

CHAPTER VI

SERVICES SAFEGUARDS

The policy with regard to reservation of posts and services under the State in terms of Article 16(4) of the Constitution of India continued for the Scheduled Castes and Scheduled Tribes both in direct recruitment and promotions. Reservation for Socially and Educationally Backward Classes was introduced with effect from 8-9-1993 as a part of implementation of the Mandal Commission's recommendations. Efforts were intensified by the Government of India to increase the representation of SC and ST in services under the Government of India, Public Sector Enterprises and Nationalised/Public Sector Banks during the year under report by launching a special drive to make good the shortfalls in various categories of posts through recruitment and reserving vacancies to the maximum extent (50%) permissible under the Supreme Court ruling on the matter.

6.2 The comparative position of SC & ST employees vis-a-vis the total number of employees under the Central Government, Public Enterprises and Nationalised/Public Sector Banks, groupwise, as on 1-1-1993, is stated below:

Table 1

Central Government

Group	Total	SC	%age	ST	%age
1	2	3	4	5	6
A	64,197	6,293	9.80	1,967	3.06
B	1,07,120	13,036	12.17	2,513	2.35
C	23,09,003	3,67,401	12.91	1,25,424	5.43
D (excluding Sweepers)	10,49,703	2,17,617	20.73	72,164	6.87
Total	35,30,023	6,04,347	17.12	2,02,068	5.72
Group D Sweepers	1,33,305	85,785	64.35	4,940	3.71
Grand total	36,63,328	6,90,132	18.84	2,07,008	5.65

6.3 While there is a perceptible improvement in the representation of SC in Central services, the position about ST remains unsatisfactory. This is generally attributed to the general reluctance of the tribal population to move away from their areas of habitation which are often remote and inaccessible. There is considerable scope for improvement if, taking advantage of the Government of India instructions that ST employees should as far as practicable be posted near their home towns, the Railways, the Department of Posts, the Department of Telecommunications, etc., having establishments in remote areas, recruit personnel from tribal areas by deputing special teams at least for Group C and D posts and offer them jobs near their home towns.

6.4 A recent study made by the Commission in the NMDC units located in remote tribal areas of Bastar District in Madhya Pradesh indicated that even for Group C and D posts persons were appointed from outside those areas through manipulated registration with the local Employment Exchange at the instance of senior officers, who also happened to be from outside, although there was acute shortage of employment opportunities for the local tribal population. Instructions, therefore, need to be issued that all the establishments under the Central Government located in remote tribal areas may recruit staff against Group C and D posts from the local tribal population only.

Public Enterprises

6.5 The number of SC & ST employees under the PSUs has been found to be about 554 lakhs as compared to the total employees numbering 2,110 lakhs on 1-1-93 which is more than 26% of the total employees on that date. The groupwise details may be seen as under:

Table 2

Public Sector Undertakings

Group 1	Total 2	SC 3	%age 4	ST 5	%age 6
A	1,91,236	14,088	7.37	3,600	1.88
B	1,62,250	14,794	9.12	5,473	3.28
C	11,97,782	2,24,074	18.71	1,00,852	8.42
D(excluding Sweepers	5,33,646	1,16,878	21.90	52,075	9.76
Total	20,84,914	3,69,834	17.74	1,62,000	7.77
Group D Sweepers	25,362	21,606	85.19	801	3.16
Grand total	21,10,276	3,91,440	18.55	1,62,801	7.71

Even though the overall percentages have been achieved in respect of SC & ST in services under the public sector, their representation in Group A and B posts continues to remain on the lower side. It is a well known fact that there are limited induction levels in the PSUs and majority of the posts are filled either by promotion or by circulating those posts within the organisation without allowing any opportunities to other candidates. In the absence of any induction at the middle levels there is hardly any chance of improvement in the present situation when majority of the organisations have reached a saturation point and not much of expansion is occurring. Some improvement is, therefore, possible if stress is laid on induction at the middle levels.

Public Sector and Nationalised Banks

6.6 Only after the banking industry was nationalised in 1969 reservation for SC & ST in services was introduced in the banking institutions. The application of reservation orders was restricted to direct recruitment only. In regard to promotion posts the managements were reluctant to allow reservation for SC & ST on the plea that the promotion policies in the banks were based on certain agreements with the trade unions of the employees under the Industrial Disputes Act, which could not be modified without the consent of the unions and were binding on the management. In order to ensure that the stand of the banking sector was in conformity with the Government of India policy of safeguarding the interests of SC & ST at promotion stages, it was recommended in the Reports of the Commissioner for SC & ST for the years 1975-76 and 1976-77 that the Dept. of Banking should take urgent steps to persuade the managements of the Nationalised/Public Sector Banks to fall in line with the Public Sector Enterprises by accepting the principle of reservation in promotion posts also. It was also emphasised that the agreements between the bank managements and the employees' trade unions should be suitably modified so that these did not come in the way of implementation of reservation orders in posts filled by promotion. Subsequently the Dept. of Banking (now Banking Division of the Dept. of Economic Affairs) issued instructions on 31-12-1977 to all the Nationalised and Public Sector Banks to ensure application of reservation orders to promotion posts as well.

6.7 As a result of the implementation of reservation orders effectively the representation of SC & ST employees in the services under the banks improved progressively. As per the latest information available the representation of SC is quite good in the clerical and subordinate categories. In the case of officers the position of SC is slightly better than what exists in services under the

Central Government and the Public Sector Undertakings. The available information as on 1-1-1994 showing the representation of SC & ST in the services under the Nationalised/Public Sector Banks including financial institutions is given below:

Table 3
Nationalised/Public Sector Banks

Cadre	Total includ- ing SC&ST	SC	%age	ST	%age
1	2	3	4	5	6
Officers	2,49,016	25,515	10.24	8,333	3.34
Clerks	4,70,873	68,051	14.45	21,500	4.56
Sub-staff (excluding Sweepers)	1,81,619	42,313	23.30	10,609	5.84
Total	9,01,508	1,35,879	15.07	40,442	4.48
Sweepers	34,200	17,785	52.00	1,810	5.29
Grand Total	9,35,708	1,53,664	16.43	42,252	4.66

It would be seen from the above table that the representation of ST is still very poor even at the level of subordinate staff and needs to be urgently reviewed in the Banking Division of the Ministry of Finance for remedial measures.

6.8 Reservation in promotion in services under the banks is restricted only to scale I, i.e., in promotion from clerical posts to officers' grade. There is no reservation within officers' category even when promotions are based on seniority-cum-fitness criterion, on the plea that there is always an element of selectivity while considering candidates for promotion either based on written tests or through interview, as per the directions of the Banking Division. The Reserve Bank of India scheme of promotion based on 'seniority-cum-suitability' is covered by the reservation policy upto grade C, i.e., Scale III. Suitability of candidates being considered for promotion is normally judged either based on an examination or interview. Promotions of Staff Officers from Grade A to Grade B under the All India merit test and those from Grade C to Grade D and beyond in the RBI are based on selection. It is, therefore, clear that promotions under the merit test only under the RBI are treated as selection and not made through interviews only. In view of this position it is recommended that the instructions of the Banking Division that the promotion process involving interviews would be treated as selection, need to be reviewed and withdrawn so that in promotions within the officers' grade covered by the seniority criterion due reservation is allowed in the banks.

University Services

6.9 The University Grants Commission (UGC), which is a statutory body set up under the UGC Act, 1956, is charged with the responsibility to take such steps as it may think fit, in consultation with the Universities and other bodies, for promotion and coordination of University education. Since the Government of India are dealing with the Universities through the UGC, the Government instructions on reservation for SC & ST could not be issued and implemented in the Universities prior to 1975 when the UGC in a circular letter issued to the Vice-Chancellors in August 1975 had agreed in principle that reservation might be provided for SC & ST in recruitment to posts of Lecturers in the Universities and Colleges. Several circulars on the subject of reservation in admission/appointment from the UGC to the Universities followed. The revised percentages of reservation for SC & ST @ 15% and 7½% respectively were also communicated to the Universities in August 1982 with the instruction to apply those percentages in admission to various courses of studies and appointment to non-teaching posts and also teaching posts upto the level of Lecturer/Asst.Professor.

6.10 In his Report for the year 1986-87 the Commissioner for SC & ST had observed that the representation of SC and ST in the teaching jobs in the Central Universities was insignificant. Even at the level of Lecturers, where reservation orders had been made applicable in the Central Universities, the position was far from satisfactory. In the case of the State Universities also the representation of SC and ST was found to be insignificant at all levels in the teaching posts. An effort was made to collect the latest information about the representation of SC and ST in both teaching and non-teaching posts under the Central/State Universities. Statistical information as on 1-1-1993 showing the representation of SC and ST could be collected from all the Central Universities except the Indira Gandhi National Open University and the same has been summarised in the table below:

Table 4
Central Universities

Category	Total number including SC&ST	SC	%age	ST	%age
1	2	3	4	5	6
(a) <u>Teaching posts</u>					
(i) Professors	1,155	2	0.17	6	0.52
(ii) Readers/Associate Professors	1,774	6	0.34	16	0.90
(iii) Lecturers/Asstt. Professors/ Directors of Physical Education	1,491	35	2.35	48	3.22
(iv) Research Associates/Tutors/ Demonstrators	257	3	1.17	2	0.78
Total	4,677	46	0.99	72	1.54

(b) <u>Non-teaching posts</u>					
(i) Group A	756	26	3.44	32	4.23
(ii) Group B	1,525	49	3.21	86	5.64
(iii) Group C	9,001	414	4.60	526	5.84
(iv) Group D	10,635	2,368	22.27	672	6.32
Total	21,917	2,857	13.04	1,316	6.00

Statement showing the representation of SCs and STs in Central Universities in both teaching and non-teaching posts (University wise) may be seen in appendix.

6.11 It would be seen from the above table that the representation of SC & ST both in teaching and non-teaching posts is extremely poor except in the case of Group D ministerial posts. This has been basically due to the lukewarm attitude of the authorities in the Union Dept. of Education which did not take any action on the recommendation of the Commissioner for SC & ST to go in for legislation to make it mandatory for the Universities to follow reservation orders issued by the Government of India from time to time. The UGC which had agreed in principle to compile instructions in the form of a Brochure to be made applicable uniformly to all the Central/State Universities also failed to take steps in that direction. Instead, it appears, the UGC set up a High Power Committee to go into the question of legal implication of the implementation of reservation policy, as nine out of ten Central Universities could not properly implement the Constitutional guarantee on quotas for SC & ST because

there was no statutory provision for it in the University Acts. The High Power Committee recommended to make job quotas for SC & ST legally binding on the Central Universities. In line with the recommendation of the Commissioner for SC & ST in his 27th Report, the Committee, pointing out the existing legal lacuna, asked the Government to frame a mandatory reservation policy for administrative/teaching jobs in the Central Universities and fix the responsibility for implementing the legislation on the University authorities including the Vice-Chancellors. The Dept. of Education, however, did not take any decision on the recommendation. In view of the position explained above it is felt that without strict observance of the reservation orders, including ban on dereservation of reserved posts in direct recruitment in general and in respect of posts of Lecturers in particular, it will be extremely difficult to get adequate number of SC & ST persons for teaching jobs in the Universities/Colleges. It is, therefore, reiterated that the relevant provisions of the University Grants Commission Act and the University Acts should be suitably amended to achieve the objective of providing reservation for SC and ST at various levels as allowed by the Government of India in terms of the Constitutional provisions.

6.12 The Parliamentary Committee on the Welfare of SC and ST (Eighth Lok Sabha) in their 43rd Report had observed that the resolution of the UGC adopted in 1975 for carrying forward of vacancies reserved for SC & ST in the category of Lecturers had not been followed by the Central Universities, on the plea that the teaching posts could not remain vacant for a long period. In the Committee's opinion carry forward of vacancies does not mean non-filling of such posts. It simply means that if an SC/ST candidate is not available in a particular recruitment year, the post may be filled by a general category candidate on ad hoc basis and in the subsequent years efforts should be made to fill up the carry forward vacancy alongwith other vacancies that may arise. The enormity of the injustice done to SC & ST in the absence of the practice of carry forward of reserved posts can be gauged from the fact that out of 220 Lecturers appointed in the Banaras Hindu University during the years 1984, 1985 and 1986 none belonged to SC/ST. The Committee recommended that the practice of carry forward of posts reserved for SC & ST in the category of Lecturers should be introduced in all the Central Universities as provided in the Government directives on the subject so that SC/ST candidates got their due share in appointment to the cadre of Lecturers in the Central Universities.

6.13 The matter regarding implementation of the reservation policy in favour of SC & ST including dereservation of vacancies was reviewed at the meeting of

the Registrars of the Central Universities with the representatives of the Union Dept. of Education and the UGC on 28-8-1992 and the following decisions were taken:

- (i) The Universities while inviting applications for filling up vacancies should clearly indicate the number of vacancies reserved for SC/ST candidates.
- (ii) Since there is complete ban on dereservation of vacancies reserved for SC/ST, the reserved vacancies will have to be carried forward to subsequent recruitment years. Under no circumstances such unfilled vacancies should be filled up by general candidates. The unfilled vacancies, thus carried forward, will remain unfilled till these are filled by SC/ST candidates who possess the minimum qualifications prescribed by the UGC. The UGC should issue instructions to this effect to all the Universities for strict adherence. The above decision will apply to all categories (teaching and non-teaching) while filling up the vacancies reserved for SC & ST.
- (iii) So far as non-teaching posts are concerned the instructions issued by the Government of India may be followed by the Universities.

6.14 At the meeting of the Vice-Chancellors of the Central Universities with the representatives of the Government of India and the UGC on 11-1-1993 the following decisions were, inter alia, taken:

- (i) The policy of the Government will have to be implemented and all efforts should be made to clear the backlog for which Special Recruitment Drive should be launched by the Universities keeping in view the instructions of the Government of India in this regard. Advertisements for this purpose shall be given in the national dailies, the Employment News, the University News and also over AIR and Doordarshan.
- (ii) It was clarified that the Government of India instructions for providing reservation in Class I posts also applied to teaching posts and the Universities should clearly indicate the number of vacancies reserved for SC & ST while inviting applications for filling up the posts. The best amongst the SC/ST candidates, who possess the prescribed qualifications, could be recommended for appointment against the reserved vacancies.

- (iii) The Central Universities should make all efforts to clear the backlog where there is under-representation of SC/ST in the matter of appointments (at the level of Lecturers and the non-teaching posts).

6.15 It is hoped that the above instructions are implemented scrupulously by all the Central Universities to improve the representation of SC & ST in services under them. The Commission also recommends that similar steps may be taken by the State Universities. It is further recommended that uniform instructions need to be compiled by the UGC with detailed guidelines to be followed by the Universities in the matter of recruitment/promotions and issued to all the Universities for strict compliance. Suitable returns also need to be prescribed for submission to the UGC by the Universities to ensure compliance of the guidelines and instructions.

**Time bound promotion under
Indian Telephone Industry, Bangalore**

6.16 As per the Government of India Instructions reservation has been provided for SC & ST @ 15% and 7½% respectively both in direct recruitment on all India basis and promotions. While the aforesaid policy was continuing, a new policy of promotion called the 'Time Bound Promotion Policy' was evolved and agreed to between the employees' unions and the managements in a number of Public Sector Undertakings to switch over from the vacancy based scheme of promotions to the time bound promotion scheme. The time bound promotion schemes as adopted by some of the PSUs have substantially increased the eligibility condition in terms of the number of years of service. While examining the new concept of time bound promotions, the Bureau of Public Enterprises (BPE) clarified to the public enterprises, which had already introduced the new scheme, that they might ensure that the new scheme satisfied the following conditions:

- (i) All employees are promoted to the next higher grade, scale or level on completion of the prescribed length of service without linking the promotions to availability of vacancies in the higher posts. In other words, the promotions under time bound promotion schemes are not vacancy based.
- (ii) There is no element of selection or inter-personal comparison of merit in promotions under this scheme. However, the scheme would not be vitiated if it permits rejection of the unfit on well-defined criteria.

6.17 A similar promotion policy based on time bound concept was evolved by the Indian Telephone Industry and agreed upon between the ITI management and the ITI Employees' Union under a memorandum of settlement dated 22-9-79. Under this policy all the employees were entitled to get promotion to the relevant cadre on completion of the prescribed number of years of service. The SC/ST employees of the ITI had been representing to the Commission against the new policy introduced by the ITI. Their grievance has been that as a result of this policy reservation of posts in favour of SC & ST came to an end. The SC/ST persons could get promotion only after completion of the specified number of years in service and without reservation. Thereby the comparative advantage which the SC/ST employees were enjoying under the earlier promotion policy was taken away under the new policy and all the employees, viz., the SC/ST employees and those belonging to the general category, were placed at par. The ITI SC/ST Employees' Welfare Association filed a writ petition (No.5700/90) in the High Court of Karnataka which gave its verdict in 1990 and directed the ITI management to take steps to ensure that the members of SC & ST working in various cadres of all the establishments of the ITI secured promotions not less than 15% and 7½% respectively, even under the time bound promotion scheme on the lines of the Government of India instructions, with effect from the date the time bound promotion scheme was implemented by the ITI. The High Court further directed the ITI to give all consequential benefits to the employees belonging to SC & ST and possessing the other conditions of eligibility in accordance with law.

6.18 The ITI management filed a Special Leave Petition against the orders of the Hon'ble High Court of Karnataka in Civil Appeal No.4672 to 4675 of 1990 before the Supreme Court of India against the above direction of the Court. It contended that implementation of the judgment of the High Court of Karnataka would create a lot of complications in the matter of industrial-labour relations. The Supreme Court of India in its order dated 18-9-1990 granted special leave to appeal and stayed the operation of the Karnataka High Court's order. At this stage Shri L.R.Naik, ex-MP, approached the National Commission for SC and ST for their intervention. Shri Naik also met the Chairman of the Commission on 30-8-93 in this connection. The Commission suggested to the Ministry of Welfare and the Dept. of Personnel & Training (DoPT) to consider whether they would like to file a petition in the Supreme Court of India, seeking to implead themselves as parties to protect the interests of SC/ST who had won the case in the High Court of Karnataka. The Commission felt that contesting the case in the Supreme Court of India against the management was

practically impossible for the SC/ST employees as they were not in a position to bear the huge expenditure involved. The Commission further impressed upon the Ministry that, when the SC and ST Employees' Welfare Association had won the case on merits in the High Court of Karnataka, the ITI management which was expected to protect the interests of SC & ST should have adopted a neutral position rather than fight against their own SC/ST employees. The Commission also expressed the view that where SC & ST got a favourable court verdict the management should not be permitted to go in for appeal at public cost, and that if at all it was affecting some of the employees, they might seek redress from the higher court, rather than the management should side with them against the interests of SC & ST.

6.19 The DoPT which is the nodal agency to issue instructions on reservation matters in services under the Government reported that since there were some serious implications in the implementation of the judgment of the Karnataka High Court, the ITI management had to file an SLP before the Supreme Court of India. The DoPT further informed the Commission that the Supreme Court had upheld the view of the ITI in the case and set aside the order of the High Court of Karnataka. The DoPT, while justifying their action, felt that it might not be appropriate for them to fetter the legal rights of the management as a favourable verdict sometimes obtained in a lower court might not be justified in terms of law. The Ministry of Welfare did not respond.

6.20 The outcome of the case went against the SC/ST employees of the ITI and for that matter of other organisations as well, but the fact remains that SC/ST employees were no match against the powers of the management in terms of money and legal advice. The Commission is firmly of the view that where SC/ST employees get a favourable judgment from a Court the management should not be permitted to go in for appeal at public cost. If at all, it was affecting other employees they might seek redress from a higher court, rather than the management, which is expected to protect the interests of SC & ST, should side with other employees against the interests of SC & ST.

Vacancies which should be taken into account for drawing of the Select List for promotion

6.21 According to the Government of India instructions reservation in promotion applies only to regular vacancies. It is, therefore, essential that a select list for promotions should be drawn up after carefully assessing the number of vacancies as accurately as possible. The instructions further provide that the purely short term vacancies should not be taken into account for this

purpose. The Directorate General of Employment & Training (DGE&T) in violation of the above instructions prepared a panel of 3 against roster points 8, 9 and 10 even though the actual number of vacancies available at that time was only 2 falling on roster points 8 and 9. This case was brought to the notice of the Commission by the affected SC employee of the DGE&T.

6.22 While investigating this case the Commission found that the vacancies in the grade of Junior Investigator under the DGE&T were erroneously increased from 2 to 3 while holding the DPC in December 1990, adding one temporary vacancy available for less than 4 months on account of an employee on deputation in the National Commission for Rural Labour on the date of the DPC meeting. Since this was not a long term vacancy for a year or more, as per the instructions of the DoPT referred to above, there was no question of treating this vacancy as a long term vacancy and preparing a panel of three persons. Had the DGE&T prepared only a panel of two persons against the 2 long term vacancies, the SC employee would have been promoted against the roster point 8. The DGE&T with whom the Commission had protracted correspondence did not agree to the observation made by the Commission and maintained that the reversion of the SC employee after the return of the deputationist was in accordance with the Government policy. The matter had to be referred to the DoPT which accepted the recommendation of the Commission and advised the DGE&T to provide for the SC employee. Then only the DGE&T rectified the position in May 1994 by promoting the SC employee retrospectively as recommended earlier by the Commission. The DGE&T also regretted the delay. It is abundantly clear that the authorities had deliberately increased the number of vacancies from 2 to 3 in violation of the Government of India instructions. It took about 3 years to convince the authorities to rectify the position. The Commission took the matter seriously and recommended to the DGE&T to fix responsibility for delaying the promotion of the SC employee and take action against the erring officer. A reply was still awaited.

Recruitment of Sweepers/Scavengers

6.23 While there is no specific reservation for the communities traditionally working as sweepers/scavengers, in services under the Government, majority of the employees under various Governmental agencies working as Sweepers come from these communities. The statistical information collected from various agencies, showing the representation of SC & ST in Group D posts of Sweepers as on 1-1-1993 is reproduced below:

Table 5

Sweepers

Agency	Total No. of Sweepers	SC	%age	ST	%age
(i) Govt. of India	1,33,305	85,875	64.35	4,940	3.71
(ii) PSUs	1,25,362	21,606	85.19	801	3.16
(iii) Nationalised/Public Sector Banks	34,200	17,785	52.00	1,810	5.29
(iv) Railways as on 1-1-94	NA	40,233	NA	2,380	NA
(v) State Govts.	NA	NA	NA	NA	NA

It is seen from the above table that about 32% of the Sweepers under the Government of India, about 12% under PSUs and about 43% under the Nationalised/Public Sector Banks belong to castes and communities other than SC & ST. In the case of the Railways this figure is believed to be much more and perhaps due to that reason separate figures showing the total number of Safaiwalas under the Railways have not been printed in their Annual Report. While there is no bar on members of other communities from seeking appointments as Sweepers, there is a tendency amongst the supervisory staff to deploy only Scheduled Caste Sweepers for performing unclean jobs of cleaning latrines, floors, etc., whereas Sweepers belonging to other castes and communities are generally deployed for other jobs. That is one reason why a number of persons belonging to the general category are prepared to accept the jobs of Sweepers under various Government agencies. This situation is more marked in the Railways where a number of higher caste persons are appointed as Safaiwalas but are actually deployed as Peons, messengers, etc. Due to this trend Scheduled Caste candidates (and some ST candidates as well) belonging to the communities traditionally engaged in the work of sweeping and scavenging are getting less opportunities for employment resulting in more unemployment amongst them. The scheme of diversification of sweepers/scavengers being implemented by the Ministry of Welfare through the State Governments may allow some opening for this section, but the initial reports that the State Governments have not shown much interest in the scheme for want of contribution from the State funds, are not encouraging. In view of the above position it is recommended that at least 75% of the posts of Sweepers should be filled only by candidates belonging to communities who are traditionally engaged in this profession and may be thrown open to others in the event of non-availability of candidates from these communities. Similarly, a part of the vacancies reserved for the Scheduled Castes in Group C & D posts may also be earmarked for candidates belonging to these communities to

uplift this section of the society which is still continuing at the lowest rung of the ladder.

6.24 On the recommendation of the erstwhile Commissioner for SC & ST the Government of India issued an order in 1976 regarding transfer of Sweepers, Farashes, Chowkidars, etc., to the posts of Peons to shift them from unclean jobs to clean jobs and ensure promotion avenues for them thereafter. According to these instructions 25% of the vacancies accruing in the grade of Peons or other similar induction level posts would be reserved for being filled by transfer of Sweepers, Farashes, Chowkidars, etc., as have put in a minimum of five years' service even though they may not be possessing minimum educational qualifications prescribed for direct recruitment to the post. They should, however, possess elementary literacy and give proof of ability to read either English or Hindi or the regional language. This provision of transfer to other Group D posts has helped a large number of Sweepers to get appointment to other Group D posts under the Government of India and has enhanced their further chances for promotion. This scheme has also been implemented in a number of PSUs by redesignating them as workers. A number of PSUs have also allowed promotion avenues by allowing them selection grades alongwith other workers. This is also helping these communities indirectly through creation of vacancies in the category of Sweepers, against which other candidates from the same section get employment. In the case of Nationalised and Public Sector Banks, where part time Sweepers are engaged for branches, there are no such openings for them. This needs to be reviewed by the Banking Division, Department of Economic Affairs, to ensure diversification of Sweepers to other Group D posts like Messengers in terms of the Government of India policy.

Promotion of Sweepers/Farashes/Chowkidars from subordinate category to clerical posts under the banks

6.25 The Punjab National Bank has a settlement with their employees' Trade Union in regard to the policy and procedures in respect of promotion from subordinate cadre to clerical cadre. According to one of the provisions of this settlement a Sweeper employed in PNB, who is a graduate, will have to undergo the test followed by interview, whereas an employee (other than Sweeper) in the subordinate cadre of the Bank, who is a graduate, will be considered for promotion without going through the written test but through a process of interview only. The All India Punjab National Bank Scheduled Caste and Scheduled Tribe Employees' Welfare Association brought to the notice of the Commission this discriminatory provision in the agreement. The matter was referred to the management of the PNB for remedial action. The initial reaction of the

Bank was "that in terms of our settlement with the Employees Federation, the graduate sweepers are also eligible for promotion to clerical cadre alongwith other category of employees, viz., watch and ward, who are graduates". It maintained that there was no discrimination against Sweepers in their promotion to clerical cadres. It added: "On the other hand the graduate sweepers irrespective of the fact whether they belong to general or SC/ST category are required to appear in test and interview both". According to them "the justification behind this provision was that a member of subordinate cadre, who is employed in the bank prior to passing of his matriculation examination will be able to attain the qualification of graduation after a span of 5-7 years of service in the bank. During this process and the time period 5-7 years on one side when he is enhancing his educational qualification, he is also in continuous touch with banking operations, which enable him to perform his duties properly in the clerical cadre when he is promoted after the interview in case of sweepers though they also take almost the same time for passing of graduation after joining the bank's service but their exposure to the real banking operations is almost negligible and accordingly to assess as to whether they will be able to perform the duties in the clerical cadre or not, it is necessary for the bank to put them through written test so that their capability to perform the duties can be properly assessed which is not possible during the process of interview".

6.26 The arguments put forth by the Bank are not convincing. It is not a question of general and SC/ST employees but a question concerning Sweepers who are considered the lowest among the low. Moreover, there are rare examples when we find some general candidates working as Sweepers. In regard to the banking operations also it is felt that an employee in the subordinate cadre only knows about the registers and passing on the cheques and other papers to different counters which a Sweeper in a small branch is also generally doing. It is also important to mention here that where appointments to clerical cadres are made through open competition, the candidates selected rarely know the banking operations. All such candidates have to be put on training which may also be done in the case of Sweepers selected for clerical posts. It is, therefore, recommended that all the employees of the Bank, whether in the subordinate cadre or in Sweeper category, should be treated at par for the purpose of their elevation to clerical posts. The other banks, if following the same procedure, also need to follow suit. The Banking Division of the Dept. of Economic Affairs should issue instructions to modify the agreement to put Sweepers and other subordinate cadre employees at par for their promotion avenues based on similar qualifications.

Recognition of service associations of SC & ST employees

6.27 Special safeguards in service matters have been provided by the Government for the benefit of SC & ST in terms of Articles 16(4) and 335 of the Constitution. The SC & ST have also got certain concessions and relaxations in service matters which are beneficial to them in the matter of promotions, but about which there is general, though misconceived, feeling that these special safeguards run counter to the interests of the employees in general. Thus, the grievances of SC & ST employees against "reserved quota" do not receive due attention of the authorities. Perhaps this was the reason that the Government of India allowed SC & ST employees to approach the erstwhile Commissioner for SC & ST to seek redress of their grievances against "reserved quota". In the case of Public Sector Undertakings, where the agreements with the majority unions of the employees under the Industrial Disputes Act govern the service conditions, grievances of the employees in general are ventilated through those recognised unions. It is, however, common knowledge that SC & ST employees in the PSUs who are advised to ventilate their grievances through the majority unions, do not generally get proper support from them insofar as their special interests are concerned. It is also common knowledge that a number of general unions, which are dominated by general category employees, have been opposing the introduction of reservation in appointments/promotions and various relaxations/concessions for SC & ST.

6.28 In the absence of proper support from the general service associations of the employees recognised under the ID Act in the PSUs and the Nationalised/Public Sector Banks, the SC & ST employees started organising their own associations to seek redress of their grievances in service matters. These Associations started demanding their recognition to enable them to take up the cases of SC & ST as the Governmental agencies refused to take note of their existence on the plea that under the Central Civil Services (Recognition of Service Association) Rules the service associations shall not be formed to represent the interests, or on the basis, of any caste, tribe or religious denomination or of any group within or section of such caste, tribe or religious denomination. Even the DoPT has been clarifying to various Departments that the service associations of SC & ST employees have no locus standi and the references from them need not be taken note of. The erstwhile Commissioner for SC & ST had recommended in his Reports more than once the recognition of some all India organisations of SC & ST employees so that legitimate grievances of SC & ST employees could be taken up through them. The Government of India have, however, not accepted this recommendation on the ground that it is not desirable that association of Government employees should be formed on the basis of caste, tribe or religion.

6.29 Non-recognition of service associations is an issue which is blocking dialogue or communication channel between the managements of the public enterprises and their employees belonging to SC & ST. Because of the rigid attitude of the managements SC & ST employees are forced to approach outside agencies including the Ministries and Members of Parliament. A large number of service associations of SC & ST employees also approach the National Commission for SC & ST. The managements of these enterprises are bound to reply to queries from the Ministry/MP and the National Commission which in turn inform the SC & ST Associations. The managements do take note of grievances of SC & ST employees but are generally unwilling to send replies directly to their SC & ST Employees' Associations. Unnecessary workload on other organisations can be avoided if the managements directly entertain references from the service associations of SC/ST employees. This will also help the National Commission to reduce their burden of dealing with a large number of representations from SC & ST on routine matters and the time and energy thus saved can be devoted to investigation into the working of various safeguards provided for SC & ST in terms of the responsibility cast upon it in the Constitution. For this purpose one of the representative service associations in an organisation may be identified and recognised for the limited purpose of taking up cases of SC/ST employees or general policy matters in terms of the existing instructions of the Government of India wherever violations are noticed. As in the case of Nationalised/Public Sector Banks, the identified service associations of SC & ST employees may also be invited by the PSUs periodically to discuss their grievances with the Chief Executive or Director (Personnel) to ensure that genuine problems of SC & ST employees may be considered on priority basis. The SC & ST employees will also have the satisfaction that the organisation is caring for their welfare.

Abolition of reserved posts under India Trade Promotion Organisation

6.30 Under the Special Recruitment Drive launched by the Trade Fair Authority of India (now India Trade Promotion Organisation) 32 posts of Security Guards were advertised alongwith other posts in April 1992. Out of these 32 posts, 18 were reserved for SC and 14 for ST. As per information made available to the Commission, unreserved posts in the grade were filled up earlier. While selection of SC & ST candidates for appointment as Security Guards was completed, no appointment out of those candidates could be made, as reported to the Commission by the Trade Fair Authority of India Employees' Union, due to abolition of 29 posts of Security Guards and two posts of

Security Havaldars to create a few higher level posts in the Security Department. The Employees' Union further alleged that the posts of Security Guards were abolished also to enable the Organisation to upgrade the level of the then Chief Security Officer to that of General Manager (Security) and a decision was taken by the management in this regard.

6.31 In view of the seriousness of the problem the Commission ordered an enquiry into the matter through the Deputy Director in Services Safeguards Wing of the Commission. The matter was discussed at various levels in the ITPO with particular reference to the abolition of 31 posts advertised as backlog of reservation. The enquiry report indicated that during 1990 the Organisation regularised 28 Security Guards none of whom belonged to SC and ST. In fact, the authorities did not take any step simultaneously to fill up the reserved posts either at the stage of their recruitment on daily rate basis or at that of their regularisation. The authorities, however, tried to justify their action by arguing that the abolition of the posts of Security Guards was not an isolated step and that there were a number of other posts including unreserved ones lying vacant at that point of time which were abolished under economy drive. The authorities also discounted the fears of the Employees' Union that lower posts were abolished to upgrade the Chief Security Officer to the level of GM. They further reported that there was a separate proposal to create a few higher level posts for better security arrangements. They added that while filling up those higher level posts as and when agreed to by the competent authority, due reservation would be allowed for SC & ST. The investigation team was also assured that a proposal would be considered to revive the abolished posts to clear the backlog of reservation in the Security Department. Subsequently it was made clear to the authorities in the ITPO that it would have serious repercussions if the post of Chief Security Officer was upgraded without filling up the posts of Security Guards reserved for SC & ST. If at all it was necessary to abolish certain posts, it should have been done in such a manner that the reserved vacancies already covered in the roster were not affected.

6.32 Meanwhile at the Board meeting of the ITPO on 15-9-93 a view was expressed that the security needs of the Pragati Maidan in terms of manpower and security devices should be thoroughly reviewed as there could not be any compromise in maintaining effective and alert security system. Accordingly the authorities reported that the manpower needs of the Security Unit were being assessed and revised in the context of actual security requirements. The authorities promised that if creation of additional posts was approved by the competent

authority, due representation would be given to SC & ST and whatever backlog was there would be covered as far as possible. No steps were, however, taken by the authorities to fill up the quota earlier earmarked for SC & ST. The Employees' Union also confirmed the position saying that the post of Chief Security Officer was being upgraded for the existing incumbent only who had already secured three or four promotions in a short span of ten years. This gave full credence to the allegation that the posts at the lower level were abolished to help the particular officer by his personal upgradation at the cost of the 31 posts reserved for SC & ST. This was further confirmed from the latest communication received from the ITPO that the Organisation had created one post of General Manager (Security) alongwith 62 other posts of security personnel which included 44 posts of Security Guards as per the approval of the Board of Directors. As far as the creation of 44 posts of Security Guards was concerned, the authorities clarified that those posts would not be filled up on regular basis, but personnel would be taken from security agencies as and when required.

6.33 Thus, the India Trade Promotion Organisation practically did nothing to fill up the 29 posts of Security Guards and 2 posts of Security Havaldars which were earlier advertised as reserved for SC & ST and then abolished those posts in the name of economy only to cover the expenditure involved in creation of the post of General Manager (Security) for a particular person. In view of this position it is recommended that the Ministry of Commerce may take immediate steps to ensure that the posts reserved for SC & ST, abolished before their filling up through advertisement issued earlier, must be restored to SC & ST without further loss of time. Action needs to be taken to fix responsibility for violating the Government policy. Action is also called for against the management for ignoring the well considered advice of the Commission.

Training programmes abroad -- Safeguards for SC & ST officers

6.34 According to the Government of India instructions, while drawing up training programmes for officers adequate margin should be provided to take in as many SC & ST officers as possible based on sponsorships from various authorities. The instructions provide that it would be useful to earmark 25% of the seats for SC & ST officers, wherever possible. The orders also provide that it would be useful if SC & ST officers were included in the various training programmes abroad. In accordance with the above instructions there was an opportunity to depute two faculty members from JIPMER (Jawaharlal Nehru Institute of Postgraduate Medical Education and Research), Pondicherry,

for training abroad in CT Scan work, equipment for which had been installed in the Institute through M/S Siemens. A Scheduled Caste member of the faculty was the Associate Professor and Head of the Department of Radio Diagnosis. The other faculty member, who was slightly better qualified, was Asst. Professor in the same Department and belonged to the unreserved category. A Member of Parliament brought this case to the notice of the Commission and complained that the Director of the Institute had violated the norm of seniority and ignored the claim of the Head of Department (SC) to be deputed first. The matter was taken up with the Director of JIPMER who stated that both the members of the faculty were to be deputed for the training abroad, but only one at a time. He further reported that at a meeting convened to discuss various official formalities about taking over the newly installed CT Scan machine from M/S Siemens under the charge of the Dept. of Radio Diagnosis, it was decided that since the Head of Dept. was officially required to execute all the formalities to ensure that the equipment was put on trial before a final certificate of installation was given to the firm, the junior faculty member, i.e., the Asst. Professor in the Dept., might be sent for training first. It was also decided that the senior faculty would go later after the return of the Asst. Professor.

6.35 As claimed by the Director, JIPMER, the Asst. Professor was more qualified academically and had exposure/experience in CT Scan work. In that case he was in a better position to handle the sophisticated machinery and should have been asked to look after the initial work. Since the Head of Dept. was senior to the Asst. Professor and also belonged to a Scheduled Caste he should have been given preference for training abroad, particularly in view of the Government of India instructions. There is sufficient ground to infer that the Director of the Institute favoured the junior officer ignoring the claim of the SC officer. This decision led to a controversy and later to a legal case and intervention of the local police which could have been avoided.

6.36 In another case a Scheduled Caste officer of the rank of Director in the Central Statistical Organisation of the Ministry of Planning & Programme Implementation, while seeking the intervention of the Commission, informed that being an elected office-bearer of the Committee on Statistics of the Economic & Social Commission for Asia and the Pacific (ESCAP) he was invited to attend a Working Group meeting of statistical experts at Bangkok scheduled for November 9-12, 1993. He had been elected the First Vice-Chairman of the Working Group. A request was reportedly made to the Dept. of Statistics as early as 22-9-1993 to spare his services and relevant agenda papers were also sent to be passed on to him. He alleged that the Dept. of Statistics kept him completely in dark about

the invitation for attending the meeting. Only on the evening of 9-11-93, the day the meeting was scheduled to start in Bangkok, he was informed about the same. He was even denied the agenda papers for the meeting.

6.37 The action of the authorities was in clear violation of the Govt. of India policy and amounted to discrimination against a Scheduled Caste officer. When the Commission referred the matter to the Dept. of Statistics it accepted the version of the officer but added that a copy of the agenda was endorsed to him. The Dept. of Statistics, however, took the view that the prerogative for nominating an officer to attend any meeting in India or abroad was that of the sponsoring authority and as such the option to nominate that officer or any other officer as might be considered appropriate keeping in view the exigencies of work, rested with them. On being informed of this, the ESCAP intimated that they would not be in a position to fund an expert other than the elected office-bearer, the case was reviewed under advice from the Ministry of Commerce, with reference to the status of the officer being an elected representative. As per information made available to the Commission a decision was taken with the approval of the Minister of State on 8-11-93 to send the said officer to Bangkok. The sanction order was issued on 9-11-93. Had this been done a few days earlier the officer would have been in a position to attend the meeting. Though the authorities claimed that there was no violation of any Government policy or any malafide intention on the part of the Dept. of Statistics, the matter was apparently inordinately delayed deliberately to prevent participation of the Scheduled Caste officer in the Bangkok meeting. The Commission recommended action against the officers responsible for this. The reply received from the authorities, however, indicated that no responsibility for delay could be fixed in this case, while maintaining that the prerogative for nominating an officer rested with the sponsoring authority. The Commission recommends that the matter may be reviewed by the Ministry concerned which may also ensure that such injustice is not done towards SC/ST officers in future.

Posting of Scheduled Tribe employees nearer their home towns

6.38 The Parliamentary Committee on the Welfare of Scheduled Castes and Scheduled Tribes had recommended that Scheduled Tribe employees should, as far as possible, be posted near their native places. After careful consideration of the recommendation the Dept. of Personnel & Training issued instructions on 20-6-1989 "that in case of holders of Group C and Group D posts, who have been recruited on regional basis and who belong to Scheduled

Tribes may be given posting, as far as possible subject to administrative constraints, near their native places within the region". With reference to these instructions the Andhra Bank Scheduled Tribe Employees Welfare Association brought to the notice of the Commission alleged large scale violation of these instructions in the matter of posting of Scheduled Tribe clerks in the Andhra Bank. The Association alleged that the Bank had posted majority of the ST employees in remote and far off places against insignificant posts in the branches. The matter was brought to the notice of the Chief Executive of the Bank clearly indicating that four unmarried tribal women clerks were posted in different branches in remote areas of Nizamabad and Khammam districts of Andhra Pradesh where no hostel/residential accommodation was available. A few cases of transfers of tribal women officers were also brought to the notice of the authority. Even after completion of usual three-year period in difficult areas their requests for transfer to stations of their choice were not considered even though 38 women officers were transferred in May 1993. The Bank replied that the four women clerks referred to above were recruited alongwith 461 candidates during 1989, of whom 191 belonged to ST and 183 to SC. It added that as per the practice in force in the Bank, all the new clerical recruits were given posting in rural/semi-urban areas as per the vacancy position, irrespective of the category to which they belonged. The Bank reported that it had to invariably post new recruits to rural/semi-urban places in difficult areas like Karimnagar, Nizamabad, Warangal, Srikakulam and Kurnool districts. While it may be true in terms of the Bank policy, the Bank is equally responsible to ensure implementation of the Govt. of India policy. The proportion of the ST clerks posted in difficult interior areas was also higher than that of other categories.

6.39 The Andhra Bank employees in clerical cadre are eligible for requesting transfer after completing two years' service in a place/region and applications for transfers are considered in the chronological order. The Bank reported that the requests of four tribal women clerks were registered with them and that it hoped to be able to give relief to majority of clerical staff working in coal belt/difficult areas after completion of the recruitment process by BSRB, Hyderabad, which was underway then. Accordingly the exercise of transfers of clerical staff as well as officers was completed and orders were issued on 28-11-94 and 7-12-94 respectively. The Vice-Chairperson of the Commission who visited Hyderabad on 1-11-94, discussed the question with the management of the Andhra Bank to impress upon them to redress the genuine grievance of the ST employees. The Executive Director of the Bank assured him that there was no discrimination against ST in the matters of postings, transfers and

promotions. He further reported that during 1994, 23 ST employees were transferred to their places of choice and assured that during the ensuing exercise of transfers some more request transfers of SC & ST would be considered.

Complaints relating to denial of benefit of 'reserved quota' to SC & ST employees in service matters

6.40 From 1989 onwards the Govt. of India launched a number of special recruitment/promotion drives to clear the backlog of reservation in services. Simultaneously the Govt. of India issued orders to ensure that the posts reserved for SC & ST were not dereserved and were actually filled by appointing SC/ST candidates. There have since been a number of other instructions allowing more facilities/concessions to SC & ST. These measures got good publicity, with the result that the work relating to implementation of reservation orders in Central/State Governments, Public Sector Undertakings and Banks got more attention and as a result the number of representations from SC/ST employees also increased. The setting up of the National Commission in March 1992 with powers of a Civil Court to inquire into specific cases of violation of safeguards and rights also got wide publicity in the press raising hopes of SC & ST in the matter of redress of their grievances. This too contributed to conspicuous increase in representations from SC & ST employees at various levels without any addition in the manpower to handle those cases expeditiously.

6.41 During the year under report the Services Safeguards Wing of the Commission received 5,453 representations from SC & ST candidates/employees relating to alleged violation of safeguards/rights in service matters, their harassment either by ignoring them for promotion or allowing their supersession by juniors, instituting disciplinary cases, delay in completing inquiry proceedings to deprive them of their normal promotion opportunities, denial of training opportunities abroad, termination of services on flimsy grounds, cases relating to dereservation, appointment on compassionate grounds, etc. Out of these cases 2,183 were addressed to authorities other than the National Commission for SC & ST and as such were filed. Again, there were some cases relating to purely administrative matters like fixation of pay, fixation of seniority, normal transfers, etc. Such cases were disposed of advising the petitioners to take up their grievances with the concerned authorities directly. The remaining cases, where there was some prima facie ground to show discrimination/harassment, were referred to the authorities concerned for factual information and their comments on the allegations made in those representations. Replies were received in a large number of cases, indicating that the representations were not

based on facts. In many cases the authorities replied that there was no discrimination against the SC/ST employees. There were also a number of cases where discrimination was apparent either on account of lack of appreciation of the policy or deliberate attempt to ignore the SC/ST employees. In such cases benefits could be restored to the SC/ST employees through the intervention of the Commission. Apart from all the representations relating to confirmation, promotion, grant of other concessions allowed to SC & ST employees by the Dept. of Personnel & Training, the Commission took up representations relating to adverse entries in CRs, appointment on compassionate grounds and transfers where there was prima facie ground of apparent injustice with those SC & ST employees against the well defined procedures/norms prescribed by the Government. All such representations were initially forwarded to the concerned administrative authorities for factual details and their comments for further examination in the Commission in terms of the Govt. of India policy on reservation matters.

6.42 In order to enable the Commission to perform its function of inquiring into specific complaints effectively and within manageable limits, it would like to appeal to members of SC & ST that while submitting any specific complaint to the Commission for redress of their grievances they should clearly state if and how there has been a violation of any of their safeguards or rights. It would not be helpful if the Commission is burdened with flimsy or irrelevant complaints. The Commission will be in a better position to inquire into their service grievances only if there has been a violation of any provision of the Acts/orders governing reservation in services and posts for SC & ST under the State Governments or in the case of the Government of India, of the orders contained in the Brochures on Reservation for SC & ST in services issued by the Dept. of Personnel & Training, Bureau of Public Enterprises (BPE), Dept. of Economic Affairs (Banking Division), Ministry of Railways, etc. The Commission would also not like to interfere in vigilance cases, disciplinary cases, criminal cases before a Court of Law, merits of adverse remarks in annual confidential reports and the like. In addition, the following guidelines have been laid down for submission of specific/individual complaints to ensure speedy disposal:

- (i) The complaint should be directly addressed to the Chairman, National Commission for SC & ST, or the heads of its field offices. No action will be taken on representations which are addressed to other authorities with only an endorsement to the Commission.
- (ii) The complainant should disclose his full identity and give his full address. No action will be taken on an unsigned complaint.

- (iii) Complaints should be legibly written and, where necessary, supported by authenticated documents.
- (iv) No action will be taken on matters which are sub judice.
- (v) Cases in which a court has already given its final verdict shall not be taken up afresh by the Commission.

6.43 It would be appreciated if the Government of India in the DoPT issue suitable instructions to all the Ministries, Departments and the State Governments that SC/ST employees working in any Government office, PSU, Banks, Universities, autonomous bodies, etc., are permitted to approach the National Commission for SC & ST directly for redress of their service grievances relating to violation of any statutory provision or orders concerning 'reserved quota' or concessions and facilities specifically extended to SC & ST. The Central Ministries, State Governments, etc., may also be informed that any authority or officer involved in serious violation of the Government orders and guidelines could be summoned before the Commission in terms of the powers of Civil Court vested in the Commission, for speedy disposal of the grievances.

Cases of discrimination in the matter of promotion against reserved posts

Punjab State Electricity Board, Patiala

6.44 The Supreme Court of India in the case of reservation for Socially and Educationally Backward Classes as recommended by the Mandal Commission recommended that "Reservation of appointments or posts under Article 16(4) is confined to initial appointment only and cannot extend to providing reservation in the matter of promotions. We direct that our decision on this question shall operate only prospectively and shall not affect promotion already made, whether on temporary, officiating or regular/permanent basis. It is further directed that wherever reservation are already provided in the matter of promotion.....such reservations shall continue in operation for a period of five years from this day". But the Punjab State Electricity Board reportedly stopped implementation of the reservation orders for SC. A Member of Parliament complained to the Commission that even after the Punjab Government clarified that the reserved vacancies would be filled in as per the existing practice, the cases of SC were ignored. The authorities in the PSEB with whom the matter was taken up reported that the name of the petitioner was approved for promotion as XEN alongwith others with effect from 16-8-1993. They

added that in view of the Supreme Court judgment reservation in promotion was to be reviewed by the Government an incorrect statement, and as such promotion could not be allowed before 3-6-1993 when the Punjab Government clarified that the existing benefit of reservation in promotion for SC/OBC would continue. The action of the PSEB was based on a misconceived notion and could be termed as manipulative against the interests of SC employees in that organisation. The Commission recommends that promotions of the SC officers should be reviewed to allow them the benefit retrospectively from due dates.

India Trade Promotion Organisation

6.45 A Scheduled Caste employee of the India Trade Promotion Organisation represented to the Commission that there were four posts of Deputy Security Officer out of which one was reserved for SC. Two posts were reportedly filled by promoting the two general seniormost Security Assistants who fulfilled all the requirements. The third post was also filled by promoting a general candidate by relaxing the basic qualifications in that case, but the reserved post was kept vacant and no relaxation was allowed in his case till 1988 when the reserved post was abolished. The authorities with whom the case was taken up reported that the DPC held in October 1985 did not recommend the case of the petitioner even on ad hoc basis alongwith the other three, considering his service record and CRs. The authorities, however, considered the case of promotion of the petitioner subsequently soon after the availability of a vacancy of DSO and promoted him against the post with effect from 2-6-1994. The authorities did not agree to review his case for promotion from the earlier date before 1988 when he was eligible against the available reserved post. It is felt that it was a clear case of discrimination against the SC official who could certainly be promoted before the post was abolished in 1988, if not in October 1985. If the authorities could relax even the educational qualification in the case of a general candidate above the petitioner, nothing prevented them from considering the case of the SC official against the reserved post.

Scheduled Caste/Scheduled Tribe Certificates

6.46 The terms Scheduled Castes and Scheduled Tribes are Constitutional and legal terms defined in Articles 341 and 342 respectively of the Constitution of India. Under these Articles the President has, with respect to every State and Union Territory and where it is a State after consultation with the Governor of the concerned State, issued orders notifying various castes and tribes as Scheduled Castes and Scheduled Tribes in relation to that

State or Union Territory from time to time. The SC/ST certificates issued by the competent authorities to SC/ST persons play a vital role in ensuring implementation of Constitutional safeguards in matters like entry into Government services under the Central/State Governments and Public Sector Undertakings, awards of scholarships, admissions to educational institutions including technical and medical colleges against reserved seats, allotment of land, contesting elections to the Lok Sabha and the State Vidhan Sabhas, Municipal Corporations and other local bodies, Gram Panchayats, etc., against reserved seats and for availing of a number of other facilities admissible to such persons.

6.47 As compared to 66 complaints regarding SC/ST certificates received during 1992-93, the Commission received 158 complaints during the year under report from individuals, SC/ST Associations, Public Sector Undertakings and Government Departments regarding validity of the SC/ST certificates of some of the employees/officers appointed against the reserved vacancies. The Commission scrutinised each case on its merits and, as a part of investigation, forwarded the relevant documents alongwith its preliminary comments to the District Magistrate concerned for on-the-spot verification and intimation to the Commission about the validity of the certificate. After getting a report from the District Magistrate the cases were re-examined and the concerned Department/Organisation was advised to initiate action against the employees who fraudulently obtained SC/ST certificates, as per orders issued by the Dept. of Personnel & Training (DoPT) from time to time.

6.48 The documentary evidence available with the Commission revealed that the competent authorities were not taking due care of the check points issued by the Ministry of Home Affairs. As a result, a number of non-SC/ST persons availed of the benefit meant for SC & ST. Details of some selected cases dealt with in the Commission may be seen as under:

6.49 Cases of persons not belonging to SC/ST by birth

(1) Two women had obtained Scheduled Tribe certificates as Valmiki from the Tahsildar, Rampachodavaram (Andhra Pradesh) and joined Bharat Heavy Plates and Vessels Ltd. as LDC/Typist. Their certificates were verified by the Collector, East Godavari, Kakinada, who found them to be Adi Andhra Christians (BC) and cancelled their Scheduled Tribe certificates. The Commission requested BHP&VL, Visakhapatnam, to terminate their services as per Government of India instructions. Information about the action taken by BHP&VL was awaited.

(2) An employee of the Oriental Insurance Company Ltd., Madras, had got appointment against a reserved vacancy on the basis of a Scheduled Tribe certificate as Konda Reddi issued by the Tahsildar, Ellavaram, East Godavari District (Andhra Pradesh). The certificate was cancelled by the ADM, Kakinada, who mentioned in his findings that the caste mentioned in the school leaving certificate should not be considered as the basis for an SC/ST certificate. The Commission advised the Oriental Insurance Company Ltd. to terminate his services. Their report was awaited.

(3) A person, resident of Katihar (Bihar) belonging to Sudi (Vaishya) caste obtained a Scheduled Caste certificate in the name of Turi, and was allotted an IBP agency of kerosene oil reserved for the Scheduled Castes. On scrutiny of the documents received through the IBP Company it was found that the SC certificate had been issued by the District Welfare Officer who was not a competent authority to issue SC/ST certificates for the purposes of the Central Government/Central PSUs. The IBPC was asked to furnish reasons for accepting the Scheduled Caste certificate not issued by a competent authority. The Ministry of Petroleum & Natural Gas was also requested to take action against the officer who violated the procedure laid down by the Government of India and accepted the Scheduled Caste certificate. Information about the action taken by the IBPC and the Ministry of Petroleum & Natural Gas was awaited.

(4) A person belonging to Kangra District (Himachal Pradesh) joined Coast Guard as a Navik on the basis of a false Scheduled Caste certificate as Kabirpanthi issued by the Executive Magistrate, Dehra. His caste status was got verified through the Deputy Commissioner, Kangra, who reported that the Navik belonged to Girth community and not to Kabirpanthi caste (SC). The Commission wrote to the Deputy Commissioner, Kangra, Dharamshala, to cancel the Scheduled Caste certificate under intimation to the Commission as well as the Director General, Coast Guard Hqs., New Delhi. Information about the action taken was awaited.

(5) Three employees had obtained Scheduled Caste certificates as Adi-Dravida from Tahsildar, Purasawalkam-Perambur, Madras (Tamil Nadu), on the basis of their forged school admission forms in the years 1984, 1985 and 1986 respectively and joined the Government Medical Stores Depot, Ministry of Health & Family Welfare, Govt. of India, Madras, against vacancies reserved for the Scheduled Castes. Their cases were referred to the District Collector, Madras, who after verification cancelled all these certificates on 26-3-1992 on the ground that these incumbents did not belong to Adi-Dravida

community and had obtained the certificates with fabricated and false records with malafide intention. The Commission requested the Asst. Director General, Govt. Medical Stores Depot, Madras, to terminate their services. A report was awaited.

(6) A Tax Assistant, Income-tax Office, Salem (Tamil Nadu), had neither claimed ST status nor submitted any ST certificate either at the time of entry into service or that of promotion. But his son and daughter got admission in Alagappa Govt. Arts College, Karaikudi, PMT District, and Medical College, Thanjavur, respectively on the basis of Scheduled Tribe certificates as Paniyan issued by the Tahsildar, Karaikudi, PMT District (renamed from PMR district). The District Collector, PMT District, was requested to verify the said certificates. A reply was awaited.

(7) An Assistant Teacher, Cantonment Board, Varanasi (Uttar Pradesh), had got appointment against a vacancy reserved for the Scheduled Castes. It was alleged that he was ordinarily a resident of Varanasi District and belonged to Bhambhuja caste (OBC) but he had produced a Scheduled Caste certificate as Gond. In fact, Gonds of Sonbhadra District and Bundelkhand Division of U.P. were notified as a Scheduled Caste. The Commission asked the Executive Officer, Cantonment Board, Varanasi, to furnish copies of the attestation form and the SC certificate submitted by the teacher. A reply was awaited.

(8) A person belonging to Aligarh District (Uttar Pradesh) was declared successful by the UPSC in the Combined Engineering Services Examination 1981, against the reserved quota on the basis of a Scheduled Caste certificate as Karwal. He got appointment in Indian Railways Stores Services. His caste status was got verified through the District Magistrate, Aligarh, who intimated that the officer belonged to Aheria caste which was not notified as a Scheduled Caste in U.P. The Commission advised the District Magistrate, Aligarh, to cancel the Scheduled Caste certificate issued in his favour. After protracted correspondence the District Magistrate informed the Commission that the officer had filed a writ petition in CAT, Calcutta Branch. The Commission requested the GM, Eastern Railway, Calcutta, to furnish a copy of the writ petition for perusal of the Commission. The Secretary, Railway Board, was also requested to direct the GM, ER, to make the documents available on priority basis. The matter was pending with the Indian Railways.

(9) A Junior Technical Assistant belonging to Agra District (Uttar Pradesh) was appointed on 30-6-1976 as a general candidate and also got first promotion to the next post in the Uttar Pradesh State Warehousing Corporation.

He was promoted as Warehousing Manager against a vacancy reserved for the Scheduled Castes. It was alleged that he belonged to Gaderia caste (OBC) but managed to obtain a Scheduled Caste certificate as Dhangar. The Commission requested the UPSWC to get the SC certificate verified from the District Magistrate, Agra. The UPSWC intimated that they had taken up the matter with the District Magistrate, Agra, with whom it was pending. Despite a reminder a final report was awaited from the Corporation.

(10) A resident of Moradabad District (Uttar Pradesh) was appointed in the office of the District Election Officer, Meerut, as a general category candidate but later on he produced a Scheduled Caste certificate issued by the Tahsildar, Meerut, in the name of 'Turiah' caste. It was alleged that he belonged to Dhiwar community which was not notified as a Scheduled Caste in U.P. The ADM, Meerut, subsequently intimated that the Tahsildar, Meerut, was asked to investigate. The investigation report was yet to be recieved.

(11) A lady joined the Hindustan Fertilizer Corporation of India Ltd., Durgapur Unit (West Bengal), in 1973 as an LDC against a vacancy reserved for the Scheduled Castes on the basis of a Scheduled Caste certificate as Namasudra issued by the SDO, Durgapur, on 12-1-1973. Verification of her caste status was referred to the SDO, Durgapur, by the CBI, Calcutta. On 31-10-1988 the SDO, Durgapur, directed the Officer-in-Charge, Kanksa P.S., to register a criminal case against her u/s 193, 199 and 471 IPC as she belonged to Saha community and not to Namasudra (SC). On the basis of the findings of the CBI the HFC chargesheeted her in 1990 and awarded punishment on 1-6-1992 as "reduction to two lower stages in the time scale for one year" which is contrary to the Government of India instructions that "if in any particular case the verification reveals that the candidate's claim is false, his services should be terminated". The Commission advised HFC, Durgapur, to initiate action as per Government instructions. A reply was awaited.

6.50 Cases of SC/ST certificates in the names of communities not included in the lists of SC/ST of the concerned State

(1) A Medical Officer at the PHC, Ballumath, Palamu District (Bihar), had allegedly got admission in the MBBS course by producing a Scheduled Caste certificate in the name of 'Choapal' community which was actually not included in the list of the Scheduled Castes of Bihar. The Director, Health Services, was requested to furnish the Scheduled Caste certificate and the attestation form of the said officer but the same were not received despite repeated reminders.

(2) A person of Vaishali District (Bihar) appeared at an interview for direct recruitment in the grade of Senior Field Assistant (Stores) in the Cabinet Secretariat, Govt. of India, against vacancies reserved for the Scheduled Castes. He produced a Scheduled Caste certificate bearing No.125 dated 19-5-1992 issued by the SDM, Hazipur, to the effect that that person belonged to Gwala caste which was a Scheduled Caste in the State of Bihar. The Commission advised the Cabinet Secretariat to reject the invalid Scheduled Caste certificate as Gwala caste was not notified as a Scheduled Caste in Bihar and also requested the Chief Secretary, Government of Bihar, to initiate action against the officer who had issued the certificate and also against the person who deliberately obtained a false Scheduled Caste certificate. Replies were awaited.

(3) An IAS officer, before appearing in the examination, had obtained a Scheduled Caste certificate from the Social Welfare Officer, Ahmedabad (Gujarat), on 8-6-1965 in the name of Vankar community whereas he actually belonged to Vansa-Vankar community which is not notified as a Scheduled Caste. He appeared in the competitive examination conducted by the Gujarat Public Service Commission in 1966 and appended the above certificate to the application form. The State Government chargesheeted the officer who also subsequently accepted that his certificate was a false one. The State Government imposed the penalty of 'censure' on him and cancelled the certificate. The officer filed a review application against the penalty of 'censure' and the State Government revised the penalty to that of 'warning'. The Commission did not accept the logic of penalty imposed by the State Government and requested the Secretary, Ministry of Personnel, Public Grievances & Pensions, Government of India, to initiate action against the officer for termination of his services. Information about the final action taken by the Ministry was awaited.

(4) A person was selected by the Indian Airlines and an offer of appointment to him under the Scheduled Tribe quota was under their consideration. The person had claimed himself as a Scheduled Tribe person belonging to Banjara community of Haryana and ordinarily residing in Gurgaon District of Haryana. Later on he produced a Scheduled Tribe certificate from Ranchi showing his community as Banjara of Bihar. The Deputy Commissioners of Gurgaon and Ranchi were requested to verify the claim of the person. The Deputy Commissioner, Ranchi, intimated that neither the person belonged to his district nor had any such certificate been issued from his office. However, the SDO (Civil), Gurgaon, intimated that his office had issued a Scheduled Caste certificate to the

person showing his caste as Banjara (SC). The Commission wrote to the Deputy Commissioner, Gurgaon, that since Banjara was not included in the list of the Scheduled Castes of Haryana the Scheduled Caste certificate issued to the person concerned by the SDO(C), Gurgaon, should be cancelled forthwith under intimation to the Commission. The Indian Airlines were advised not to issue an offer of appointment to the person. A reply from the Deputy Commissioner, Gurgaon, was awaited.

(5) An employee of Bharat Aluminium Company Ltd. joined the undertaking as a general candidate but at the time of promotion he submitted a Scheduled Caste certificate issued by Tahsildar, Korba, District Bilaspur, Madhya Pradesh, indicating that the employee was ordinarily a resident of Balco Township and belonged to "Namshudra" caste which is not notified as Scheduled Caste in M.P. but is in the Central Sch.Caste List. The Commission wrote to the Govt. of Madhya Pradesh that the Tahsildar, Korba had issued the certificate carelessly and incorrectly and requested them to direct the District Collector to cancel the certificate under intimation to the Commission and also initiate disciplinary action against the Tahsildar for his irresponsible act. A report was awaited from the State Government.

(6) A student was selected by the Regional Engineering College, Silchar Assam, against the reserved quota on the basis of a Scheduled Caste certificate issued by the SDO, East District Collectorate, Gangtok (Sikkim), in the name of Darjee community. The Commission wrote to the Chief Secretary, Govt. of Sikkim, that since Darjee community was not included in the list of the Scheduled Castes of Sikkim, necessary disciplinary and legal action might be taken against the officer who had issued the said Scheduled Caste certificate, in terms of the MHA circular letter No.BC-12025/1/82-SC&BCD.IV dated 29-6-1982. Despite repeated reminders the final outcome was awaited.

(7) There were at least 16 employees in the Electronic Corporation of India Ltd. who were appointed against Scheduled Tribe vacancies without Scheduled Tribe certificates. One employee had produced a certificate issued by the SDO Sadar, West Tripura (Tripura) that the employee belonged to 'Scheduled Tribe' of Tripura. There were 13 doubtful cases too in which the Commission advised the ECIL to get the Scheduled Tribe certificates verified from the District Magistrates. The Commission treated these lapses on the part of the ECIL as a major violation of the Presidential Directives and advised it to initiate suitable disciplinary action against the officers responsible for the same. Information about the action taken by the ECIL was awaited.

Scheduled Caste/Scheduled Tribe claims through migration

6.51 The Scheduled Castes and Scheduled Tribes have been specified as such in relation to a State or Union Territory, as the case may be. Where an SC/ST person migrated from one State to another, he could claim to belong to the particular SC/ST only in relation to the State to which he originally belonged and not in respect of the State to which he had migrated. In case of persons who migrated from one State to another before the date of issue of the Presidential Order specifying SC & ST in respect of the State to which the migration took place, they could claim to be residents of the latter State and get the certificates issued. A person who was temporarily away from his permanent place of residence at the time of the notification of the Presidential Order made applicable in his case, for example, to earn a living or for the purpose of education, could also be regarded as a Scheduled Caste or a Scheduled Tribe person, as the case may be, if his caste/tribe has been specified in that Order in relation to his State/Union Territory. But he cannot be treated as such in relation to the place of his temporary residence, notwithstanding the fact that his caste/tribe has been scheduled in respect of that area in any Presidential Order. In case of a person born after the date of notification of the relevant Presidential Order, the place of residence for the purpose of acquiring SC/ST status would be the place of permanent residence of his parents at the time of the notification of the Presidential Order under which they claim to be belonging to an SC/ST.

6.52 In spite of the well laid down guidelines in this regard there have been cases where persons from a particular State where their community was not scheduled, obtained certificates of belonging to that community from the State to which they had migrated after the notification of the Presidential Order in respect of the latter State where that community was specified as an SC or ST. For instance, Mallah is not a Scheduled Caste in Uttar Pradesh but it is a Scheduled Caste in Delhi. A number of cases have been reported to the Commission where Mallahs belonging to U.P. have obtained SC certificates from the competent authorities though they migrated to Delhi after 20-9-1951 when the list of the Scheduled Castes of Delhi was promulgated by the President. All such cases of false certificates need to be dealt with strictly to ensure that the benefits of reservation are not cornered by unscrupulous persons. A few cases of this nature which came to the notice of the Commission are mentioned below:

(1) One Senior Manager in the Indian Overseas Bank had submitted at the time of his appointment a Scheduled Caste certificate issued by the SDO, Gohana (Haryana), showing

his caste as Dhanak and him as a permanent resident of Gohana , District Sonapat. The certificate did not bear any number or date of issue. When the Bank asked him to submit the original certificate, he submitted another certificate issued by the Tahsildar, Khetri (Rajasthan) on 25-11-1992 claiming his caste as Dhanak and himself as a permanent resident of Khetri town in District Jhunjhunu. After scrutinising the documents the Commission requested the District Magistrate, Jhunjhunu, to verify the Scheduled Caste claim of the Senior Manager and intimate the result to the Commission. The report of the District Magistrate was awaited.

(2) The All India Central Warehousing Corporation Employees' Union brought to the notice of the Commission that one of the Regional Managers of the CWC had on production of a false Scheduled Tribe certificate from District Satna (Madhya Pradesh) in 1977 claimed to be belonging to Manjhi community. Later on the same officer obtained two other caste certificates from Etawah (Uttar Pradesh) claiming to be belonging to Mallah caste of Uttar Pradesh. The matter was taken up with the Managing Director, CWC, New Delhi, the District Collector, Satna, and the SP, CBI, Lucknow. The Collector, Satna, intimated initially on 31-5-1993 that no such certificate was issued from his office and it appeared to be a fake one. During further investigations he sent another letter on 26-7-1994 stating that after thorough investigations it was established that the officer jointly acquired land in village Madhavpur (No.607 Khasra 0.33 A) and based on the revenue records the certificate issued to him could not be treated as irregular. The report sent by the Collector was not considered in order as the individual was not a permanent resident of Satna District at the time of notification of the Presidential Order specifying SC & ST in Vindhya Pradesh. It was found that his mother had migrated to U.P. well before 1950 and before his birth. He studied throughout in U.P. and had no connection with Madhya Pradesh. The Collector, Satna, was advised to cancel the ST certificate. Information about the action taken was awaited.

(3) A girl residing at Munirka, New Delhi, got admission in the first year of MBBS course in the University College of Medical Science, Delhi, on the basis of a Scheduled Tribe certificate in the name of Sonr tribe of Madhya Pradesh issued by the SDM, Delhi, who had issued it on the basis of the Scheduled Tribe certificate issued to her father by the Tahsildar, Hoshangabad (Madhya Pradesh). The documents furnished by the UCMS and the Delhi Development Authority, where her father was working, showed that her father was a permanent resident of Lajpat Nagar, New Delhi, and was born in District Sialkot in Pakistan. The relevant documents were sent to the

Collector, Hoshangabad, with the request to verify the validity of the Scheduled Tribe certificate reported to have been issued in favour of the father. The Collector, Hoshangabad, did not furnish his enquiry report despite repeated reminders. It was interesting to note that the girl's father subsequently wrote to the UCMS that the admission of his daughter might be treated as cancelled.

(4) A report appeared in the Hindi daily Jansatta (New Delhi) of 27-5-1993 that four persons had joined the posts of Junior Engineer in the Delhi Development Authority on the basis of Scheduled Caste certificates in the name of Mallah issued by the Deputy Commissioner, Delhi. All the four employees reportedly belonged to Dheemar caste included in the list of Backward Classes of Uttar Pradesh. The report further mentioned that having similar occupational characteristics persons belonging to Dheemar caste claimed to be Mallah by misrepresenting facts and fraudulently entered into service against posts reserved for the Scheduled Castes. In the meantime the DDA Scheduled Caste/Scheduled Tribe Employees' Welfare Association reported the matter to the Commission on 29-6-1993, supporting the relevant information from revenue records. The matter was investigated through the DDA. Further information was sought from the Delhi Municipal Corporation and the Directorate of Census Operations, Delhi, whether the parents of the persons mentioned in the press report were enrolled in the Electoral Rolls for Delhi. The information received indicated that their names did not appear in the Electoral Rolls for 1951. As per entries made by the employees their parents were residents of Jamuna Bazar Jhuggi in Delhi. The Dy. Commissioner, Delhi, who was asked to look into the case, asked the individuals vide letters dated 20-9-1994 to explain within 10 days the charge of giving false information of belonging to Mallah community of Delhi instead of Dheemar caste of Uttar Pradesh. On failure to do so they were told that their Scheduled Caste certificates would be cancelled without further notice. The father of two of the four employees was reported to be a retired Head Clerk of the State Tubewell Department at Aligarh. It is interesting to note that all the four employees were relatives. Cancellation of the SC certificates was awaited from the Deputy Commissioner, Delhi, who had been advised to institute criminal proceedings against the delinquent officials.

(5) The Director of Horticulture, Delhi Municipal Corporation, had obtained before joining the DMC a certificate from the Deputy Commissioner, Delhi, in the name of Mallah caste recognised as a Scheduled Caste in Delhi, though he was not a resident of Delhi on 20-9-1951. On receipt of a complaint the Commission deputed a team of officers to meet the Municipal Commissioner and other

officers in the Personnel Department of the DMC. The matter was also referred to the educational institutions in Uttar Pradesh where the officer was educated. The enquiries revealed that the delinquent officer was a permanent resident of Etah town in Uttar Pradesh and belonged to Kahar/Dheewar caste included in the list of Backward Classes of U.P. He had passed the High School Examination in 1957 and the Intermediate Examination in 1959 from the U.P. Board. In the school records his caste was mentioned as Dhimar. The Superintendent of Police, Etah, also confirmed that the said officer belonged to Dhimar caste and was a resident of Etah town. It was, therefore, clear that the officer had obtained the SC certificate from the Deputy Commissioner, Delhi, by furnishing false information about his permanent residence as Delhi. The Deputy Commissioner, Delhi, was requested on 30-8-1993 to cancel the SC certificate No.2033/Caste/Misc./66(M) dated 28-12-1966 issued in favour of the said officer. Information about the action taken in this regard was awaited.

(6) One teacher was appointed in the Damodar Valley Corporation (Headquarters at Calcutta) against a vacancy reserved for the Scheduled Castes on the basis of the caste certificate issued by the Dy. Collector, Howrah (West Bengal), showing his community as Noniya. The relevant service documents of the employee were called for by the Commission. It was found that his father was permanent resident of District Gaya (Bihar) and he was residing at Howrah for employment purpose. Since the caste Noniya was notified as a Scheduled Caste in West Bengal, the teacher had obtained a Scheduled Caste certificate from a competent authority in West Bengal. The Commission advised the DVC, Calcutta, that the documentary evidence made available to the Commission was sufficient to conclude that the teacher could not be treated as a SC and hence his caste certificate might be sent to District Collector, Howrah for cancellation, followed by termination of his services as per Govt. of India instructions.

Claims through inter-caste marriages

6.53 Normally the caste/tribe status of a person is determined on the basis of that of his father. If a Scheduled Caste man marries a non-SC woman, the woman does not acquire the SC status but their children will be treated as SC. If a Scheduled Caste woman marries a non-SC man, she continues to be treated as SC (since she was SC by birth) but neither her husband nor their children will be treated as SC. In the case of matriarchal communities like the Khasi of Meghalaya, amongst whom lineage is traced from the mother, the children born to a

Khasi mother and a non-ST father will be treated as ST but their father will not be treated as ST. A few instances of the cases of inter-caste marriages reported to the Commission are mentioned below:

(1) The Andhra Pradesh Census Office SC/ST Employees' Welfare Association, Hyderabad, reported to the Commission that a UDC in the office of the Director of Census Operations, Hyderabad, had produced a false ST certificate and secured the job against a post reserved for the Scheduled Tribes. The Commissioner for Tribal Welfare, Govt. of A.P., vide his letter dated 7-11-89 advised the Census Department to take action against the employee as she was not ST by birth. Meanwhile the employee approached the Hyderabad bench of the Central Administrative Tribunal (O.A.No.823 of 90) stating that she was selected against the ST quota on the basis of an ST certificate dated 4-11-1977 issued in her favour by the Tahsildar, Hyderabad. She claimed that her husband belonged to Konda Kapu(ST) and hence she was also entitled to enjoy the same status. The Govt. pleader in the High Court was addressed to get the case posted in motion list for early disposal. The Director of Census Operations, however, intimated that further disciplinary case against the employee would be taken after the disposal of the petition by the Hon'ble CAT.

(2) It was brought to the notice of the Commission that four employees of the ONGC had entered into service on the basis of SC/ST certificates obtained by misrepresenting facts. Enquiries into those cases revealed that two non-SC/ST female employees had obtained their certificates after marrying SC/ST persons, from Tahsildars of Chakrata and Dehradun (Uttar Pradesh) on the basis of the caste/tribe status of their husbands. One of the female employees, later in 1991, also submitted a certificate from Ambala District (Haryana) declaring herself as a member of Dhangiri caste. In Haryana Dhangri and not Dhangiri is notified as a Scheduled Caste. The certificate earlier issued by the Tahsildar, Dehradun, was in the name of Dhangar. Doubt arose about the genuineness of these certificates as Dhangar and Dhangiri are not the same and Dhangar is not recognised as a Scheduled Caste in Haryana. Both the cases were referred to the District Magistrate, Dehradun, whose final reply was awaited.

6.54 The authorities responsible for issuing SC/ST certificates must ensure that female applicants establish that they are SC/ST by birth. They must reject an application where the female candidate indicates the caste/tribe status of her husband instead of that of her father, as required. It is recommended that the SC/ST certificate proforma should be amended so as to include a note that the caste/tribe status of a married woman is to be verified on the basis of that of her father and not her husband.

Claims through conversion and reconversion

6.55 (1) Andhra Pradesh: An employee was appointed on 5-2-1977 in BHPV Ltd., Visakhapatnam, against a vacancy reserved for the Scheduled Castes on the basis of the caste certificate showing him as a member of Mala community. On the receipt of a complaint the caste certificate was referred to the Collector, East Godavari District, Kakinada, for verification. The Collector informed that the father of the employee had converted himself to Christianity in 1950 while his mother at the time of her marriage with his father. The concerned employee was born to them in 1955. It was thus clear that he was Christian by birth and could not be treated as a Scheduled Caste person. The BHPV Ltd. was requested to terminate his services. Information about the final action taken by the undertaking was awaited.

(2) Andhra Pradesh: An LDC in the office of the Regional Provident Fund Commissioner, Andhra Pradesh, Hyderabad, was appointed on 28-5-1979 against a vacancy reserved for the Scheduled Castes. He produced a Scheduled Caste certificate dated 24-11-1978 issued by the Tahsildar, Tadapalligudem, showing him as a Madiga. He also got promotion to the post of UDC against a reserved vacancy on 5-6-1981. On 5-6-1989 he intimated his office that he had embraced Christianity on 28-5-1989. Due to oversight he was allowed to appear at the Head Clerk's Examination held from December 26 to 28, 1990, as a Scheduled Caste candidate. He was declared to have passed the said examination under the Scheduled Caste quota in February 1991 while in fact he no longer belonged to a Scheduled Caste. The RPFC withheld his promotion pending verification of his caste status. On 27-1-1992 he submitted a fresh Scheduled Caste certificate dated 27-1-1992 from the Collector, Visakhapatnam, to the effect that he belonged to a Scheduled Caste and Sikh religion. The Collector, Visakhapatnam, was requested to verify the caste status of the employee. In the meanwhile the employee filed an O.A. on 10-6-1992 in the Hyderabad Bench of the CAT. The Hon'ble Court dismissed his petition on 22-3-1993 with the direction that the caste verification was pending before the District Collector and it was open to him to satisfy the competent authority that he belonged to a Scheduled Caste despite change of his religion from Hinduism to another religion. The Commission requested the RPFC to pursue the matter with the District Collector.

(3) Tamil Nadu: An officer of Bharat Petroleum Corporation Ltd., Madras, with a Hindu name, who had originally a Christian name and allegedly belonged to the Christian community, was enjoying facilities meant for the Scheduled Castes as an Adi-Dravida. On the receipt of a

complaint attested copies of his Scheduled Caste certificate and the attestation form submitted by him at the time of his entry into service were called for from the BPCL. These documents were sent by the Commission to the District Collector, Tuticorin, for on-the-spot verification. A reminder was issued but the report from the District Collector was still awaited.

(4) Tamil Nadu: A woman employee of the Oriental Insurance Company Ltd. had secured her job against the reserved quota on the basis of a Scheduled Caste certificate (Adi-Dravida) issued by the Tahsildar, Erode. After verification the District Collector, Periyar District, cancelled the certificate on the ground that she had converted herself to Hinduism only for the purpose of her marriage and she continued to live as a Christian after marriage and was no longer a Hindu. The Commission advised the Oriental Insurance Company Ltd. to terminate her services. Information about the action taken by them was awaited.

(5) Tamil Nadu: A non-SC woman married to a Scheduled Caste person had obtained a Scheduled Caste certificate (Adi-Dravida) from Tahsildar, Fort-Tondiarpet Taluk, Madras, and got employment in Oriental Insurance Company Ltd., Madras, against a reserved vacancy. Her caste status was verified by the District Collector who cancelled her Scheduled Caste certificate on the ground that she got herself converted to Hinduism only for the purpose of marriage to a Hindu but continued to live as a Christian after marriage. The Commission advised the Oriental Insurance Company Ltd. to terminate her services. Information about the action taken by them was awaited.

Status of offsprings of inter-caste marriages

6.56 Uttar Pradesh: An Air Hostess was appointed by Indian Airlines against a reserved vacancy on the basis of a Scheduled Caste certificate (Pasi) issued by the Addl. District Magistrate, Etah. The ADM stated that he had issued the certificate because the woman had claimed to be a Pasi in an application filed by her. It was alleged that her mother was a Scheduled Caste person but her father was a Brahman. The Commission sent a number of communications to the District Magistrate, Etah, and the Govt. of Uttar Pradesh with documentary evidences against the validity of the said Scheduled Caste certificate. The D.M. cancelled the SC certificate on the basis of the documentary evidence made available by the Commission and after local enquiry. Indian Airlines were advised to terminate her services and the Special Enquiry Cell, Govt. of Uttar Pradesh, to register a criminal case against her. The outcome was awaited.

Fake certificates

6.57 The Commission came across cases where non-SC/ST persons had submitted fake SC/ST certificates and got employment against vacancies reserved for SC/ST. Five such cases are mentioned below:

(1) Andhra Pradesh: An officer of the Employees Provident Fund Organisation, Andhra Pradesh Region, was appointed on the basis of a Scheduled Caste certificate issued by the Tahsildar, Paderu, indicating his caste as Yerukula. (Yerukula is a Scheduled Tribe, not a Scheduled Caste in Andhra Pradesh.) The certificate was referred to the Collector, Visakhapatnam, who informed the Commission that it was a fake document and the signature of the Tahsildar and the rubber stamp and the seal affixed were not genuine. The Commission advised the headquarters of the Organisation at New Delhi to terminate the services of that employee. The final outcome was awaited.

(2) Andhra Pradesh: A social worker of Hyderabad reported to the Commission that a woman employee of FCI, Hyderabad, belonging to Naidu caste had joined the organisation against a reserved vacancy on the basis of a fake SC certificate (Mala). Her husband, also a Naidu, was working in Rajendra Nagar Mandal office and was allegedly trying to influence the inquiry in her favour. The social worker further intimated that the service records of her father, a retired RRC employee of Ranigunj Depot, Secunderabad, would reveal that she belonged to a Backward Class. The Commission called for the relevant documents and found that the SC certificate (Mala) had been issued to her by the Tahsildar, Hyderabad Urban Taluka, on the strength of certificates issued to her by two respectable persons, i.e., an Asst. Professor of a College and a Reader of the University College of Arts and Commerce, Hyderabad, who were not authorised to issue SC/ST certificates. The Collector, Hyderabad, was requested to verify the social status of the employee and a reply was awaited.

(3) Bihar: An Operation Theatre Assistant at Neuro-Sciences Centre, AIIMS, New Delhi, was appointed on the basis of a Scheduled Tribe certificate (Kharia) issued by the District Magistrate, Siwan. The certificate was referred to the District Magistrate, Siwan, who informed the Commission that neither the said certificate was issued by his office nor was Kharia tribe found in that district. The Commission advised the AIIMS authorities to terminate the services of the employee and this was done.

(4) Karnataka: A Diploma Trainee at Balco Captive Power Plant, NTPC, Korba (Madhya Pradesh) had submitted a Scheduled Tribe certificate (Gond) issued by the Tahsildar, Bidar. The certificate was referred to the

Tahsildar, Bidar, who informed the Commission that no such certificate had been issued by his office to the employee. The Deputy Commissioner, Bidar, also corroborated the findings of the Tahsildar. The General Manager, Balco Captive Power Plant, NTPC, Korba, was advised to terminate the services of that employee. The final outcome was awaited.

(5) Orissa: The Organising Secretary, Orissa State SC/ST Students Action Council, Bhubaneswar, represented to the Commission that one Dy. Chief Inspector of Factories and Boilers under the Labour and Employment Department, Govt. of Orissa, had been debarred by the Collector and District Magistrate, Bolangir, in 1991 from availing of benefits of reservation and other concessions made available to SC/ST employees, but the officer was still continuing in Government job. The matter was taken up with the Labour and Employment Dept., Orissa, who intimated that on receipt of the extract of the order passed by the Collector, Bolangir, in Rev. Misc. Case No.8 of 1992, the Deputy Chief Inspector of Factories & Boilers was directed to submit his explanation in the departmental proceedings drawn up against him. The State Govt. further informed that the employee had asked for more time to submit his explanation on the plea that he had filed an appeal in the Court of the RDC (Revenue Divisional Commissioner), Sambalpur, against the order of the Collector, Bolangir, cancelling his caste certificate. While the officer wanted time till the disposal of his appeal to the RDC, the State Govt. asked him to submit his explanation within 21 days. The Commission suggested to the State Govt. to direct the prosecution wing to convince the court of the RDC to vacate the stay order so that the concerned employee who did not belong to the Scheduled Castes might not be able to avail of the reservation and other benefits meant for SC & ST. A final reply was awaited.

Phonetic similarities

6.58 There are two communities in Karnataka, both spelt as 'Maleru' in English but pronounced and spelt differently in Devnagari and Kannada, written as Maleru (ಮಲರು) and Maaleru (ಮಾಲರು). The Gazetteer of Karnataka lists Maleru (ಮಲರು) as a tribe mostly found in certain forest regions of the southern part of Karnataka, which has been classified as a Scheduled Tribe in Karnataka in terms of the ST Order, 1950, whereas the other community Maaleru (ಮಾಲರು) is said to be an outcaste of Brahman male ancestry from women attached to temples — an educationally forward community. The distinction between the two communities having different backgrounds has, therefore, been rightly made by the State Government, interpreted by the then Commissioner for SC and ST in his 28th Report and accepted by the Postal

authorities. The Census of Mysore, 1911, recorded the chief occupation of Malerus as cultivation and labour, whereas the other caste Maaleru's claim was based on the concept of temple servants as their traditional and hereditary occupation. In fact, the children from the male Brahman ancestry through women who eat sacrificial rice in temples and become public women, having no tribal characteristics, do not belong to any tribal community recognised as a Scheduled Tribe in Karnataka.

6.59 The Senior Superintendent of Post Offices, Bangalore South Division, had denied the benefit of reservation available to the Scheduled Tribes to some employees claiming to be Malerus in Karnataka, on the basis of a Court ruling, to extend benefits of reservation to only Malerus from Shimoga and Chikmagalur and educational facilities to other Maalerus, stating that Maleru (ಮಲರು) was the real ST but not the other community with the same name but slightly different in pronunciation, i.e., Maaleru (ಮಾಲರು), which does not have any tribal characteristics. The position was clarified by the erstwhile office of the Commissioner for SC and ST on the basis of observations made in the 28th Report of the Commissioner and the Court ruling.

6.60 Earlier in Writ Petition No.814 to 818 of 1975, the single judge order of the Karnataka High Court had also stated that the correct and appropriate meaning of 'Maleru' in Kannada language would be those that are attached to the hills or living in hills and the correct meaning of the other term 'Maaleru' would be spoiled or polluted or degenerated. The Court in its judgment had analysed the various opinions and materials available on the question. On the basis of the analysis and with due regard to the meaning of the terms in Kannada the Court felt that it was abundantly clear that 'Maaleru' was only an outcaste of Brahmans and not the hill tribe 'Maleru' for whom only the reservations were made. The Karnataka High Court by its Order dated 24-7-1981 also quashed the promotion orders of the petitioners who had obtained Scheduled Tribe certificate as 'Maleru' but did not belong to the real ST 'Maleru'. Since this was a single judge order, the Maalerus filed a writ appeal before the Division Bench in 1981. On establishment of Central Administrative Tribunals, the High Court transferred the case to the CAT, Bangalore Branch, which quashed the orders of the P & T and directed the respondents not to prosecute the applicants relying on an order of the Supreme Court in Writ Petition No.11984/85 in force. Further, the Supreme Court in its judgment dated 6-9-89 in the above referred Writ Petition directed the State Government to take action as contemplated in their order dated 23-1-86 within four months. The Government of Karnataka accordingly formed a Committee under the

chairmanship of the Minister for Social Welfare and reconstituted the same on 7-3-89 and again on 5-1-90 but the Committee did not submit any report. The Writ Appeals filed in the Karnataka High Court by the respondents in 1981 against the single judge judgment were also disposed of on 7-11-89 by the High Court on the basis of the Supreme Court order of 6-9-89 referred to above.

6.61 The Karnataka Rajyada Maleru Vargada Sangha, an association of Maalerus, filed a petition (No.34493/92) in the Karnataka High Court against the Dept. of Posts for ignoring their promotions against the posts reserved for the Scheduled Tribes in 1992 on the basis of a letter dated 22-1-1992 from the erstwhile office of the Commissioner for SC and ST clarifying the position already mentioned above and letter dated 26-6-1992 of the Dept. of Posts issued on the basis of the Commissioner's letter dated 22-1-1992. In this case the Commissioner for SC and ST, and now the National Commission, was also made one of the respondents. Thus, the question of Maleru and Maaleru is wide open before the High Court of Karnataka without any bearing on the judgment dated 24-7-1981 from a single judge, in the absence of the report of the Committee set up under the chairmanship of the Minister for Social Welfare, in terms of the Supreme Court order of 6-9-1989. Since the Supreme Court order dated 6-9-1989 allowed the persons of Maleru caste to continue to enjoy the benefits, which should not have gone to them to start with, the main issue could not be sorted out without the report of the Committee set up by the State Government several years ago. It was unfair to persons belonging to the hill tribe that some impostors appropriated to themselves what rightly was not theirs, on account of delay and inaction on the part of the Karnataka Government. The Commission recommends that the Committee set up under the chairmanship of the Minister for Social Welfare should earnestly complete its task and submit a report at the earliest, as promised by the Government of Karnataka in their communication of 2-9-1994.

Removal of area restrictions in respect of certain castes/tribes in various States/UTs

6.62 Under the Scheduled Castes and Scheduled Tribes Orders 1950 and 1951 some castes/tribes were scheduled only in relation to certain areas of the particular State and not in respect of the entire State. Members of such of the Scheduled Castes and Scheduled Tribes were able to secure caste/tribe certificates from their areas to avail of benefits of reservation and other concessions made available to them by the State Government/Central Government. This was mainly attributed to the fact that those communities were either found and enumerated only in certain areas of the State or in the case of certain

castes, they were facing social disabilities only in those areas of the State. The removal of area restrictions in terms of the Scheduled Castes and Scheduled Tribes (Amendment) Act, 1976, on the plea that the area restrictions were causing hardship to members of those communities in the areas where they were not specified, has created other problems of misuse of the benefits made available to SC and ST, by certain castes incorrectly posing themselves as a specified caste/tribe. There have also been many cases where based on phonetic similarities in the names of the communities but having no cultural traits of the Scheduled Castes or tribal characteristics, members of certain castes have posed themselves as belonging to some SC or ST and got certificates issued in their favour. The basic purpose of recognising certain castes/tribes in relation to particular areas was to protect the interests of those castes/tribes as compared to persons belonging to those castes/tribes in other areas of the State where they did not deserve that treatment. This was visualised by the Constitution makers as such and there was no immediate cause to protect the interests of similar castes/tribes outside the restricted areas. In fact, as is clear from the Scheduled Castes and Scheduled Tribes Orders (Amendment) Bill, 1976, the basic purpose of the Bill was for the readjustment of representation of Parliamentary and Assembly Constituencies. For that purpose the area restrictions in certain cases were also removed. This has caused considerable loss to the genuine Scheduled Castes/Scheduled Tribes who were declared as such in relation to certain areas, as the advanced sections of those castes/tribes, if at all residing in other areas, started availing of all the benefits meant for SC & ST.

6.63 Based on the observations made above, mention is being made of a few cases of misuse of those benefits which were brought to the notice of the Commission. In one such case an association of Scheduled Castes and Scheduled Tribes of village and P.O. Raine, District Mau (Uttar Pradesh), alleged that the District Magistrate, Mau, had issued instructions to the Revenue officials of the district to issue Scheduled Caste certificates to Bhadbhujas and Kahars (Backward Classes) in the name of Gond after removal of area restriction in respect of Gond community in U.P. As such, the benefits meant for Gonds were being cornered by others. According to the Scheduled Castes and Scheduled Tribes Orders, 1950, and the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956, the Gond community was declared to be a Scheduled Caste in relation to Bundelkhand Division and Mirzapur District of U.P. and, as such, there was no occasion for the Gonds or other people posing as Gonds in other parts of the State to avail of benefits meant for the real Gonds. The Commission received another representation on

20-2-1994 from the Akhil Bharatvarshiya Gond Mahasabha that no such instructions were issued by the District Magistrate, Mau. They sent to the Commission a copy of the order No.7(8)/93-94 dated 4-10-1993 according to which due care was to be taken while issuing certificates to persons submitting applications declaring themselves to be Gond. The Mahasabha alleged that the real Gond community persons were experiencing difficulty and were being denied caste certificates on various grounds. This problem also arose only because of the removal of area restriction as no Gond could claim Scheduled Caste certificate earlier in Mau District (then a part of Azamgarh District).

6.64 The matter was brought to the notice of the Ministry of Welfare who clarified that the area restriction earlier imposed in respect of Gond community had been removed, that Gond was now included in the list of the Scheduled Castes throughout U.P. and that those Gonds whose ordinary place of residence (permanent abode) fell in U.P. were entitled to Scheduled Caste certificates. The Ministry further stated that persons belonging to Gour/Gonr (गोर) community who posed themselves as belonging to Gond community due to phonetic similarity, were taking advantage of this in Uttar Pradesh and obtaining false Scheduled Caste certificates. It would not be in the interest of real Gonds, a deprived community of Uttar Pradesh, that their share should be taken away by members of communities listed as Other Backward Classes in that State. Hence, the instructions issued by the District Magistrate, Mau, to the Revenue officials of the district that the Scheduled Caste certificates need to be issued after due verification from the Revenue records need to be strictly implemented.

6.65 In another similar case the Scheduled Castes and Scheduled Tribes Lists (Modification) Order, 1956, specified Dhankia as a Scheduled Caste throughout Rajasthan except Ajmer District, Abu Road Taluka of Sirohi District and Sunel Tappa of Jhalawar District, where Dhanka, slightly different from Dhankia in pronunciation, was declared as a Scheduled Tribe. Dhanak in Ajmer District and Dhanuk in Sunel Tappa of Jhalawar District were recognised as Scheduled Castes in pursuance of Section 41 of the States Reorganisation Act, 1956 (37 of 1956). The removal of area restriction in terms of the 1976 amendment has resulted in issuance of false certificates in this case also. A large number of persons belonging to Dhankia, Dhanak or Dhanuk communities made the situation confusing in different districts of Rajasthan. For example, some members of these communities after migration to Delhi obtained certificates in the name of Dhanak, a Scheduled Caste in Delhi. At the time of promotion, to avail of benefit of reservation meant for the Scheduled Tribes, the same persons submitted Scheduled Tribe certificates in the name of Dhanka from the

competent authorities of Rajasthan. Before 1976 Dhanka was treated as a Scheduled Tribe in Rajasthan only in Abu Road Taluka of Sirohi District. This subterfuge is resorted to by such persons as generally the number of ST candidates eligible for promotion is much less than SC candidates. A case was referred to the Commission by the Chefair Flight Catering, Indira Gandhi International Airport, indicating that a Staff Handyman entered into service against a post reserved for the Scheduled Castes by submitting a certificate issued by the Deputy Commissioner, Delhi, in the name of Dhanak in 1965. Later, in 1986 when the area restrictions stood removed and Dhanka was declared as a Scheduled Tribe throughout Rajasthan, the employee reportedly produced another certificate in the name of Dhanka (Scheduled Tribe) from Jaipur District of Rajasthan. The Commission took up this case with the District Magistrate, Jaipur, explaining the position of the caste and the import of removal of area restriction applied earlier to Abu Road Taluka of Sirohi District. It was impressed upon the authorities that Scheduled Caste persons having no tribal characteristics were being wrongly issued Scheduled Tribe certificates. A final reply was awaited from the District Magistrate, Jaipur.

6.66 Another employee working in the New Delhi Municipal Council since 1984 produced a Scheduled Caste certificate (Dhanak) issued by the Deputy Commissioner, Delhi, in 1971. He had declared himself to be a resident of Delhi. After a gap of nearly 10 years he produced another certificate from Tahsildar, Virat Nagar, Jaipur District (Rajasthan), indicating that he belonged to Dhanaka community recognised as a Scheduled Tribe in Rajasthan. This he did to avail of the benefit of reservation in promotion for the Scheduled Tribes which is easily available as compared to the promotion vacancies reserved for the Scheduled Castes under the Central Government. It appeared from the record that the employee managed a certificate from Delhi indicating that his parents were hailing from Delhi. If the same employee approached the District Magistrate, Jaipur, for an ST certificate, and the applicant really belonged to Rajasthan, it was necessary for the authorities to take action against the employee who misrepresented facts at the time of his joining service in the NDMC and whose services were liable to be terminated. This was brought to the notice of the District Magistrate, Jaipur, from whom a reply was awaited.

6.67 In view of the position explained above it is felt that the removal of area restrictions in respect of certain castes/tribes in different States has done more harm to the genuine SC & ST than providing any relief to them. In order to ensure that the benefits of reservation

and other relaxations/concessions made available to SC & ST are availed of only by genuine members of these groups which were initially specified as SC & ST in relation to certain areas, based on historical and social factors, the Government of India should review the whole question to reimpose the area restrictions.

Need for training and orientation of key officers involved in the issue of SC/ST certificates

6.68 The specific cases of fake/false certificates cited above do give an indication that a large number of certificates were issued in the past without proper verification about the individual or about his caste status. There have been cases where certificates were issued in the name of a caste which was not at all recognised in that State. There have also been cases of Scheduled Tribe certificates issued by the authorities in certain States where there were no Scheduled Tribes. Quite a substantial number of such certificates might be on account of lack of proper knowledge and understanding of the subject. The Tribal Research Institute, Pune, has over the last two decades developed special expertise in the matter of investigating into SC/ST certificates and done a lot of work on this aspect in Maharashtra. It has also imparted training to the 'competent authorities', Magistrates, etc., in Maharashtra on the procedures for issuing caste/tribe certificates to SC/ST persons seeking jobs under the Government or admissions in educational institutions. This has helped to a great extent in reducing the incidence of cases of false SC/ST certificates in Maharashtra. In view of the problem still existing in other States there is need for proper training and orientation of key officers involved in the issue of SC/ST certificates throughout the country. The Ministry of Welfare may, therefore, work out a plan in consultation with the State Governments and the National Commission for SC & ST to train the authorities made responsible to issue SC/ST certificates. This should also form part of the training of judicial officers at the time of their induction to ensure that the incidence of fake/false certificates is reduced to the minimum, ensuring flow of benefits to genuine SC/ST persons in the country.

Need for expeditious verification of SC/ST certificates

6.69 In terms of the initial instructions from the Government of India, the appointing authorities should verify the community status of an SC/ST employee at the time of his initial appointment as well as promotion against a reserved vacancy. They should check the name of the community to which the SC/ST employee belongs, the State/district/area to which he belongs, his permanent address, etc. The instructions further provided that where an SC/ST candidate was unable to produce a community

certificate from any of the prescribed authorities he might be appointed provisionally on the basis of whatever prima facie proof he was able to produce in support of the claim, subject to furnishing the prescribed certificate within a reasonable time or, if there was genuine difficulty in obtaining a certificate, the appointing authority should itself verify the claim through the District Magistrate concerned. There have been cases where the applicants could manage issuance of certificates through misrepresentation of facts to claim reserved positions. In a number of cases after detection of their actual identities, verifications were made but the punishment of termination was not carried out because of long drawn procedures and court cases.

6.70 The Ministry of Home Affairs issued further instructions during 1982 for suitable steps to be taken by the State Governments to prevent wrong issuance of certificates and to take deterrent action against officials who issued certificates carelessly or deliberately without proper verification. These officials were required to be informed by the State Governments that action would be taken against them under the relevant provisions of IPC (Section 420, etc.), if any of them was found to have issued certificates carelessly and without proper verification, in addition to the action under the appropriate disciplinary rules applicable to them. The State Governments were also advised to take strict measures to detect such cases of non-SC/ST persons holding SC/ST certificates, deprive them of the benefits for which they were not entitled to, and impose penalties and legal action strictly and expeditiously against those who were responsible for the issue of such certificates. The suggestion of the Consultative Committee for the MHA to set up special courts for expediting cases relating to bogus community certificates with deterrent rapidity was also communicated to the State Governments/UT Administrations with the request to give wide publicity to the names of the persons who were convicted of the offences by the courts. In spite of all such measures taken by the Government of India the incidence of fake/false certificates continues all over India. The Government of India had, therefore, to issue instructions in April 1990 that verification of the certificate would have to be made in each case to ensure that the reserved positions went to genuine SC/ST persons. Henceforth the appointing authorities would in the offer of appointment to the candidates claiming to be belonging to SC/ST include a clause as follows: "The appointment is provisional and is subject to the caste/tribe certificates being verified through the proper channels and if the verification reveals that the claim to belong to Scheduled Caste or Scheduled Tribe, as the case may be, is false, the services will be terminated forthwith without

assigning any further reasons and without prejudice to such further action as may be taken under the provisions of the Indian Penal Code for production of false certificates." While deciding issuing the above instructions by the Government the intention was to ensure that SC/ST persons did not face difficulties for want of verification of their claims at a later stage. Intention was also to streamline the procedure to check the growing misuse of the facility and to protect the interests of SC/ST persons, because issue of false SC/ST certificates had reached menacing proportions. It may be important to mention here the case of the Indian Institute of Technology, Madras, which could not get proper response from the district authorities to verify the caste/tribe certificates. The Registrar, IIT, requested the Commission to look into the cases of 26 staff members awaiting verification of their caste status from the concerned Revenue authorities (Collectors of the concerned districts). On account of delay in verification the 26 staff members belonging to SC & ST, who were recruited against reserved posts, were waiting for their confirmation against the respective posts on completion of probation for no fault on their part. The Commission brought this case to the notice of the Government of Tamil Nadu for general instructions to be issued to all the Collectors to expedite verification of the community status of SC/ST candidates selected and appointed against reserved vacancies by the IIT or any other Government organisation with reference to the DoPT order of 24-4-1990. No reply was received from the State Government. This is bound to result in serious repercussions in the case of the SC/ST employees concerned. The Commission, therefore, recommends that verification of SC/ST certificates should be completed in each case within three months to avoid harassment to SC/ST candidates.

Statement showing the representation of SCs & STs in the Central Universities

(i) Teaching Posts

S.No.	Name of University	Professors					Readers/Associate Professors					Lecturers/Asstt. Profs. Director of Physical Education					Research Associates/Tutors/Demonstrators/Instructors				
		Total no. of posts	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%
1.	Aligarh Muslim University, Aligarh (1994-95)	290	-	-	-	-	448	-	-	-	-	378	-	-	-	-	164	-	-	-	-
2.	Assam University Silchar (1994-95)	05	-	-	-	-	05	-	-	-	-	06	-	-	-	-	Nil	-	-	-	-
3.	Banaras Hindu University, Varanasi (1-1-94)	290	-	-	-	-	515	-	-	-	-	445	06	1.31	-	-	46	01	0.51	-	-
4.	Hyderabad University, Hyderabad (1-1-94)	79	01	1.26	-	-	74	-	-	01	1.36	84	07	8.43	-	-	-	-	-	-	-
5.	Jamia Millia Islamia University, New Delhi (1992-93)	57	Nil	-	-	-	115	-	-	-	-	156	-	-	01	0.61	22	-	-	-	-
6.	Jawaharlal Nehru University, New Delhi (1994-95)	140	-	-	-	-	146	03	2.7	01	0.6	82	03	2.4	03	3.6	11	-	-	-	-
7.	North-Eastern Hill University, Shillong (1994-95)	68	-	-	08	11.76	Not mentioned	-	-	15	18.51	71	-	-	37	52.11	04	-	-	-	-
8.	Pondicherry University, Pondicherry (31-8-94)	23	Nil	-	-	-	54	02	3.70	Nil	Nil	54	11	20.37	02	3.70	Nil	Nil	Nil	Nil	Nil
9.	Visva Bharti University, Santiniketan (1-4-94)																				

—Not available—

Statements showing the representation of SCs & STs in Central Universities

(ii) Non-Teaching Posts

S.No.	Name of University	Group 'A'				Group 'B'				Group 'C'				Group 'D'				Safaiwala & Scavengers			
		Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%	Total Employees	SC	%	ST	%
1.	Aligarh Muslim University, Aligarh (1994-95)	122	-	-	-	-	193	01	0.52	-	-	2532	13	0.51	04	0.16	3021	488	16.15	09	0.30
2.	Assam University, Silchar (1994-95)	02	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
3.	Banarasi Hindu University, Varanasi (1-1-94)	170	03	1.70	01	0.56	515	05	0.90	-	-	3790	73	0.70	01	0.15	1770	504	22.6	-	-
4.	Hyderabad University, Hyderabad (1-1-94)	63	08	12.7	03	4.8	134	11	8.2	2	1.5	399	62	15.5	12	13.0	412	80	19.4	18	4.4
5.	Jamia Millia Islamia University, New Delhi (1992-93)	70	-	-	-	-	49	-	-	-	-	551	02	0.36	-	-	275	05	1.82	01	0.36
6.	Jawaharlal Nehru University, New Delhi (1994-95)	100	08	8.0	02	2.0	199	23	12.1	01	0.5	516	78	15.1	15	0.9	459	105	22.8	11	2.30
7.	North-Eastern Hill University, Shillong (1994-95)	55	-	-	28	50.9	152	01	0.65	84	55.26	713	18	2.52	503	70.54	551	12	2.17	433	75.58
8.	Pondicherry University, Pondicherry (1-8-94)	31	05	16.13	-	-	06	02	25.00	-	-	197	34	17.26	-	-	224	27	12.05	01	0.45
9.	Vivekananda University, Santipuram (1-4-94)	71	07	7.00	-	-	54	07	11.11	-	-	590	47	7.96	13	2.20	808	238	29.45	96	12.44