

**No. 42011/22/2006-Estt.(Res)  
 Ministry Of Personnel, P.G & Pensions  
 Department Of Personnel & Training  
 Government Of India**

New Delhi, Dated: the 29<sup>th</sup> March, 2002

**OFFICE MEMORANDUM**

**Subject:** Action against Government servants who get appointment on the basis of false SC/ST/OBC certificates.

Respondent no. 1 in Civil Appeal No. 2294/1986 [State of Maharashtra Vs Milind & Ors] before the Supreme Court had got admission as a Scheduled Tribe candidate to MBBS degree course for the year 1985-86 on the strength of a Scheduled Tribe Certificate issued to him by the competent authority. The Supreme Court held him not to belong to a Scheduled Tribe but did not annul his admission or affected his degree. The Hon'ble Court observed that about 15 years had passed since he took admission and had already completed the course. At that length of time it was for nobody's benefit to annul his admission inasmuch as any action against the candidate might lead to depriving the society of the service of a doctor on whom public money had already been spent. The Court in that case also held that the admissions and appointments that had become final would remain unaffected by the judgement.

2. A question has been raised whether in view of the above referred judgement, the appointments made against the vacancies reserved for SCs/STs/OBCs on the basis of false SC/ST/OBC certificates shall not be disturbed if such appointments have been made final or are continuing for a long time.

3. The matter has been examined in consultation with the Department of Legal Affairs and it has been found that admissions and appointments of some candidates in the case of Milind and in some other similar cases were not annulled by the Supreme Court as a special case keeping in view the special circumstances of those cases. The relief accorded by the Supreme Court was specific relief provided only to the candidates who were party in those cases. The cases other than those protected by the specific order of the Apex Court should be dealt with in accordance with the instructions contained in this Department's OM No. 110127/91-Estt(A) dated 19.5.1993 which provides as follows:

"Wherever it is found that a Government servant, who was not qualified or eligible in terms of the recruitment rules etc. for initial recruitment in service or had furnished false information or produced a false certificate in order to secure appointment, he should not be retained in service. If, he is a probationer or a temporary Government servant, he should be discharged or his services should be terminated. If he has become a permanent Government servant, an inquiry as prescribed in Rule 14 of CCS (CCA) Rules, 1965 may be held and if the charges are proved, the Government servant should be removed or dismissed from service. In no circumstances should any other penalty be imposed".

4. The above referred instructions are strengthened by the observations of the Supreme Court in Milind Kumar's case (SUPRA) to the effect that if the benefits of reservation are taken away by those for whom they are not meant, the people for whom they are really meant or intended will be deprived of the same and their suffering will continue. Allowing the candidates not belonging to the reserved categories to have the benefit of reservation either in admissions or appointments would lead to making mockery of the very reservation against the mandate and scheme of Constitution.

5. Contents of this OM may be brought to the notice of all concerned.  
 (K.G. Verma)  
 Director

1. All Ministries/Departments of the Government of India.
2. All Officers and Sections in the Ministry of Personnel, Public Grievances and Pensions and all attached/subordinate offices of the Ministry.
3. Department of Economic Affairs (Banking Division), New Delhi.
4. Department of Economic Affairs (Insurance Division), New Delhi.
5. Department of Public Enterprises, New Delhi.
6. Railway Board.
7. Union Public Service Commission/Supreme Court of India/ Election Commission/Lok Sabha Secretariat/Raj ya Sabha Secretariat/Cabinet