment of section 13. 8. In the principal Act, in section 13, in sub-section (2), the existing clause (b) shall be renumbered as clause (c) and the following clause shall be inserted as clause (b), namely :-

"(b) The manner in which the backlog of the posts reserved for the Scheduled Castes and Scheduled Tribes may be filled up."

Insertion of a new section 5A. 9. In the principal Act, after section 5, the following new section 5A shall be inserted, namely :-

* "Manner and procedure for giving effect of reservation

5 A. The reservation for the members of the Scheduled Castes and the Scheduled Tribes in services or posts in an Establishment shall be given effect to in the following manner, namely :-

- (i) A post-based Roster Register shall be maintained to give effect to the reservation of vacancies for Scheduled Castes and Scheduled Tribes. Such roster shall be based on the Model Roster as per Schedule I and II appended to this Act and shall be adopted for the purpose by each Establishment in such manner that the prescribed percentage of reservation is maintained in each cadre;
- (ii) Each Appointing authority shall prepare and notify the roster based on the principles laid down in this Act and maintain Roster Register in a manner containing such number of points as are equivalent to the number of posts in a cadre. In case of any increase or decrease in the cadre strength, the roster shall correspondingly be expanded or contracted;
- (iii) The roster is to be operated on the principle of replacement and not as a running account. In other words, the points at which reservation for different categories applies are fixed as per the roster and vacancies caused by retirement etc. of persons occupying those points shall be filled up by appointment of persons of the respective categories;
- (iv) Separate rosters are to be maintained for giving effect to reservation in direct recruitment and

(v) Cadre, for the purpose of a roster, shall mean a particular grade and shall comprise the number of posts to be filled by a particular mode of recruitment in terms of the applicable recruitment rules. Thus in a cadre of say, 100 posts, where the recruitment rules prescribe a ratio of 50:50 for direct recruitment and promotion, two rosters- one for direct recruitment and one for promotion (when reservation in promotion applies)- each comprising 50 points shall be drawn up on the lines of the respective rosters ;

(vi) Since reservation does not apply to transfer on deputation or transfer, where the recruitment rules prescribe a percentage of posts to be filled by this method, such posts shall be excluded while preparing the rosters;

(vii) Appointments of candidates belonging to Scheduled Castes and Scheduled Tribes which were made on merit and not due to reservation, are not to be counted towards reservations so far as direct recruitment is concerned. In other words, they are to be treated as general category appointments;

(viii) For initial adoption of this post based roster, the existing backlog vacancies in a cadre where the prescribed percentage of reservation for the Scheduled Castes and the Scheduled Tribes has not been achieved as per post-based roster prepared under this Amendment Act, shall be considered as vacancies released by recruitment, resignation, promotion etc. of the persons belonging to the said reserved categories and the same are to be filled up by direct recruitment or by promotion of eligible persons from the respective categories by special drive so that the prescribed percentage of reservation is maintained;

(ix) Before making an appointment by direct recruitment, the Appointing authority shall ascertain by consulting the Roster Register maintained by each Establishment, whether the post is reserved or unreserved and if it is reserved, for whom it is so reserved. Immediately after an appointment is made, the particulars thereof shall be entered in the Roster Register and signed by the Appointing authority;

(x) In the absence of a qualified Scheduled Castes or Scheduled Tribes candidate, as the case may be, in a particular year, the vacancy shall be carried forward and filled up in the next year;

(xi) Every Establishment shall prepare and notify the roster for each cadre equivalent to the number of posts with the concurrence of the Personnel Department and Welfare of Plains Tribes and

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- (xii) The roster shall be maintained separately for permanent and temporary posts;
- (xiii) A vacancy caused due to any reason whatsoever, except termination of service during probation, shall be treated as a fresh vacancy;
- (xiv) A candidate who claims to be a member of the Scheduled Castes or the Scheduled Tribes shall support his candidature by a Certificate from Deputy Commissioner/Sub-Divisional Officer or from such other authority as may be prescribed by rules made under the Act".

Insertion of saving clause 10. In the principal Act, after section 13, the following new section 14 shall be inserted, namely :

"Saving

- 14. Notwithstanding anything to the contrary contained under the provisions of this Act, anything done, any action taken or any order made under the provisions of the Assam Scheduled Castes and Scheduled Tribes (Reservation of Vacancies in Services and Posts) Act, 1978, shall be deemed to have been validly done, taken or made under the corresponding provisions of this Act.

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Substitution of existing Schedule 11. In the principal Act, for the existing Schedule, the following Schedules shall be substituted, namely :

"SCHEDULE-I
(See Section 5 A)

MODEL 100 POINT ROSTER

1. While preparing the roster, each establishment shall have to keep in mind the number of posts in the cadre and required percentage to be maintained for the Scheduled Castes and Scheduled Tribes in the cadre so that the prescribed percentage can be achieved.
2. The reservation have to be determined with reference to the laid down percentage in the cadre.
3. When the prescribed percentage of the reservation in a cadre is achieved, the running accounts have to come to an end.
4. Thereafter, the posts shall have to be filled up on the principle of substitution or replacement.