

11 March, 2014

To,  
The State Commissioner for Differently Abled  
Government of Tamil Nadu  
Chennai

Dear Sir,

Sub: Requesting revision of GO. No 10 dated 04/03/2014 issued by Welfare of the Differently Abled Department, Government of Tamilnadu

**Ref:**

1 GO Number 10 dated 04/03/2014 issued by Department of Welfare of Differently Abled, Government of Tamilnadu

2 Supreme Court of India's Judgment dated 08/10/2013 in the matter of Civil Appeal; No 9096 of 2013 titled Union of India and Anr Vs National Federation of Blind and Others

3 OM NO 36012/24/2009. Est (res) dated 3/12/2013 issued by Ministry of Personnel, public grievances and pensioners. Department of personnel and Training, Government of India

4 GO Number 5 dated 29/01/2013 issued by Welfare of the Differently Abled Department, Government of Tamilnadu

5 GO Number 200 dated 22/12/2006 issued by Department of Social Welfare and Nutritious Meals Programme Department, Government of Tamilnadu

6 GO NO 87 dated 17/07/2008 issued by Department of Social Welfare and Nutritious Meals Programme Government of Tamilnadu

7 GO Number 01 dated 02/01/2012 issued by the Department for the Welfare of the Differently Abled, Government of Tamilnadu

**Reference 7 Cited above**

The Differently abled community of Tamilnadu had wholeheartedly welcomed the historic initiative taken by the Honorable Chief Minister, Government of Tamilnadu in constituting a high level committee headed by Chief Secretary to monitor and ensure implementation of 3% reservation for differently abled persons in government jobs.

### **Reference 1 Cited above**

Categorically states that Government aided Institutions and Educational Institutions must also implement the 3% quota for the differently abled persons.

However on careful perusal of the instructions contained in the latest GO No 10 dated 04/03/2014 issued by Government of Tamilnadu, we are surprised to observe that there are many anomalies, violations of rules, etc which will jeopardize the employment rights of the Differently abled community of Tamilnadu, thereby defeating the objective of reservation of posts to the differently abled as per PWD Act 1995.

### **Reference 1 cited above**

I.) The above GO refers only to section 32 of the PWD Act 1995 which deals with identification of suitable vacancies for persons with disability and does not refer to the most important section of 33 of the PWD act 1995, which points out to computation and implementation of reservation of 3% of total vacancies for persons with disability.

II.) In terms of para 5 of the latest GO No 10, the vacancies and backlog vacancies have to be calculated from the year 2007 till date. As per G.O. No. 5/2013 The Government has issued instructions to calculate the backlog vacancies from the year 2002 Para 6 iii of the above order stipulates that vacancies in Group A, B, C and D must be calculated from the year 2002 (year of commencement of PWD rules 2002). The provisions of the PWD Act came into existence in 1995 and it is unjust and illegal to deny the benefits of reservation for the years prior to 2007. The government must honor its earlier commitment of effecting reservation from the year 2002. It may be argued that the Government could not calculate vacancies from the year 2002 as there was a ban order for recruitment till the year 2006. The State government had given exemptions from the above ban order for many departments. Subsequently, such recruitments were made from 2002 to 2006.

III. As per Para 5 of the present GO No 10, 1928 vacancies have been identified in respect of various Government recruitment agencies. There is no mention about the vacancies in respect of TNPSC which is one of the major recruitment agencies. Further, it has been indicated in the same Para that 1107 vacancies have been identified as backlog vacancies in respect of TRB .There is no classification of vacancies in respect of BT assistants for high schools PG Assistants in High Secondary Schools and Assistant Professors in Government Colleges. This lack of clarity, we are afraid, would lead to confusion and misuse. Government must spell out the vacancies under each specific category in the Order.

### **Reference 2 Cited above**

Para 51 of the Judgment of Supreme Court of India dated 08/10/2013, states that "Thus after thoughtful consideration, we are of the view that the computation of reservation for persons with disabilities has to be computed in case of Group A, B, C and D posts in identical manner viz., "Computing 3% Reservation on total number of vacancies in the cadre strength" which is the intention of the Legislature. Further, in 47 of the judgment it clearly states the difference between 'posts' and 'vacancies' and defines that there

can be vacancies only if there are posts in existence. It states “3% reservations for disables has to be computed on the basis of total strength of the cadre i.e, both identified as well as unidentified posts”. Accordingly certain clauses in the OM dated 29/12/2005 which are contrary to the above reasoning are struck down and we direct the **appropriate Government** to issue new Office Memorandum(s) consistent with the decision rendered by this court.

### **Reference 3 Cited above**

The Central Government had issued a revised Office Memorandum dated 03/12/2013. With regard to computation of vacancies, the Apex Court’s directions are as under;

“Thus after thoughtful consideration, we are of the view that the computation of reservation for persons with disabilities has to be computed in case of Group A, B, C and D posts in identical manner viz., “Computing 3% reservation on total number of vacancies in the cadre strength” which is the intention of the legislature. Accordingly certain clauses in the OM dated 29/12/2005 which are contrary to the above reasoning are struck down and we direct the **appropriate Government** to issue a new Office Memorandum(s) consistent with the decision rendered by this Court. “We, therefore, appeal to the Government of Tamilnadu to issue separate order incorporating the directions of the Apex court and include computation of the vacancies in Group A, B, C and D on total cadre strength” which is being done by the Central Government.

Simultaneously the Government of India has issued a OM stating “Reservation for persons with disabilities in Group A or Group B posts shall be computed on the basis of total number of vacancies occurring in direct recruitment quota in all the Group A or Group B posts respectively, in the cadre”.

The present GO does not refer to total cadre strength as basis for calculation of vacancies which is highlighted by the Apex Court and Government of India.

### **Reference 5 Cited above**

Para 2 of the GO stipulates that the calculation of vacancies must be on the basis of 100 points roster method.

### **Reference 6 Cited above**

It is surprising to note that the Government has overlooked their own subsequent revision in the roster system to 200 points roster. As 200 points roster system is beneficial to the differently abled community which has already been granted by the Government, this has to be revised immediately in the GO concerned.

Further, there is no mention about the calculation of vacancies, backlog vacancies for persons with disabilities in respect of Government aided institutions, and aided educational managements which is a gross violation of Act and Rules, and the directions of the Apex Court.

We therefore appeal to you to rectify the above inconsistencies, violation of rules and non compliance of the Apex Court's Order in letter and spirit and issue a revised GO for the purpose with immediate effect, restoring the disability rights and employment opportunities of the differently abled community.

Thanking you.

Yours Sincerely,

C. Govindakrishnan

(Founder & Trustee, Nethrodaya)

Reference documents website link given below

1. மாற்றுத் திறனாளிகள் நலன்- உச்ச நீதி மன்ற உத்தரவு மற்றும் சென்னை

உயர்நீதி மன்ற இடைக்கால உத்தரவுகளின்படி அரசு பணியிடங்களில்  
மாற்றுத்திறனாளிகளுக்கு 3 சதவிகித இட ஒதுக்கீடு வழங்குவதை  
உறுதிபடுத்துதல் -

மாற்றுத் திறனாளிகளுக்கான பின்னடைவு பணியிடங்கள் நிரப்புதல் - ஆணை  
-வெளியிடப்படுகிறது.

Ref. 1. Link

[http://cms.tn.gov.in/sites/default/files/gos/wda\\_t\\_10\\_2014.pdf](http://cms.tn.gov.in/sites/default/files/gos/wda_t_10_2014.pdf)

2. judgement of Honable

Supreme Court in the matter of Union of India and Anr. Vs. National

Federation of Blind and Ors.

Ref. 2. link

<http://supremecourtfindia.nic.in/outtoday/9096.pdf>

3. Computation of reservation- implementation of the judgement of Honable

Supreme Court in the matter of Union of India and Anr. Vs. National

Federation of Blind and Ors.

Ref.3. link

[http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02adm/36012\\_24\\_2009-Estt.Res.-03122013.pdf](http://ccis.nic.in/WriteReadData/CircularPortal/D2/D02adm/36012_24_2009-Estt.Res.-03122013.pdf)

4. Filling up of vacancies in the Public Sector Undertakings, Boards and Universities ; Arriving at Backlog vacancies from 2002

G.O. (Ms) No. 5 WDAP Department, Dated 29.1.2013

Ref. 4. Link

[http://www.scd.tn.gov.in/gos/wda\\_t\\_5\\_2013.pdf](http://www.scd.tn.gov.in/gos/wda_t_5_2013.pdf)

5. Instruction to adopt 100 Point Roster System and carry forward unfilled vacancies for 3 years

G.O. (Ms) No. 200 SW &NMP Department, Dated 22.12.2006

Ref. 5. Link

[http://www.scd.tn.gov.in/gos/swnmp\\_t\\_200\\_2006.pdf](http://www.scd.tn.gov.in/gos/swnmp_t_200_2006.pdf)

6. Reservation by adopting 200 point Roster System to the Differently Aabled Persons amendment to G.O. (Ms) No. 200 SW &NMP Department, Dated 22.12.2006

G.O. (Ms) No. 87 SW &NMP Department, Dated 17.7.2008

Ref. 6. Link

[http://www.scd.tn.gov.in/gos/swnmp\\_t\\_87\\_2008.pdf](http://www.scd.tn.gov.in/gos/swnmp_t_87_2008.pdf)

7. High Level Committee for Monitoring 3% Reservation

G.O. (Ms). No.01 WDAP Dept. Dated 2.1.2012

Ref. 7. Link

[http://www.scd.tn.gov.in/gos/wda\\_t\\_01\\_2012.pdf](http://www.scd.tn.gov.in/gos/wda_t_01_2012.pdf)