

**COMMITTEE ON THE WELFARE OF
SCHEDULED CASTES AND
SCHEDULED TRIBES
(2014-2015)**

(SIXTEENTH LOK SABHA)

THIRD REPORT

ON

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES & PENSIONS

**Action taken by the Government on the recommendations contained in the
Twenty Sixth Report (Fifteenth Lok Sabha) of the Committee on the Welfare
of Scheduled Castes and Scheduled Tribes on the subject
“Review of representation of Scheduled Castes and Scheduled Tribes in senior
positions of Government of India”**

Presented to Lok Sabha on 30.04.2015

Laid in Rajya Sabha on 30.04.2015



LOK SABHA SECRETARIAT

NEW DELHI

30 April, 2015/ Vaisakha, 1937 (Saka)

CONTENTS

Page No.

COMPOSITION OF THE COMMITTEE.....	(iii)
INTRODUCTION.....	(v)
CHAPTER I Report.....	1
CHAPTER II Recommendations/Observations which have been accepted by the Government	25
CHAPTER III Recommendations/Observations which the Committee do not desire to pursue in view of the replies of the Government	31
CHAPTER IV Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which requires reiteration	41
CHAPTER V Recommendations/Observations in respect of which final replies of the Government have not been received	52

APPENDICES

A. Statement of backlog vacancies reported by nine Public Sector Banks...	53
B. Minutes of the sitting of the Committee held on 09.04.2015.....	56
C. Analysis of the Action taken by the Government on the recommendation contained in the Twenty – Sixth Report (Fifteenth Lok Sabha).....	60

**COMPOSITION OF THE COMMITTEE ON THE WELFARE OF SCHEDULED
CASTES AND SCHEDULED TRIBES (2014-2015)**

Shri Faggan Singh Kulaste - Chairperson

MEMBERS - LOK SABHA

2. Dr. Ravindra Babu
3. Shri Santokh Singh Chaudhary
4. Shri R. Dhruvanarayana
5. Shri Ramesh Jigajinagi
6. Shri Rattan Lal Katariya
7. Shri Ramashankar Kathiria
8. Dr. Virendra Kumar
9. Shri Balbhadra Majhi
10. Smt. Pratima Mondal
11. Shri Kariya Munda
12. Shri Ram Chandra Paswan
13. Smt. Kamla Patle
14. Dr. Kirit Solanki
15. Shri Kadiyam Srihari
16. Shri Ajay Tamta
17. Shri Krupal Balaji Tumane
18. Dr. P. Venugopal
19. Shri Bhanu Pratap Singh Verma
20. Shri Chintaman Navsha Wanaga

MEMBERS – RAJYA SABHA

21. Shri Ramdas Athawale
22. Shri D. Raja
23. Shri Ambeth Rajan
24. Dr. Vijaylaxmi Sadho
25. Dr. Anil Kumar Sahani
26. Shri Nand Kumar Sai
27. Shri J.D.Seelam
28. Smt. Wansuk Syiem
29. Shri S. Thangavelu
30. Mahant Shambhuprasadji Tundiya

SECRETARIAT

1. Dr. R.K. Chadha - Additional Secretary
2. Shri D.R. Shekhar - Director
3. Shri Vinay P. Barwa - Under Secretary
4. Ms. Pooja Kirthwal - Committee Assistant

INTRODUCTION

I, the Chairperson, Committee on the Welfare of Scheduled Castes and Scheduled Tribes having been authorised by the Committee to finalise and submit the Report on their behalf, present this Third Report (Sixteenth Lok Sabha) on Action Taken by Government on the recommendations/observations contained in the Twenty Sixth Report (Fifteenth Lok Sabha) of the Committee on the subject "Review of representation of Scheduled Castes and Scheduled Tribes in senior positions of Government of India".

2. The Draft Report was considered and adopted by the Committee at their sitting held on 9 April, 2015 (Appendix – B).

3. The Report has been divided into the following Chapters:-

- I. Report.
- II. Recommendations/Observations which have been accepted by the Government.
- III. Recommendations/Observations which the Committee do not desire to pursue in view of replies of the Government.
- IV. Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration.
- V. Recommendations/Observations in respect of which final replies of the Government have not been received.

4. An analysis of Action Taken by Government on the recommendations/observations contained in the Twenty Fifth Report (Fifteenth Lok Sabha) of the Committee is given at Appendix – C.

New Delhi;
30 April, 2015
Vaisakha, 1937(Saka)

(FAGGAN SINGH KULASTE)
Chairperson
Committee on the Welfare of
Scheduled Castes and
Scheduled Tribes

CHAPTER – I

REPORT

This Report of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes deals with the action taken by the Government on the recommendations contained in their Twenty-sixth Report (Fifteenth Lok Sabha) on “Review of representation of Scheduled Castes and Scheduled Tribes in senior positions of Government of India”.

1.2 Twenty-sixth Report was presented to Lok Sabha and laid in Rajya Sabha on 20 March, 2013. It contained 9 recommendations/observations. Replies of the Government in respect of all these recommendations/observations have been examined and are categorised as under:-

- (i) Recommendations/Observations which have been accepted by the Government (5 and 7).
- (ii) Recommendations/Observations which the Committee do not desire to pursue in the light of the replies received from the Government (Sl. Nos. 3, 6, 8 and 9).
- (iii) Recommendations/Observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (Sl. Nos. 1, 2, and 4).
- (iv) Recommendations/Observations in respect of which final replies of the Government have not been received (NIL).

1.3 The Committee will now deal with the Action Taken by the Government on those recommendations which need reiteration or comments.

Background Note

Recommendation (Sl. No. 1, Para No. 1.21)

1.4 The Committee are constrained to note that the representation of Scheduled Caste and Scheduled Tribe candidates among higher echelons of bureaucracy is rather dismal. The Committee are distressed to note that currently no Scheduled Castes official occupies the post of Secretary in any of the offices under the Government of India. The Committee have been informed that posts of Secretary, Additional Secretary and Joint Secretary in Ministries/Departments, except the posts in the Ministry of External affairs are deputation posts and are filled under the Central Staffing Scheme. The Committee are not satisfied with the reasons adduced by the Ministries that absolute absence of Scheduled Caste officers at the Secretary level is because of no provision of reservation in the post filled up on deputation basis and SC/ST official empanelled for the posts of Joint Secretary, Additional Secretary and Secretary often refuse to come to Centre even after giving option. The Committee note that there is no reservation of any category when panel of officers for the posts of Secretary, Additional Secretary and Joint Secretary is prepared. The Committee are also distressed to note that the present empanelment process is a denial of justice to Scheduled Caste and Scheduled Tribe officials as is evident that no Scheduled Caste official occupies the post of Secretary in any offices under the Government of India. Since candidates are selected from the States all over India including SC/ST through stiff open competition and thereafter imparted one year training before posting and following liberal benchmark as compared to officers of General Category, there should not be a question to leave out eligible SC/ST candidates for selection of higher post of JS/AS/Secretary under the offices of Government of India. The Committee are of the view that in case empanelled Scheduled Caste and Scheduled Tribe officials deny to come to Centre, a

waiting list of next eligible SC/ST candidates should have been prepared to explore possibility to extend it to the next eligible candidates. This would provide ample opportunity to those Scheduled Caste and Scheduled Tribe officials who are not able to make up to the panel because of the ceiling of 66% representation of SCs and STs in the panel. The Committee are of the firm view that absence of reservation in empanelment of officers on deputation is the basic reason for low representation of officials of Scheduled Castes and Scheduled Tribes in any offices of the Government of India. The Committee, therefore, strongly recommend that the reservation in the process of empanelment should be made mandatory. The reservation would thus serve to ease out the current imbalance in the empanelment process. The Committee are not inclined to accept the reasons stated by the Ministry that since the Scheduled Caste and Scheduled Tribe officials enter into services at a later age, by the time they are due for empanelment as Additional Secretary and Secretary, they do not have any service left. The Committee strongly refute this contention of the Ministry and would like to state that there are ample eligible Scheduled Caste and Scheduled Tribe officials which enter Government services in their prime age and that too on their own merit. The Committee are, therefore, unable to understand the reason as to why inspite of relaxation given in ACR grading, the empanelment process do not lead to the selection of Scheduled Caste and Scheduled Tribe officials. The time has come to change mindset by providing an opportunity to the officials from Scheduled castes and Scheduled Tribes communities to participate in policy making and implement it for the nation. It is sheer by virtue of their own field experience and rich knowledge they will be able to produce better socio-economic policy for the upliftment of these communities and for overall balanced development of the country.

Reply of the Government

1.5 The representation of SC & ST officers in senior positions of Government of India needs to be analysed with reference to the prevailing system of filling up the posts at senior level in Government of India (Deputy Secretary & above) and the need for adopting such a system. At present, most of the posts at senior level are filled up under the Central Staffing Scheme. The Central Staffing Scheme provides a systematic arrangement for the selection and appointment of officers to senior administrative posts at Centre (Deputy Secretary and above), excluding posts which are specifically encadred within the organised Group 'A' services or filled by recruitment through the Union Public Service Commission. Under Central Staffing Scheme, posts are filled by borrowing officers from the All India Services and other participating Central Group 'A' services. All officers who are so borrowed serve the Government of India for a stipulated tenure on deputation and, thereafter, return to their parent cadre. Their growth, development and career prospects are mainly in their own Service. The purpose for such a scheme is the Centre's need for fresh inputs at senior levels in policy planning, formulation of policy and implementation of programmes from diverse sources, viz., the All-India Services and the participating organised Group 'A' Services. The services of scientific and technical personnel and professionals in the fields of economics, statistics, law and medicine are, similarly, obtained from officers serving for specified periods on deputation and who return to their respective cadres at the end of tenure. This two-way movement is of mutual benefit to the service cadres and the Government of India. The posts at Joint Secretary level and above in Government of India under Central Staffing Scheme are filled up by applying stringent criteria of selection. The process involves empanelment of officers i.e. preparing suitability list of eligible officers separately for JS, AS & Secretary level. However, empanelment is not a right to get an appointment. Currently, the modified guidelines, as revised in the year 2009, provide the following provision which emphasizes adequate representation of

officers of SC and ST category along with women and under-represented NE cadres for AIS officers:

“In case the selection process does not lead to adequate representation of categories like SC/ST, women, particular State cadres, the North-East, etc. in the panel, the criteria for empanelment would be suitably relaxed to give due representation to these. For this purpose, adequacy of representation would mean the cumulative representation in four batches, i.e. the current batch and the immediately preceding three batches being less than 66 2/3% of All India percentages of empanelment. The number of officers to be selected on this basis shall not exceed about 15% of the number included in the panel and these selections would follow the process outlined above albeit with suitably relaxed norms.”

It is, therefore, clear that under the current guidelines there is a provision to relax the qualifying standard for SC/ST officers in case their representation is not adequate. The appointment of SC/ST officers among the empanelled SC/ST officers to the post of JS & above in respect of IAS is given below:

(i) Secretary in Government of India(IAS):

At present out of 04 SC and 04 ST officers empanelled for holding the post of Secretary to the Government of India from 1977, 1978 & 1979 batches, 01 SC officer

(25%) and 03 ST officers(75%) have been appointed to the post of Secretary to the Government of India.

(ii) Additional Secretary in Government of India(IAS):

At present, out of 07 SC and 07 ST officers empanelled for holding the post of Additional Secretary in Government of India from 1980, 1981, 1982 & 1983 batches, 03 SC (43%) and 02 ST (29%) officers have been appointed to the post of Additional Secretary in the Government of India.

(iii) Joint Secretary in Government of India(IAS):

Five batches from 1990 to 1994 of IAS have been taken to make an assessment of representation of SC/ST officers in Government of India.

- (a) Out of total 455 officers considered for JS level empanelment from 1990 to 1994 batches, 55 were from SC category(12%) and 25 were from ST category (5.5%). Out of total 331 officers empanelled for JS level during this period, 38 were from SC category (11%) and 18 were from ST category (5%).
- (b) Out of 55 SC and 25 ST officers considered for empanelment for JS level posts from 1990 to 1994 batches, 38 SC (69%) and 18 ST (72%) officers were approved for empanelment.
- (c) At present, out of 38 SC and 18 ST officers empanelled for holding the post of Joint Secretary in the Government of India from 1990 to 1994 batches, 10 SC officers (12%) and 04 ST officers (5%) have been appointed to the post of Joint Secretary in the Government of India.

Number of SC/ST IAS officers posted as
Joint Secretary/Additional Secretary/Secretary in Govt. of India
(As on 31.01.2014)

Sl.No.	SC			ST		
	JS	AS	Secy.	JS	AS	Secy.
	8	4	2	4	1	2

Number of SC/ST IAS officers empanelled as
Joint Secretary/Additional Secretary/Secretary during 2013

Sl.No.	SC			ST		
	JS	AS	Secy.	JS	AS	Secy.
	7	3	2	5	2	1

1.6 This Ministry gives proper attention to ensure that the representation of SC/ST officers is adequate at the level of senior positions in the Government of India as per ACC approved guidelines in para 1.5 above. As far as reservation in empanelment is concerned, it may be noted that reservation is not applicable to empanelment as appointment to JS and above level posts under Central Staffing Scheme is for a limited

period (these are tenure posts). [DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

Comments of the Committee

1.7 The Committee have been informed that as per modified guidelines of CCS as revised in 2009 there is a provision to relax the qualifying standard for SC/ST officers in case their representation is not adequate. It has been further stated that the number of officers selected on this basis shall not exceed about 15% of the number included in the panel with suitably relaxed norms. The Committee have been informed that as on 31.04.2014 there were 2 Secretary, 4 Additional Secretary and 8 Joint secretary belonging to SC category. Also 2 Secretary, 1 Additional Secretary and 4 Joint secretary were from ST category The Committee feel that although the Ministry are making an effort to ensure the adequate representation of SC/ST officers at Joint Secretary/ Additional Secretary and Secretary however the results are not evident. The Committee would like to know what efforts have been, made by the Ministry to improve the current scenario. Since the Ministry has ruled out the possibility of any reservation in empanelment process by stating that these are tenure posts. The Committee would like to know whether the Ministry is planning to make operative a waiting list of next eligible SC/ST officials in case empanelled SC/ST officials deny coming to centre. The Committee have been informed that in case the selection process does not lead to adequate representation of categories like SC/ST, women, particular State cadres, the North-East, etc. in the panel, the criteria for empanelment would be suitably relaxed to give due representation to these. For this purpose, adequacy of representation would mean the cumulative representation in four batches, i.e. the current batch and the immediately preceding three batches being less than 66 2/3% of All India percentages of empanelment. However the Committee are dismayed to note that the number of SC officers empanelled for the posts of Joint

Secretary, Additional Secretary and Secretary were merely 7, 3 and 2 respectively and the ST officers empanelled for the posts of Joint Secretary, Additional Secretary and Secretary were 5, 2 and 1 respectively during 2013. The Committee would thus like to be apprised of the relaxations which are being provided to improve this low representation of SC/ST officers in empanelment. Also Committee would like to be made aware of the empanelment scenario during the year 2014

Recommendation (Sl. No. 2, Para No. 1.22)

1.8 The Committee are given to understand by the Secretary, DoP&T that a status paper has been submitted to the Cabinet regarding lower representation of Scheduled Castes and Scheduled Tribes in senior positions in the Ministries. The Committee would like to be apprised regarding the decision of the Cabinet in this regard. The Secretary, DoP&T has also admitted that representations from SC/ST officers saying that their ACRs are not being correctly recorded and no timely action is taken. The Committee would like to be apprised regarding the details of representations disposed of with regard to the matter. The Committee would also like to lay stress on the fact that confidential reports of Scheduled Caste and Scheduled Tribe should not be given more weightage and not to be considered as criterion for giving promotion as tampering with the ACRs of the Scheduled Caste and Scheduled Tribe officers is a common practice. This kind of apathetic attitude towards the officers of Scheduled Castes and Scheduled Tribes is highly deplorable. The Committee feel that there is still latent caste bias harboured against SC/ST candidates. Overwhelming number of Scheduled Castes and Scheduled Tribes people complaint that their confidential reports are not recorded correctly. As a result thereof, out of 84 Secretaries to the Government of India, even a single one do not belong to Scheduled Caste community. It is a clear example of such bias. A review of the situation is needed to iron out implicit bias in the

system. The Committee would like to instruct the Ministry to chalk out an alternative mechanism like creating review Board consisting of 5 Members (2 SC, 1 ST and 2 from General category) and lay down criteria other than the grading of ACRs for empanelment of Scheduled Caste and Scheduled Tribe officials to the posts of Joint secretary, Additional Secretary and Secretary. It is understood that a 117 Constitutional Amendment Bill, 2012 has been introduced and passed in Rajya Sabha. The Committee hope and trust that same would be passed in Lok Sabha also expeditiously to provide justice to SC/ST officers at higher levels.

Reply of the Government

1.9 Performance Appraisal System (APAR) is more consultative and transparent, the Department of Personnel and Training has issued instructions vide OM No.21011/1/2005-Estt.(A) (Pt.II) dated 14.05.2009 which provides as under:-

- (i) The full APAR including the overall grade and assessment of integrity shall be communicated to the concerned officer after the Report is complete with remarks of Reviewing & Accepting Officer wherein such system is in vogue.
- (ii) The concerned officer shall be given the opportunity to make any representation against the entries and the final grading given in the Report within a period of fifteen day from the date of receipt of the entries in the APAR. The representation shall be restricted to the specific factual observations contained in the report leading to assessment of the officer in terms of attributes, work output etc. While communicating the entries, it shall be made clear that in case no representation is received within the fifteen days, it shall be deemed that he /she has no representation to make. If the concerned APAR Section does not receive any information

from the concerned officer on or before fifteen days from the date of disclosure, the APAR will be treated as final.

- (iii) The competent authority for considering adverse remarks under the existing instructions may consider the representation, if necessary, in consultation with the reporting and / or reviewing officer and shall decide the matter objectively based on the material placed before him within a period of thirty days from the date of receipt of the representation.

1.10 Instructions mentioned above have mechanism for representation by all the officers reported upon and disposal of the representation so submitted by the officer reported upon by the competent authority after obtaining view of the Reporting/ Reviewing Officer.

As regards the 117th Constitutional Amendment Bill, the Bill was passed by the Rajya Sabha on 17.12.2012 and pending in the Lok Sabha for consideration and passing. [DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

Comments of the Committee

1.11 The Committee would like to be apprised of update regarding the decision of Cabinet relating to status paper on lower representation of Scheduled caste and Scheduled Tribe officers in senior positions in Ministries. The Committee would also like to be made aware of the details of the representations disposed of with respect to complaints of Scheduled Caste and Scheduled Tribe officers who had alleged that their ACRs were not being correctly recorded. Also the Committee have been informed that the competent authority in consultation with reporting and/with reviewing officer would take decision in the matter while considering representations. The Committee are of view that personal hearing of the aggrieved person should also be held during the consideration process. The Committee would also like to once again reiterate that the empanelment process

should be suitably modified liberally in order to fix criteria other than grading in ACRs for empanelment of Scheduled Caste and Scheduled Tribe officers for the posts of Joint Secretary, Additional Secretary and Secretary. In order to review the situation and to iron out implicit bias in the system, the Committee had recommended to create a “Review Board” consisting of 5 members (2 SC, 1 ST and 2 from General category) and lay the criteria other than the grading of ACRs for empanelment of SC and ST officials for the post of Joint Secretary, Additional Secretary and Secretary, however the Ministry have not yet submitted their replies in this regard. The Committee would like to recommend that this proposal may be put up to the Cabinet for approval.

Recommendation (Sl. No. 4, Para No. 2.14)

1.12 The Committee were given to understand that the provision for reservation as outlined in Article 16(4) does not make reservation in promotion mandatory and that it is just an enabling provision. The Committee would like to emphasize that even though the Constitution lays down the provision contained in Article 16 (4A) as enabling, the onus of responsibility for its enablement lies with the Department of Personnel. The directives and policies laid down by the Department should make the representation of Scheduled Castes and Scheduled Tribes conducive in Group ‘A’. The Committee are of the view that DoPT should not feel content just by framing reservation policies, issuing directions to the Ministries, Departments for implementation of reservation policy but also assess and analyze the implementation of reservation policy for SC and ST. From the foregoing it seems that DoPT are not serious enough to get the reservation policy implemented in letter and spirit which has resulted in very low or no representation at all at highest post of Secretary in Government of India.

1.13 The Committee, therefore, strongly recommend that DoPT should take up the matter at Cabinet level to make the enabling provision of Article 16(4A) of the Constitution of India mandatory to make reservation in the matter of promotion at any Centre and State level services under any class or classes of post.

Reply of the Government

1.14 Department of Personnel and Training in the Ministry of Personnel, Public Grievances and Pensions is the nodal Department for formulation of policy on reservation in services under the Government of India. Instructions have been issued for nomination of an officer at least of the level of Deputy Secretary to work as Liaison Officer in each Ministry/Department/Attached and Subordinate offices for proper implementation of reservation policy. Cases of negligence or lapses in the matter of following the reservation and other orders relating to SCs and STs coming to light through the inspections carried out by the Liaison Officers are submitted to the Secretary/Additional Secretary to the Government in the respective Ministries/Departments and to the Head of the Department in respect of offices under the Head of Department. Necessary action is taken by the Secretary/Additional Secretary/Head of Department on such reports to ensure strict compliance of these orders. Thus, sufficient mechanism exists within the Government to protect the interests of SCs and STs.

1.15 As stated above, the Department of Personnel and Training is mainly responsible for framing the policy on reservation in services under the Government of India. However, powers of implementing the reservation orders have been delegated to each appointing authority. Considering the huge size of the Government of India, it would be counter productive for SCs and STs if only one Ministry or regulatory body is designated for implementing the reservation orders. It may also be pointed out that there exist two Constitutional bodies namely the National Commission for SCs and the National

Commission for STs to protect the interests of SCs/STs, which supplement the Government's efforts to monitor & evolve the reservation policy.

1.16 The four amendments, namely, the 77th amendment, the 81st amendment, the 82nd amendment and the 85th amendment were made in the Constitution to protect the interests of the Scheduled Castes and Scheduled Tribes. The validity of all these four Amendments were challenged before the Supreme Court through various writ petitions clubbed together in M. Nagaraj & others v/s. Union of India & others (Writ Petition No.61/2002) mainly on the ground that these amendments altered the basic structure of the Constitution. The Supreme Court in its judgment dated 19.10.2006 in the matter of M. Nagaraj & others v. Union of India & others [Writ Petition (C) No.61/2002] upheld the validity of all these four amendments. However, the Court stipulated that the concerned State will have to show in each case the existence of the compelling reasons, namely, backwardness, inadequacy of representation and overall administrative efficiency before making provision for reservation. The Court further held that the impugned provision is an enabling provision. If the State Government wish to make provision for reservation to SCs and STs in promotion, the State has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment in addition to compliance of Article 335.

1.17 There were some Court cases filed in different states on the ground that the pre-requisite conditions as laid down by the Supreme Courts in M. Nagaraj case have not been observed while providing reservation in promotion. Relying on the judgment of the Supreme Court in the case of M. Nagaraj, the High Court of Rajasthan and the High Court of Allahabad struck down the provision of reservation in promotion in the States of Rajasthan and U.P., respectively. Later on, the judgments of both the High Courts were upheld by the Supreme Court.

1.18 In order to protect the interest of SCs and STs the Government decided to make further amendment in the Constitution to provide impediment free reservation in promotion to Scheduled Castes and Scheduled Tribes without fulfilling the pre-requisite conditions as laid down by the Supreme Court in M. Nagaraj's case. Accordingly, the Constitution (One Hundred and Seventeenth Amendment) Bill, 2012 was introduced in Rajya Sabha on 5.9.2012. The Bill has been passed by Rajya Sabha on 17.12.2012 and is pending in the Lok Sabha for consideration and passing. [DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

Comments of the Committee

1.19 The Committee are of opinion that DoPT should not just get content by issuing instructions for appointment of Liaison Officers for monitoring proper implementation of reservation policy in various Ministries. However the Committee would like to suggest that DoPT should coordinate with various Ministries and their Liaison officers and try to access the key issues regarding the nature of complaints that are registered by the Scheduled Caste and Scheduled Tribe officials in various Ministries in order to identify problem areas, thus to frame conducive policies to ease out the difficulties being faced by the Scheduled Caste and Scheduled Tribe employees. The Committee feel that coordination between DoPT and Ministries would be an enabling factor in developing an effective mechanism for impediment free implementation of reservation policies apart from just appointing Liaison Officers. The Committee would also like to strongly point out that although National commission for Scheduled Castes and National Commission for Scheduled Tribes are supplementary bodies to monitor and evolve the reservation policy but their recommendations are not binding hence the burden lies on the DoPT which is the nodal Ministry to frame reservation policies and ensure their implementation for

smooth functioning in various offices of Government of India. Hence, the Committee reiterate their earlier recommendation that DoPT should take up the matter with Cabinet to make the enabling provision of Article 16(4A) of the Constitution of India mandatory to provide reservation in the matter of promotion at Centre and State level services under any class or classes of post. The Committee would also like to be apprised of the stand taken by the DOPT on the recent Supreme Court judgement in the matter of *m.nagraj v union of India*.

Recommendation (Sl. No. 6, Para No. 3.12)

1.20 The Committee would like to reprimand the DoP&T for showing laxity in maintaining records and data. DoP&T have failed to apprise the Committee regarding the number of Scheduled Castes and Scheduled Tribes promoted by providing relaxation/concession after 82nd Constitutional Amendment came into force which restores the relaxation/concession to the SCs and STs in the matter of promotion w.e.f 3.10.2000. Reservation and relaxation cannot be separated and they go hand in hand. In absence of relaxation, reservation has no meaning because the officers of Scheduled Castes and Scheduled Tribes community have not reached the stage where they can stand of their own due to centuries of social, economic and educational disparities and backwardness. The Ministry has, however, turned a blind eye towards the injustice meted out to Scheduled Caste and Scheduled Tribe officials who were made to forfeit the service benefits of relaxed/lower standards during the period 2.7.1997 to 3.10.2000. The Committee feel that due to non-availability of sufficient and clear cut SC/ST officials data, the respective State Governments are not able to prove before the Hon'ble High Court and Supreme Court in consonance of Article 16(4A) of the Constitution that State are not adequately represented in the services under the State. With the result court judgements are declared against the SC/ST service interest which in fact defeat the

basic spirit of the preamble of the Constitution i.e. to provide socio-economic justice to the people of India. The Committee, therefore, strongly recommend that DoPT should undertake this work with due sincerity in spirit of the Article 16(4A) of the Constitution by maintaining centrally data for reservation, promotion, concession etc. so that respective State may easily prove that in their State SC/ST are adequately/not adequately represented as the case may be. Further during the course of hearing in the court of law, States may provide the data to enhance the socio-economic justice to the people of India including SC/ST officials in service. The Committee would like to be apprised in this regard.

Reply of the Government

1.21 As per Allocation of Business Rules, 1961, the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) has been allotted the work relating to reservation for SCs, STs and OBCs in posts and services under the Central Government. Each State/UT has its own reservation policy, which is formulated keeping in view their demographical features and other factors. It may not be practical for the DoPT to maintain data centrally of SCs/STs in respect of all States/UTs because this will require a huge manpower. Moreover, the Supreme Court in its judgment in M. Nagaraj case, while upholding the validity of the constitutional amendments, namely, the 77th, the 81st, the 82nd and the 85th also held that “the concerned State will have to show in each case of the existence of the compelling reasons, namely, backwardness, inadequacy of representation and overall administrative efficiency before making provision for reservation. If the State Government wish to exercise their discretion and make such provision, the State has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment in addition to compliance of Article 335”. Relying on the aforesaid judgment of the Apex Court, the High Court of Rajasthan and the High Court of Allahabad struck down the

scheme of reservation in promotion in the States of Rajasthan and Uttar Pradesh for non-compliance of the conditions laid down by the Supreme Court in the matter of promotion. Later on, the Apex Court also upheld the decision of High Court. Hence, it is the responsibility of each State/UT to collect such data to probe the compelling reasons like backwardness and inadequacy of representation before providing reservation in promotion in services under the respect State/UT.

1.22 Under the federal structure of the country, the rules & policies regarding services under the State is a State subject and employment in services under the State Government comes under the State List. Therefore, it is for the concerned State to formulate rules/policies including relaxations/concessions for SCs/STs.

1.23 It may also be submitted that there is a difficulty in collection of quantifiable data showing backwardness. Moreover, there is uncertainty on the methodology of this exercise. Hence, the Government decided to move the constitutional amendment to substitute clause (4A) of article 16, with a view to provide impediment-free reservation in promotion to the Scheduled Castes and the Scheduled Tribes. In the said amendment, it is proposed that SCs/STs notified under Articles 341 and 342 shall be deemed to be backward. [DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25.09.2013]

Comments of the Committee

1.24 The Committee do understand that under the federal structure of the country, the rules and policies regarding services under the State is a State subject and employment of services under the State Government comes under the State List. The Committee had, in fact recommended to collect quantifiable data pertaining to various Ministries/Departments/PSUs/Banks/autonomous bodies working in various States under the Government of India so that effective reservation policies can be formulated and implemented by the DoPT. The Committee would like to stress that the role of DoPT as a nodal Ministry is incomplete without the maintenance of data centrally. The Committee would like to point out that being the apex Ministry, it is the responsibility to ensure the representation of Scheduled castes and Scheduled Tribes in Government of India services, it is the prerogative of the DoPT to coordinate with various Ministries/Departments and act in a

synchronized manner to compile such data. The Committee are of the view that DoPT should coordinate with the Ministry of Social Justice and Empowerment and Ministry of Tribal Affairs in order to gather data.

Miscellaneous

Recommendation (Sl. No. 8, Para No. 4.9)

1.25 The Committee are astounded to note that even today candidates of Scheduled Castes and Scheduled Tribes community are not considered qualified for scientific and technical posts. The Committee can only fathom the dismay and exasperations of the Scheduled Caste and Scheduled Tribe candidates who are not able to make in apex scientific organizations of India because of such prejudices. The Committee further censures that the jobs meant for conducting research and also for organizing, guiding and directing research are exempted from the purview of reservation. This is rather a deplorable display of unspoken bias against the candidates of Scheduled Castes and Scheduled Tribes community. In the absence of reservation clause in the scientific and technical posts is just another tactic to rob them of their opportunity to get a foothold in the field of scientific and technical expertise. The Committee further note that the Department of Information Technology and Department of Atomic Energy do not offer reservation to Scheduled Castes and Scheduled Tribes. As per the data provided by the Department of Electronics and Information Technology, 20 SC officials and 6 ST officials have been absorbed/selected as Scientist in Group 'A' category. Likewise in Department of Atomic Energy, 15 SC and 7 ST candidates in the year 2009, 17 SC and 6 ST candidates in the year 2010 and 13 SC and 8 ST candidates in the year 2011 were selected. The statistics clearly indicate that Scheduled Castes and Scheduled Tribes are equally qualified and meritorious. However, the reservation in scientific and technical field would thus provide the much needed impetus to the candidates of Scheduled Castes and Scheduled Tribes to reach the pinnacle in this field.

Reply of the Government

1.26 All the Scientific and Technical posts are not exempted from the orders of reservation. Only those Scientific and Technical posts which are required for conducting research or for organizing, guiding and directing research and also fulfill the following requirements are exempted from the purview of reservation orders:

- (i) The posts should be in grades above the lowest grade in Group A of the service concerned.
- (ii) They should be classified as 'scientific' or 'technical' in terms of Cabinet Sectt. (Department of Cabinet Affairs) O.M. No.85/11/CF-61(1) dated 28.12.1961 and
- (iii) These should be posts for conducting research or for organizing, guiding and directing research.

1.27 Orders of the Minister concerned are required to be obtained before exempting any posts satisfying the above conditions from the purview of the scheme of reservations.

1.28 However, the above conditions are not applied to posts in the Department of Space and in the Department of Electronics and in regard to the recruitment of trainees to the training school under the Department of Atomic Energy. [DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

Comments of the Committee

1.29 The Committee would like to point out specifically that in the absence of reservation in scientific/technical posts and also posts meant for conducting research or for organizing, guiding and directing research has been rather a deterrent factor in the path of venturing of Scheduled Caste and Scheduled Tribe candidates in this field. The Committee desire that DoPT should amend the

eligibility criteria and make provisions to facilitate the influx of meritorious Scheduled Caste and Scheduled Tribe candidates in scientific and technical field.

Recommendation (Sl. No. 9, Para No. 4.19)

1.30 The Committee are happy to note that overall representation as per data available in Public Enterprises Survey 2009-2010 in respect of 206 CPSEs as on 1.1.2010 was 18.09 and 7.43 in case of SCs and STs respectively but at the same time, the Committee are dismayed to note that as per policy of the Government there is no reservation for Board level posts in Public Sector Enterprises. Public Enterprises Selection Board stated that the statistics pertaining to the officers belonging to SC/ST category is not maintained as there is no column mentioned in the application form indicating caste status. The Government should ensure that there is adequate representation of Scheduled Castes and Scheduled Tribes in policy/decision making bodies. The Committee are of unanimous view that the current situation should be reviewed and proposals need to be initiated for reservation of Scheduled castes and Scheduled Tribes in the appointment of official/non official Directors on the Board of Directors of Central Public Sector Enterprises. The Committee are given to understand that in Board of Directors, every Director position is a single post cadre. The Committee therefore, recommend that a list of eligible SC/ST candidates should be drawn and they should be considered on rotation basis for the posts of Board of Directors. The Committee would also like to direct Public Enterprises Selection Board or Department of Public Enterprises to maintain data pertaining to Scheduled Castes and Scheduled Tribes holding Board level positions in PSUs/PSEs and the Committee may be apprised of the progress made in this regard.

Reply of the Government

1.31 The Public Enterprises Selection Board (PESB) is a high powered body constituted by the Government of India Resolution dated 03.03.1987, amended from time to time. The PESB has been set up with the objective of evolving a sound managerial policy for the Central Public Sector Enterprises (CPSEs) and in particular to advise the Government on appointment to top management posts. The PESB is headed by a full-time Chairman and three members. The recommendations of the PESB are submitted to the Appointments Committee of the Cabinet (ACC) for consideration.

1.32 Department of Personnel and Training has not issued any separate instructions in respect of reservation in Board level appointments in CPSEs. PESB calls for applications from eligible candidates. The selection of the candidate is made keeping in view the performance of candidates interviewed with special regard to their qualities of managerial capability, leadership, broad vision, track record, available ACRs and inputs given by the Secretary of the concerned Administrative Ministry and CMD of the concerned CPSE, wherever applicable.

1.33 The decision as to whether Board level posts in CPSEs are specialized posts (as different posts required different specialization, experience and qualification) or they are isolated posts or single post cadres are taken by the concerned PSU and Department of Public Enterprises.

1.34 A five Judge Bench of the Supreme Court in its judgement dated April 17, 1998 in the case of Post Graduate Institute of Medical Education and Research, Chandigarh vs. Faculty Association and Others has held that "there cannot be any reservation in single-post cadres. The Apex Court has further held that unless there

is plurality of posts in a cadre, the question of reservation will not arise even with the device of reservation by rotation”.

1.35 Department of Public Enterprises (DPE) has informed that Board of Directors of CPSEs comprises Functional, Government and non-functional Directors and every Director position is a single post cadre. Government officers from concerned administrative Ministry or related Government agency are generally nominated as Government Directors on the Boards of CPSEs on ex-officio basis with no fixed tenure. Therefore, it may not be possible to have any provision for reservation for any caste/community to the posts of Government Directors on the Boards of CPSEs. Whereas, non-official Directors, are generally not considered as “employees” of the Government.

DPE has also informed that they are taking action to increase the representation of persons belonging to Scheduled Castes, Scheduled Tribes, Minorities, OBC and Women as non-official Directors on the Boards of CPSEs.

1.36 Department of Public Enterprises has further informed that the Department-related Parliamentary Standing Committee on Industry in its 221st Report on the issue of certain criteria laid down by the Government for appointment of non-official Directors on Boards of CPSEs, had recommended SC,ST,OBC and Women should be given preference. The concern expressed by the Committee was communicated to all the administrative Ministries/Departments. DPE has also informed that they maintain databank of persons who can be considered for appointment as non-official Directors on the Boards of CPSEs. In order to increase the number of persons belonging to categories of Scheduled Castes, Scheduled Tribes, Minorities, OBC and women in the databank, Department had brought out advertisements in leading newspapers of all metros and state capitals inviting applications for inclusion in DPE databank, there are

11 persons belonging to Scheduled Castes, 3 belonging to Scheduled Tribes, 21 belonging to Minorities, 22 belonging to OBC and 25 belonging to women.

1.37 To monitor the representation of persons belonging to categories of Scheduled Castes, Scheduled Tribes, Minorities, OBC and women being recommended/ appointed as non-official Directors on the Boards of CPSEs, DPE proposes to prescribe a uniform format of bio-data for persons to be considered for appointment as non-official Directors on the Boards of CPSEs and the administrative Ministries would be requested to furnish the bio-data of persons in the prescribed format only. [DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25.09.2013].

Comments of the Committee

1.38 The Committee have been informed that DPE are taking action to increase the representation of persons belonging to Scheduled Castes and Scheduled Tribes, minorities, OBC and women as non official Directors on board of CPSEs. The Committee would like to be apprised of the actions taken by DPE in this regard. The Committee would also like to suggest that DPE should introduce a prescribed uniform format of applications for inviting candidates for the posts of both official and non official Directors. The Committee would also like to direct DPE to maintain the information regarding caste status of applicants lying for the posts of official and non official Directors.

CHAPTER - II

RECOMMENDATIONS/OBSERVATIONS WHICH HAVE BEEN ACCEPTED BY THE GOVERNMENT

Recommendation (Sl. No. 5, Para No. 3.11)

2.1 The Committee note that Department of Personnel lays down the reservation policy and that the implementation and monitoring of the reservation policy is the responsibility of respective Ministries and Departments. The Committee are not satisfied with the role and act of the DoPT to be just content by merely passing on the reservation policy and orders to the Ministries/Departments without observing/monitoring their performance in execution of SC/ST reservation policy to prepare and analyze centrally data for reforms and guide the Cabinet. The Committee condemn DoPT for their lackadaisical approach towards this. Being the nodal Ministry, it is legitimate expectation from the Department of Personnel to Monitor periodically whether or not various Ministries/ Departments are earnestly implementing the reservation policies and orders in letter and spirit. The basic malady is that it is left to individual Ministry to take up the decision to implement the reservation policies and orders or not. This is one of the basic reason for bias attitude and prejudices towards officers of the Scheduled Castes and Scheduled Tribes Community as they are fully aware that no body is monitoring/ making them answerable to latch/ lapse committed towards SC/ST officials. The Committee are, therefore, of the firm view that Government should take up the matter with highest authority to set up a separate regulatory authority under DoP&T to ensure meaningful and full implementation of the reservation policies and orders and to regulate the same through effective monitoring. The Committee are

aghast to note that replies to various queries including the backlog figures for Group 'A' vacancies and number of Scheduled Castes and Scheduled Tribes candidates promoted on the basis of zone of consideration have not been answered on the plea that it was not feasible to collect every data from all Ministries and departments. The Committee are baffled by the fact that the Department of Personnel have not issued any pertinent directions to the Ministries and Departments regarding the maintenance of data with regard to Scheduled Castes and Scheduled Tribes. The Committee are perturbed to note that even in this era of information technology, DoP&T are still putting forth trite replies that the nature of requisite information is vast and that its collection is formidable task. It shows that DoPT is not serious to get the reservation policy for SC/ST implemented in a right direction.

Reply of the Government

2.2 It is submitted that Department of Personnel and Training in the Ministry of Personnel, Public Grievances and Pensions is the nodal Department for formulation of policy on reservation in services under the Government of India. Instructions have been issued for nomination of an officer at least of the level of Deputy Secretary to work as Liaison Officer in each Ministry/ Department/Attached and Subordinate office for proper implementation of reservation policy. Cases of negligence or lapses in the matter of following the reservation and other orders relating to SCs and STs coming to light through the inspections carried out by the Liaison Officers are submitted to the Secretary/Additional Secretary to the Government in the respective Ministries/Departments and to the Head of the Department in respect of offices under the Head of Department. Necessary action is taken by the Secretary/Additional Secretary/Head of Department on such reports to ensure strict compliance of these orders. Thus, sufficient mechanism exists within the Government to protect the interests of SCs and STs.

2.3 While the Department of Personnel and Training is responsible for framing the policy on reservation in services under the Government of India, the powers of implementing the reservation orders have been delegated to each appointing authority. Considering the huge size of the Government of India, it would be counter productive for SCs and STs if only one Ministry or regulatory body is designated for implementing the reservation orders. It may also be pointed out that there exist two Constitutional bodies namely the National Commission for SCs and the National Commission for STs to protect the interests of SCs/STs, which supplement the Government's efforts to monitor & evolve the reservation policy and to suggest remedial measures for proper implementation of the reservation policy.

[DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

Recommendation (Sl. No. 7, Para No. 3.18)

2.4 The Committee are utterly dismayed at the tepid response of the Ministry towards the existing backlog in the Group Á' posts. The Committee take cognizance of the fact that the Ministry has not maintained the data regarding the backlog vacancies, Group wise. The Committee are baffled to note that in absence of such significant statistics, how does the Ministry plans to wipe out the backlog existing in various Ministries and Departments. The Committee are of considered view that all the backlog existing in various Ministries and Departments should be classified Group wise and the Committee should be apprised of the same. Regarding the filling up of Group Á' backlog vacancies, the Committee should be informed regarding progress made in the filling up of posts upto the Director level. Regarding the posts of Joint Secretary, Additional Secretary and Secretary, which are filled by deputation, the Committee should be apprised of the strategy adopted to fill such posts. The Committee further

recommend that responsibility should be fixed on the respective Liaison Officers of various Ministries/ Departments to identify Group 'A' posts. They should further devise exhaustive plans for wiping the backlog in conjunction with the various Ministries and Departments. It is observed that the Special Recruitment Drive leads to mass recruitment in Class 'C' & 'D' posts. The Committee would like to recommend that the Department of Personnel should draw a strategy especially for filling up of Group 'A' vacancies. The Committee should be regularly posted on this front. The Committee note that there are 273 SC and 505 ST backlog vacancies for the year 2010-2012 and efforts are being made to fill them up in next recruitment process. The Committee would like to know the exact number of SC and ST backlog vacancies in Group 'A' and the efficacious efforts made by the DoPT to get them filled up in a planned way as per rules prescribed therefor.

Reply of the Government

2.5 Department of Financial Services had earlier informed that there were 273 backlog vacancies of SCs and 505 of STs in Grade A for the year 2010, 2011 and 2012 in Public Sector Banks (PSBs). However, the Department of Financial Services has stated that they collected revised figures from the Public Sector Banks. The Department of Financial Services has also informed that most of the PSBs who earlier shown backlog vacancies had filled in backlog vacancies of the years 2010, 2011 and 2012. Further, 9 PSBs have still reported year-wise backlog vacancies of SCs and STs as on 31.05.2013 which was as under:-

Year	Backlog Vacancies of SCs	Backlog Vacancies Of STs
2010	15	209
2011	5	76
2012	26	101

Total	46	386*
--------------	-----------	-------------

*2 vacancies out of 386 were filled up during 2013.

2.6 The detailed Statement of backlog vacancies reported by 9 Public Sector Banks is given at **Appendix A**.

2.7 Further, instructions exist to the effect that if sufficient number of suitable SC/ST/OBC candidates do not become available to fill up the vacancies reserved for them in the first attempt of recruitment, a second attempt should be made for recruiting suitable candidates belonging to the concerned category in the same recruitment year or as early as possible before the next recruitment year so that the backlog reserved vacancies are not created. If even after making such efforts, the reserved vacancies are not filled and backlog reserved vacancies are carried forward to the subsequent recruitment year, concerted efforts should be made to fill up the backlog reserved vacancies as soon as possible.

2.8 The Central Government has been launching Special Recruitment Drives to fill up the backlog reserved vacancies of SCs and STs from time to time. A Special Recruitment Drive was launched in November, 2008 to fill up the backlog reserved vacancies of Scheduled Castes, Scheduled Tribes and Other Backward Classes, which was re-launched in July, 2011 to fill up the remaining backlog vacancies by 31st March, 2012. There were a total of 75522 identified backlog vacancies of SCs, STs and OBCs out of which 64175 backlog vacancies could be filled up. Of these 48034 vacancies were filled up. The overall success rate of the Drive was 74.85%.

2.9 The Cabinet in its meeting held on 23.05.2013 approved various initiatives and measures for filling up the backlog vacancies of SCs, STs and OBCs. Accordingly, all the Ministries/ Departments/Organisations have been advised in the month of July, 2013 to take follow up action for implementation of the measures approved by the

Government. The implementation of Special Recruitment Drive will be monitored by DoP&T.

[DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25.09.2013]

CHAPTER - III

RECOMMENDATIONS/OBSERVATIONS WHICH THE COMMITTEE DO NOT DESIRE TO PURSUE IN THE LIGHT OF THE REPLIES FROM THE GOVERNMENT

Recommendation (Sl. No. 3, Para No. 2.13)

3.1 The Committee observe that even directly recruited class-I officers belonging to Scheduled Castes and Scheduled Tribes communities in most cases are retired at the level of Joint Secretary, Government of India. Only few officers from these communities get opportunity to reach the level of Additional Secretary and rare officers at the level of Secretary to the Government of India. In other words, the officers from these groups are generally involved in execution of orders only and not in policy making. It clearly shows that present recruitment and promotion policy framed are faulty to deprive SC/ST officers to get an opportunity to reach the highest level. The real power could be shared by the weakest section only if the doors of the high decks will be opened only when reservation in promotion at all level are made mandatory at State and Centre level. In service hierarchy Secretaries to the Government of India are directly involved in policy making for the nation, they may be suitably given directions by the Government of India/ Cabinet to frame policy/ rules under the act to enable SC/ST officer to reach the level of highest post. Nevertheless, officers from Scheduled Castes and Scheduled Tribes communities cannot reach to that position in absence of reservation in promotion beyond the lowest rung of class-I posts.

Reply of the Government

3.2 It is submitted that reservation in promotion by non-selection is available in all Groups i.e. Group A, B, C & D. In case of reservation in promotion by selection method, it is available upto the lowest rung of Group A i.e. from Group C to Group B, within

Group B and from Group B to lowest rung of Group A. However, there is concession available to Scheduled Caste/Scheduled Tribe officers in promotion by selection to posts within Group A (Class I), carrying Grade Pay of Rs.8,700/- or less, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would be included in that list provided they are not considered unfit for promotion.

3.3 Posts of Secretary, Additional Secretary and Joint Secretary in the Ministries/ Departments, except the posts in the Ministry of External Affairs are deputation posts and are filled under the Central Staffing Scheme (CSS). The posts of Director, excluding the posts which are in the cadre of Central Secretariat Service, are also filled under Central Staffing Scheme. The officers from various cadres including the State Cadres, are empanelled to hold such posts and such empanelled officers who give their option for deputation are appointed under CSS after examining their suitability through the institutional arrangements like Civil Services Board and Appointments Committee of the Cabinet. The number of SC and ST officers posted under CSS would primarily depend on the number of officers empanelled and opting to be considered on the Offer List of a particular year. It may be stated that every effort is made to empanel officers belonging to SC/ST categories.

[DoPT's No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

Recommendation (Sl. No. 6, Para No. 3.12)

3.4 The Committee would like to reprimand the DoP&T for showing laxity in maintaining records and data. DoP&T have failed to apprise the Committee regarding the number of Scheduled Castes and Scheduled Tribes promoted by providing relaxation/ concession after 82nd Constitutional Amendment came into force which

restores the relaxation/ concessions to the SCs and STs in the matter of promotion w.e.f. 3.10.2000. Reservation and relaxation cannot be separated and they go hand in hand. In absence of relaxation, reservation has no meaning because the officers of Scheduled Castes and Scheduled Tribes community have not reached the stage where they can stand of their own due to centuries of social, economic and educational disparities and backwardness. The Ministry has however turned a blind eye towards the injustice meted out to Scheduled Castes and Scheduled Tribes officials who were made to forfeit the service benefits of relaxed/ lower standards during the period 2.7.1997 to 3.10.2000.

3.5 The Committee feel that due to non-availability of sufficient and clear cut SC/ST officials data, the respective State Governments are not able to provide before the Hon'ble High Court and Supreme Court in consonance of Article 16(4A) of the Constitution that State are not adequately represented in the services under the State. With the result court judgments are declared against the SC/ST service interest which in fact defeat the basic spirit of the preamble of the Constitution i.e. to provide socio-economic justice to the people of India.

3.6 The Committee, therefore, strongly recommend that DoPT should undertake this work with due sincerity in spirit of the Article 16(4A) of the Constitution by maintaining centrally data for reservation, promotion, concession etc. so that respective State may easily prove that in their State SC/ST are adequately/ not adequately represented as the case may be. Further during the course of hearing in the court of law States may provide the data to enhance the socio-economic justice to the people of India including SC/ST officials in service. The Committee would like to be apprised in this regard.

Reply of the Government

3.7 As per Allocation of Business Rules, 1961, the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training) has been allotted the work relating to reservation for SCs, STs and OBCs in posts and services under the Central Government. Each State/UT has its own reservation policy, which is formulated keeping in view their demographical features and other factors. It may not be practical for the DoPT to maintain data centrally of SCs/STs in respect of all States/UTs because this will require a huge manpower. Moreover, the Supreme Court in its judgment in M. Nagaraj case, while upholding the validity of the constitutional amendments, namely, the 77th, the 81st, the 82nd and the 85th also held that “the concerned State will have to show in each case of the existence of the compelling reasons, namely, backwardness, inadequacy of representation and overall administrative efficiency before making provision for reservation. If the State Government wish to exercise their discretion and make such provision, the State has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment in addition to compliance of Article 335”. Relying on the aforesaid judgment of the Apex Court, the High Court of Rajasthan and the High Court of Allahabad struck down the scheme of reservation in promotion in the States of Rajasthan and Uttar Pradesh for non-compliance of the conditions laid down by the Supreme Court in the matter of promotion. Later on, the Apex Court also upheld the decision of High Court. Hence, it is the responsibility of each State/UT to collect such data to probe the compelling reasons like backwardness and inadequacy of representation before providing reservation in promotion in services under the respect State/UT.

3.8 Under the federal structure of the country, the rules & policies regarding services under the State is a State subject and employment in services under the State Government comes under the State List. Therefore, it is for the concerned State to formulate rules/policies including relaxations/concessions for SCs/STs.

3.9 It may also be submitted that there is a difficulty in collection of quantifiable data showing backwardness. Moreover, there is uncertainty on the methodology of this exercise. Hence, the Government decided to move the constitutional amendment to substitute clause (4A) of article 16, with a view to provide impediment-free reservation in promotion to the Scheduled Castes and the Scheduled Tribes. In the said amendment, it is proposed that SCs/STs notified under Articles 341 and 342 shall be deemed to be backward.

Comments of the Committee

3.10 Please see Para 1.24 of Chapter – I.

Recommendation (Sl. No. 8, Para No. 4.9)

3.11 The Committee are astounded to note that even today candidates of Scheduled Castes and Scheduled Tribes community are not considered qualified for scientific and technical posts. The Committee can only fathom the dismay and exasperations of the Scheduled Caste and Scheduled tribe candidates who are not able to make in apex scientific organizations of India because of such prejudices. The Committee further censures that the jobs meant for conducting research and also for organizing, guiding and directing research are exempted from the purview of reservation. This is rather a deplorable display of unspoken bias against the candidates of Scheduled Castes and Scheduled Tribes community. In the absence of reservation clause in the scientific and technical posts is just another tactic to rob them of their opportunity to get a foothold in the field of scientific and technical expertise. The Committee further note that the Department of Information Technology and Department of Atomic Energy do not offer reservation to Scheduled Castes and Scheduled Tribes. As per the data provided by the Department of Electronics and Information Technology, 20 SC officials and 6 ST officials have been absorbed/ selected as Scientist in Group 'A' category. Likewise in

Department of Atomic Energy, 15 SC and 7 ST candidates in the year 2009, 17 SC and 6ST candidates in the year 2010 and 13 SC and 8 ST candidates in the year 2011 were selected. The statistics clearly indicate that Scheduled Castes and Scheduled Tribes are equally qualified and meritorious. However, the reservation in scientific and technical field would thus provide the much needed impetus to the candidates of Scheduled Castes and Scheduled Tribes to reach the pinnacle in the field.

Reply of the Government

3.12 All the Scientific and Technical posts are not exempted from the orders of reservation. Only those scientific and Technical posts which are required for conducting research or for organizing, guiding and directing research and also fulfill the following requirements are exempted from the purview of reservation orders:

- (i) The posts should be in grades above the lowest grade in Group A of the service concerned.
- (ii) They should be classified as 'scientific' or 'technical' in terms of Cabinet Sectt. (Department of Cabinet Affairs) O.M. No.85/11/CF-61(1) dated 28.12.1961 and
- (iii) These should be posts for conducting research or for organizing, guiding and directing research.

Orders of the Minister concerned are required to be obtained before exempting any posts satisfying the above conditions from the purview of the scheme of reservations.

3.13 However, the above conditions are not applied to posts in the Department of Space and in the Department of Electronics and in regard to the recruitment of trainees to the training school under the Department of Atomic Energy.

Comments of the Committee

3.14 Please see Para 1.29 of Chapter – I.

Recommendation (Sl. No. 9, Para No. 4.19)

3.15 The Committee is happy to note that overall representation as per data available in Public Enterprises Survey 2009-2010 in respect of 206 CPSEs as on 1.1.2010 was 18.09 and 7.43 in case of SCs and STs respectively but at the same time, the Committee are dismayed to note that as per policy of the Government there is no reservation for Board level posts in Public Sector Enterprises. Public Enterprises Selection Board stated that the statistics pertaining to the officers belonging to SC/ST category is not maintained as there is no column mentioned in the application form indicating caste status. The Government should ensure that there is adequate representation of Scheduled Castes and Scheduled Tribes in policy/ decision making bodies. The Committee are of unanimous view that the current situation should be reviewed and proposals need to be initiated for reservation of Scheduled Castes and Scheduled Tribes in the appointment of official/ non official Directors on the Board of Directors of Central Public Sector Enterprises. The Committee are given to understand that in Board of Directors, every Director position is a single post cadre. The Committee therefore, recommend that a list of eligible SC/ST candidates should be drawn and they should be considered on rotation basis for the posts of Board of Directors. The Committee would also like to direct Public Enterprises Selection Board or Department of Public Enterprises to maintain data pertaining to Scheduled Castes and Scheduled

Tribes holding Board level positions in PSUs/PSEs and the Committee maybe apprised of the progress made in this regard.

Reply of the Government

3.16 The Public Enterprises Selection Board (PESB) is a high powered body constituted by the Government of India Resolution dated 03.03.1987, amended from time to time. The PESB has been set up with the objective of evolving a sound managerial policy for the Central Public Sector Enterprises (CPSEs) and in particular to advise the Government on appointment to top management posts. The PESB is headed by a full-time Chairman and three members. The recommendations of the PESB are submitted to the Appointments Committee of the Cabinet (ACC) for consideration.

3.17 Department of Personnel and Training has not issued any separate instructions in respect of reservation in Board level appointments in CPSEs. PESB calls for applications from eligible candidates. The selection of the candidate is made keeping in view the performance of candidates interviewed with special regard to their qualities of managerial capability, leadership, broad vision, track record, available ACRs and inputs given by the Secretary of the concerned Administrative Ministry and CMD of the concerned CPSE, wherever applicable.

3.18 The decision as to whether Board level posts in CPSEs are specialized posts (as different posts required different specialization, experience and qualification) or they are isolated posts or single post cadres are taken by the concerned PSU and Department of Public Enterprises.

3.19 A five Judge Bench of the Supreme Court in its judgement dated April 17, 1998 in the case of Post Graduate Institute of Medical Education and Research, Chandigarh vs. Faculty Association and Others has held that “there cannot be any reservation in single-post cadres. The Apex Court has further held that unless there is plurality of posts in a cadre, the question of reservation will not arise even with the device of reservation by rotation”.

3.20 Department of Public Enterprises (DPE) has informed that Board of Directors of CPSEs comprises Functional, Government and non-functional Directors and every Director position is a single post cadre. Government officers from concerned administrative Ministry or related Government agency are generally nominated as Government Directors on the Boards of CPSEs on ex-officio basis with no fixed tenure. Therefore, it may not be possible to have any provision for reservation for any caste/community to the posts of Government Directors on the Boards of CPSEs. Whereas, non-official Directors, are generally not considered as “employees” of the Government.

3.21 DPE has also informed that they are taking action to increase the representation of persons belonging to Scheduled Castes, Scheduled Tribes, Minorities, OBC and Women as non-official Directors on the Boards of CPSEs.

3.22 Department of Public Enterprises has further informed that the Department-related Parliamentary Standing Committee on Industry in its 221st Report on the issue of certain criteria laid down by the Government for appointment of non-official Directors on Boards of CPSEs, had recommended SC,ST,OBC and Women should be given preference. The concern expressed by the Committee was communicated to all the administrative Ministries/Departments. DPE has also informed that they maintain databank of persons who can be considered for appointment as non-official Directors on the Boards of CPSEs. In order to increase the number of persons belonging to categories of Scheduled Castes, Scheduled Tribes, Minorities, OBC and women in the databank, Department had brought out advertisements in leading newspapers of all

metros and state capitals inviting applications for inclusion in DPE databank, there are 11 persons belonging to Scheduled Castes, 3 belonging to Scheduled Tribes, 21 belonging to Minorities, 22 belonging to OBC and 25 belonging to women.

3.23 To monitor the representation of persons belonging to categories of Scheduled Castes, Scheduled Tribes, Minorities, OBC and women being recommended/ appointed as non-official Directors on the Boards of CPSEs, DPE proposes to prescribe a uniform format of bio-data for persons to be considered for appointment as non-official Directors on the Boards of CPSEs and the administrative Ministries would be requested to furnish the bio-data of persons in the prescribed format only.

[DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25.09.2013].

Comments of the Committee

3.24 Please see Para 1.38 of Chapter - I.

CHAPTER - IV

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF THE GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

Recommendation (Sl. No. 1, Para No. 1.21)

4.1 The Committee are constrained to note that the representation of Scheduled Castes and Scheduled Tribes candidates among higher echelons of bureaucracy is rather dismal. The Committee are distressed to note that currently no Scheduled Castes official occupies the post of Secretary in any of the official under the Government of India. The Committee have been informed that posts of Secretary, Additional Secretary and Joint Secretary in Ministries/ Departments, except the posts in the Ministry of External Affairs are deputation posts and are filled under the Central Staffing Scheme. The Committee are not satisfied with the reasons adduced by the Ministries that absolute absence of the Scheduled Caste officers at the Secretary level is because of no provision of reservation in the post filled up on deputation basis and SC/ST official empanelled for the posts of Joint Secretary, Additional Secretary and Secretary often refuse to come to Centre even after giving option. The Committee note that there is no reservation of any category when panel of officers for the posts of Secretary, Additional Secretary and Joint Secretary is prepared. The Committee are also distressed to note that the present empanelment process is a denial of justice to Scheduled Castes and Scheduled Tribes officials as is evident that no Scheduled Castes official occupies the post of Secretary in any offices under the Government of India. Since candidates are selected from the States all over India including SC/ST through stiff open competition and thereafter imparted one year training before posting and following liberal benchmark as compared to officers of General Category, there

should not a question to leave out eligible SC/ST candidates for selection of higher post of JS/AS/Secretary under the offices of Government of India. The Committee are of the view that in case empanelled Scheduled Castes and Scheduled Tribes officials deny to come to Centre, a waiting list of next eligible SC/ST candidates should have been prepared to explore the possibility to extend it to the next eligible candidates. This would provide ample opportunity to those Scheduled Castes and Scheduled Tribes officials who are not able to make up to the panel because of the ceiling of 66% representation of SCs and STs in the panel. The Committee are of the firm view that absence of reservation in empanelment of officers on deputation is the basic reason for low representation of officials of Scheduled Castes and Scheduled Tribes in any offices of the Government of India. The Committee, therefore, strongly recommend that the reservation in the process of empanelment should be made mandatory. The reservation would thus serve to ease out the current imbalance in the empanelment process. The Committee are not inclined to accept the reasons stated by the Ministry that since the Scheduled Castes and Scheduled Tribe officials enter into services at a later age, by the time they are due for empanelment as Additional Secretary and Secretary, they do not have any service left. The Committee strongly refute this contention of the Ministry and would like to state that there are ample eligible Scheduled Caste and Scheduled Tribe officials which enter Government services in their prime age and that too on their own merit. The Committee are, therefore, unable to understand the reason as to why inspite of relaxation given in ACR grading, the empanelment process do not lead to the selection of Scheduled Caste and Scheduled Tribe officials. The time has come to change mindset by providing an opportunity to the officials from Scheduled Castes and Scheduled Tribes communities to participate in policy making and implement it for the nation. It is sheer by virtue of their own field experience and rich knowledge they will be able to produce better socio-economic policy for the upliftment of these communities and for overall balanced development of the country.

Reply of the Government

4.2 The representation of SC & ST officers in senior positions of Govt. of India needs to be analysed with reference to the prevailing system of filling up the posts at senior level in Govt. of India (Deputy Secretary & above) and the need for adopting such a system. At present, most of the posts at senior level are filled up under the Central Staffing Scheme.

4.3 The Central Staffing Scheme provides a systematic arrangement for the selection and appointment of officers to senior administrative posts at Centre (Deputy Secretary and above), excluding posts which are specifically encadred within the organised Group 'A' services or filled by recruitment through the Union Public Service Commission. Under Central Staffing Scheme, posts are filled by borrowing officers from the All India Services and other participating Central Group 'A' services. All officers who are so borrowed serve the Government of India for a stipulated tenure on deputation and, thereafter, return to their parent cadre. Their growth, development and career prospects are mainly in their own Service.

4.4 The purpose for such a scheme is the Centre's need for fresh inputs at senior levels in policy planning, formulation of policy and implementation of programmes from diverse sources, viz., the All-India Services and the participating organised Group 'A' Services. The services of scientific and technical personnel and professionals in the fields of economics, statistics, law and medicine are, similarly, obtained from officers serving for specified periods on deputation and who return to their respective cadres at the end of tenure. This two-way movement is of mutual benefit to the service cadres and the Government of India.

4.5 The posts at Joint Secretary level and above in Govt. of India under Central Staffing Scheme are filled up by applying stringent criteria of selection. The process involves empanelment of officers i.e. preparing suitability list of eligible officers

separately for JS, AS & Secretary level. However, empanelment is not a right to get an appointment.

4.6 Currently, the modified guidelines, as revised in the year 2009, provide the following provision which emphasizes adequate representation of officers of SC and ST category along with women and under-represented NE cadres for AIS officers:

“In case the selection process does not lead to adequate representation of categories like SC/ST, women, particular State cadres, the North-East, etc. in the panel, the criteria for empanelment would be suitably relaxed to give due representation to these. For this purpose, adequacy of representation would mean the cumulative representation in four batches, i.e. the current batch and the immediately preceding three batches being less than 66 2/3% of All India percentages of empanelment. The number of officers to be selected on this basis shall not exceed about 15% of the number included in the panel and these selections would follow the process outlined above albeit with suitably relaxed norms.”

4.7 It is, therefore, clear that under the current guidelines there is a provision to relax the qualifying standard for SC/ST officers in case their representation is not adequate. The appointment of SC/ST officers among the empanelled SC/ST officers to the post of JS & above in respect of IAS is given below:

(iv) Secretary in Govt. of India(IAS):

At present out of 04 SC and 04 ST officers empanelled for holding the post of Secretary to the Govt. of India from 1977, 1978 & 1979 batches, 01 SC officer

(25%) and 03 ST officers(75%) have been appointed to the post of Secretary to the Govt. of India.

(v) Additional Secretary in Govt. of India(IAS):

At present, out of 07 SC and 07 ST officers empanelled for holding the post of Additional Secretary in Govt. of India from 1980, 1981, 1982 & 1983 batches, 03 SC

(43%) and 02 ST (29%) officers have been appointed to the post of Additional Secretary in the Govt. of India.

(vi) Joint Secretary in Govt. of India(IAS):

Five batches from 1990 to 1994 of IAS have been taken to make an assessment of representation of SC/ST officers in Govt. of India.

(a) Out of total 455 officers considered for JS level empanelment from 1990 to 1994 batches, 55 were from SC category(12%) and 25 were from ST category (5.5%). Out of total 331 officers empanelled for JS level during this period, 38 were from SC category (11%) and 18 were from ST category (5%).

(b) Out of 55 SC and 25 ST officers considered for empanelment for JS level posts from 1990 to 1994 batches, 38 SC (69%) and 18 ST (72%) officers were approved for empanelment.

(c) At present, out of 38 SC and 18 ST officers empanelled for holding the post of Joint Secretary in the Govt. of India from 1990 to 1994 batches, 10 SC officers (12%) and 04 ST officers (5%) have been appointed to the post of Joint Secretary in the Govt. of India.

Number of SC/ST IAS officers posted as
Joint Secretary/Additional Secretary/Secretary in Govt. of India
(As on 31.01.2014)

Sl.No.	SC			ST		
	JS	AS	Secy.	JS	AS	Secy.
	8	4	2	4	1	2

Number of SC/ST IAS officers empanelled as
Joint Secretary/Additional Secretary/Secretary during 2013

	SC	ST

Sl.No.	JS	AS	Secy.	JS	AS	Secy.
	7	3	2	5	2	1

4.8 This Ministry gives proper attention to ensure that the representation of SC/ST officers is adequate at the level of senior positions in the Government of India as per ACC approved guidelines in para 5 above. As far as reservation in empanelment is concerned, it may be noted that reservation is not applicable to empanelment as appointment to JS and above level posts under Central Staffing Scheme is for a limited period (these are tenure posts).

Comments of the Committee

4.9 Please see Para No. 1.7 of Chapter – I.

Recommendation (Sl. No. 2, Para No. 1.22)

4.10 The Committee are given to understand by the Secretary, DoPT that a status paper has been submitted to the Cabinet regarding lower representation of Scheduled Castes and Scheduled Tribes in senior positions in the Ministries. The Committee would like to be apprised regarding the decision of the Cabinet in this regard. The Secretary, DoPT has also admitted that representations from SC/ST officers saying that their ACRs are not being correctly recorded are entertained and timely action is taken. The Committee would like to be apprised regarding the details of representations disposed of with regard to the matter. The Committee would also like to lay stress on the fact that confidential reports of Scheduled Castes and Scheduled Tribes should not be given more weightage and not to be considered as criterion for giving promotion as tampering with the ACRs of the Scheduled Castes and Scheduled Tribes officers is a common practice. This kind of apathetic attitude towards the officers of Scheduled Castes and Scheduled Tribes is highly deplorable. The Committee feel that there is still latent caste bias harboured against SCs/STs candidates. Overwhelming number of

Scheduled Castes and Scheduled Tribes people complain that their confidential reports are not recorded correctly. As a result thereof, out of 84 Secretaries to the Government of India, even a single one do not belong to Scheduled Caste community. It is a clear example of such bias. A review of the situation is needed to iron out implicit bias in the system. The Committee would like to instruct the Ministry to chalk out an alternative mechanism like creating review Board consisting of 5 Members (2 SC, 1 ST and 2 from General category) and lay down criteria other than the grading of ACRs for empanelment of Scheduled Castes and Scheduled Tribes officials to the posts of Joint Secretary, Additional Secretary and Secretary.

4.11 It is understood that a 117 Constitutional Amendment Bill, 2012 has been introduced and passed in Rajya Sabha. The Committee hope and trust that same would be passed in Lok Sabha also expeditiously to provide justice to SC/ST officers at higher levels.

Reply of the Government

4.12 Performance Appraisal System (APAR) is more consultative and transparent, the Department of Personnel and Training has issued instructions vide OM No.21011/1/2005-Estt.(A) (Pt.II) dated 14.05.2009 which provides as under:-

- (i) The full APAR including the overall grade and assessment of integrity shall be communicated to the concerned officer after the Report is complete with remarks of Reviewing & Accepting Officer wherein such system is in vogue.
- (ii) The concerned officer shall be given the opportunity to make any representation against the entries and the final grading given in the Report within a period of fifteen day from the date of receipt of the entries in the APAR. The representation shall be restricted to the specific factual

observations contained in the report leading to assessment of the officer in terms of attributes, work output etc. While communicating the entries, it shall be made clear that in case no representation is received within the fifteen days, it shall be deemed that he /she has no representation to make. If the concerned APAR Section does not receive any information from the concerned officer on or before fifteen days from the date of disclosure, the APAR will be treated as final.

- (iii) The competent authority for considering adverse remarks under the existing instructions may consider the representation, if necessary, in consultation with the reporting and / or reviewing officer and shall decide the matter objectively based on the material placed before him within a period of thirty days from the date of receipt of the representation.

4.13 Instruction mentioned above have mechanism for representation by all the officers reported upon and disposal of the representation so submitted by the officer reported upon by the competent authority after obtaining view of the Reporting/ Reviewing Officer.

4.14 As regards the 117th Constitutional Amendment Bill, the Bill was passed by the Rajya Sabha on 17.12.2012 and pending in the Lok Sabha for consideration and passing.

[DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

Comments of the Committee

4.15 Please see Para No. 1.11 of Chapter – I.

Recommendation (Sl. No. 4, Para No. 2.14)

4.16 The Committee were given to understand that the provision for reservation as outlined in Article 16(4) does not make reservation in promotion mandatory and that it is just an enabling provision. The Committee would like to emphasize that even though the Constitution lays down the provision contained in Article 16(4A) as enabling, the onus of responsibility for its enablement lies with the Department of Personnel. The directives and policies laid down by the Department should make the representation of Scheduled Castes and Scheduled Tribes conducive in Group 'A'. The Committee are of the view that DoPT should not feel content just by framing reservation policies, issuing direction to the Ministries, Departments for implementation of reservation policy but also assess and analyze the implementation of reservation policy for SC and ST. From the foregoing it seems that DoPT are not serious enough to get the reservation policy in letter and spirit which has resulted in very low or no representation at all at highest post of Secretary in Government of India.

The Committee, therefore, strongly recommend that DoPT should take up the matter at Cabinet Level to make the enabling provision of Article 16(4A) of the Constitution of India mandatory to make reservation in the matter of promotion at any Centre and State level services under any class or classes of post.

Reply of the Government

4.17 Department of Personnel and Training in the Ministry of Personnel, Public Grievances and Pensions is the nodal Department for formulation of policy on reservation in services under the Government of India. Instructions have been issued for nomination of an officer at least of the level of Deputy Secretary to work as Liaison Officer in each Ministry/Department/Attached and Subordinate offices for proper implementation of reservation policy. Cases of negligence or lapses in the matter of following the reservation and other orders relating to SCs and STs coming to light through the inspections carried out by the Liaison Officers are submitted to the

Secretary/Additional Secretary to the Government in the respective Ministries/Departments and to the Head of the Department in respect of offices under the Head of Department. Necessary action is taken by the Secretary/Additional Secretary/Head of Department on such reports to ensure strict compliance of these orders. Thus, sufficient mechanism exists within the Government to protect the interests of SCs and STs.

4.18 As stated above, the Department of Personnel and Training is mainly responsible for framing the policy on reservation in services under the Government of India. However, powers of implementing the reservation orders have been delegated to each appointing authority. Considering the huge size of the Government of India, it would be counter productive for SCs and STs if only one Ministry or regulatory body is designated for implementing the reservation orders. It may also be pointed out that there exist two Constitutional bodies namely the National Commission for SCs and the National Commission for STs to protect the interests of SCs/STs, which supplement the Government's efforts to monitor & evolve the reservation policy.

4.19 The four amendments, namely, the 77th amendment, the 81st amendment, the 82nd amendment and the 85th amendment were made in the Constitution to protect the interests of the Scheduled Castes and Scheduled Tribes. The validity of all these four Amendments were challenged before the Supreme Court through various writ petitions clubbed together in M. Nagaraj & others v/s. Union of India & others (Writ Petition No.61/2002) mainly on the ground that these amendments altered the basic structure of the Constitution. The Supreme Court in its judgment dated 19.10.2006 in the matter of M. Nagaraj & others v. Union of India & others [Writ Petition (C) No.61/2002] upheld the validity of all these four amendments. However, the Court stipulated that the concerned State will have to show in each case the existence of the compelling reasons, namely, backwardness, inadequacy of representation and overall administrative efficiency before making provision for reservation. The Court further held that the impugned

provision is an enabling provision. If the State Government wish to make provision for reservation to SCs and STs in promotion, the State has to collect quantifiable data showing backwardness of the class and inadequacy of representation of that class in public employment in addition to compliance of Article 335.

4.20 There were some Court cases filed in different states on the ground that the pre-requisite conditions as laid down by the Supreme Courts in M. Nagaraj case have not been observed while providing reservation in promotion. Relying on the judgment of the Supreme Court in the case of M. Nagaraj, the High Court of Rajasthan and the High Court of Allahabad struck down the provision of reservation in promotion in the States of Rajasthan and U.P., respectively. Later on, the judgments of both the High Courts were upheld by the Supreme Court.

Comments of the Committee

4.21 Please see Para No. 1.19 of Chapter – I.

4.22 In order to protect the interest of SCs and STs the Government decided to make further amendment in the Constitutional to provide impediment free reservation in promotion to Scheduled Castes and Scheduled Tribes without fulfilling the pre-requisite conditions as laid down by the Supreme Court in M. Nagaraj's case. Accordingly, the Constitution (One Hundred and Seventeenth Amendment) Bill, 2012 was introduced in Rajya Sabha on 5.9.2012. The Bill has been passed by Rajya Sabha on 17.12.2012 and is pending in the Lok Sabha for consideration and passing.

[DoPT's OM No.36022/1/2013-Estt. (Res.) dated 25 .09.2013]

CHAPTER - V

**RECOMMENDATIONS/OBSERVATION IN RESPECT OF WHICH FINAL REPLIES
OF THE GOVERNMENT HAVE NOT BEEN RECEIVED**

-----NIL-----

New Delhi;
30 April, 2015
Vaisakha, 1937(Saka)

(FAGGAN SINGH KULASTE)
Chairperson
Committee on the Welfare of
Scheduled Castes and
Scheduled Tribes

APPENDIX - C

(Vide Para 4 of Introduction)

Analysis of action taken by the Government on the recommendations contained in the Twenty Sixth Report (Fifteenth Lok Sabha) of the Committee on the Welfare of Scheduled Castes and Scheduled Tribes.

1.	Total number of recommendations	9
2.	Recommendations/observations which have been accepted by the Government (<u>vide</u> recommendations at Sl. No. 5 and 7).	
	Number	2
	Percentage to the total	22.2%
3.	Recommendations/observation which the Committee do not desire to pursue in view of the Government replies (<u>vide</u> recommendations at Sl. Nos. 3, 6, 8 and 9).	
	Number	4
	Percentage to the total	44.5%
4.	Recommendations/observations in respect of which replies of the Government have not been accepted by the Committee and which require reiteration (<u>vide</u> recommendations at Sl. Nos. 1, 2 and 4).	
	Number	3
	Percentage to the total	33.3%
5.	Recommendations/observations in respect of which final replies of the Government have not been received.	NIL