

an appointment on the basis of such false claim, his services may be terminated as per conditions contained in the offer of appointment.

4. Contents of this O.M. may be brought to the notice of all concerned.

[G.I., Dept. of Per. & Trg., O.M. No. 36011/3/2005-Estt. (Res.), dated 9-9-2005.]

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G.I., Dept. of Per. & Trg., O.M. No. 36033/3/2004-Estt. (Res.), dated 9-3-2004

Subject:—Revision of income criteria to exclude socially advanced persons / sections (Creamy Layer) from the purview of reservation for Other Backward Classes (OBCs)

The undersigned is directed to invite attention to this Department's O.M. No. 36012/22/93-Estt. (SCT), dated 8-9-1993 which *inter alia* provides that sons and daughters of persons having gross annual income of Rs. 1 lakh or above for a period of three consecutive years fall within the creamy layer and are not entitled to get the benefit of reservation available to the Other Backward Classes. It has been decided to raise the income limit from Rs. 1 lakh to Rs. 2.5 lakh for determining the creamy layer amongst the OBCs. Accordingly, the following entry is hereby substituted for the existing entry against Category VI in the Schedule to the above-referred O.M.

Category	Description of Category	To whom the rule of exclusion will apply
VI	INCOME / WEALTH TEST	Son(s) and daughter(s) of
	(a)	Persons having gross annual income of Rs. 2.5 lakhs or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.
	(b)	Persons in Categories, I, II, III and V-A who are not disentitled to the benefit of reservation but have income from other sources or wealth which will bring them within the income / wealth criteria mentioned in (a) above.
	Explanation:	Income from salaries or agricultural land shall not be clubbed.

2. The provisions of this Office Memorandum take effect from 4-2-2004.

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G.I., Dept. of Per. & Trg., Lr. No. 36033/5/2004-Estt. (Res.), dated 14-10-2004

Subject:—Clarifications regarding creamy layer amongst OBCs

I am directed to invite your attention to the Schedule to this Department's O.M. No. 36012/22/93-(SCT), dated 8-9-1993 (Sl. No. 198 of

Swamy's Annual, 1993) which contains the criteria to determine the creamy layer amongst the OBCs. In regard to the children of the persons in civil services of the Central and the State Governments, it provides that son(s) and daughter(s) of:—

- (a) parents, both of whom are directly recruited Class I / Group 'A' officers;
- (b) parents, either of whom is a directly recruited Class I / Group 'A' officer;
- (c) parents, both of whom are directly recruited Class I / Group 'A' officers, but one of them dies or suffers permanent incapacitation;
- (d) parents, either of whom is a directly recruited Class I / Group 'A' officer and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years;
- (e) parents, both of whom are directly recruited Class I / Group 'A' officers and both of them die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years;
- (f) parents, both of whom are directly recruited Class II / Group 'B' officers;
- (g) Parents of whom only the husband is a directly recruited Class II / Group 'B' officer and he gets into Class I / Group 'A' at the age of 40 or earlier;
- (h) parents, both of whom are directly recruited Class II / Group 'B' officers and one of them dies or suffers permanent incapacitation and either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years;
- (i) parents of whom the husband is a Class I / Group 'A' officer (direct recruit or pre-forty promoted) and the wife is a directly recruited Class II / Group 'B' officer and the wife dies; or suffers permanent incapacitation; and
- (j) parents, of whom wife is a Class I / Group 'A' officer (direct recruit or pre-forty promoted) and the husband is a directly recruited Class II / Group 'B' officer and the husband dies or suffers permanent incapacitation.

shall be treated as falling in creamy layer.

2. The Schedule further provides that sons and daughters of:—

- (i) parents either of whom or both of whom are directly recruited Class I / Group 'A' officer(s) and such parent(s) dies / die or suffers / suffer permanent incapacitation;

- (ii) parents both of whom are directly recruited Class II / Group 'B' officers and one of them dies or suffers permanent incapacitation;
- (iii) parents both of whom are directly recruited Class II / Group 'B' officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years before their death or permanent incapacitation.

shall not be treated to be falling in creamy layer.

3. The criteria prescribed for determining creamy layer status of sons and daughters of persons in Government service *mutatis mutandis* applies to the sons and daughters of persons holding equivalent or comparable posts in PSUs, Banks, Insurance Organizations, Universities, etc., and also holding equivalent or comparable posts and positions under private employment. The creamy layer status of the sons and daughters of employees of organizations where evaluation of the posts on equivalent or comparable basis has not been made is determined on the basis of 'Income / Wealth Test' given in the schedule. The Income / Wealth Test prescribes that the sons and daughters of persons having gross annual income of Rs. 2.5 lakhs or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years would be treated to fall in creamy layer. An explanation is given below the Income / Wealth Test which provides that 'income from salaries or agricultural land shall not be clubbed'.

4. Following questions have been raised from time to time about the application of the above provisions to determine creamy layer:—

- (i) Will the sons and daughters of parents either of whom or both of whom are directly recruited Class I / Group 'A' officer(s) and such parent(s) dies / die or suffers / suffer permanent incapacitation after retirement be treated to be excluded from the creamy layer?
- (ii) Will the sons and daughters of parents, both of whom are directly recruited Class II / Group 'B' officers and one of them dies or suffer permanent incapacitation after retirement be treated to be excluded from the creamy layer?
- (iii) Will the sons and daughters of parents, both of whom are directly recruited Class II / Group 'B' officers and both of them die or suffer permanent incapacitation after retirement even though either of them has had got the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years before their death or permanent incapacitation be treated to be excluded from the purview of creamy layer?
- (iv) Will the sons and daughters of parent(s) who retire from the service on the basis of which their sons and daughters fall in creamy layer, continue to fall in creamy layer after retirement of the parent(s)?
- (v) Will the sons and daughters of parents of whom husband is directly recruited Class III / Group 'C' or Class IV / Group 'D' employee

and he gets into Class I / Group 'A' at the age of 40 or earlier be treated to be falling in creamy layer?

- (vi) Will a candidate who himself is a directly recruited Class I / Group 'A' officer or a directly recruited Class II / Group 'B' officer who got into Class I / Group 'A' at the age of 40 or earlier be treated to be falling in creamy layer on the basis of his service status?
- (vii) Will a candidate who has gross annual income of Rs. 2.5 lakh or above or possesses wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years be treated to fall in creamy layer?
- (viii) The instructions provide that a lady belonging to OBC category who has got married to a directly recruited Class I / Group 'A' officer shall not be treated as falling in creamy layer on the basis of her marriage. Will a man belonging to OBC category who is married to a directly recruited Class I / Group 'A' officer be treated as falling in creamy layer on the basis of his marriage?
- (ix) How will the Income / Wealth Test apply in case of sons and daughters of parent(s) employed in PSUs, etc., in which equivalence or comparability of posts has not been established *vis-a-vis* posts in the Government?
- (x) What is the scope of the explanation, 'Income from salaries or agricultural land shall not be clubbed', given below the Income / Wealth Test?

5. It is clarified in regard to Clauses (i), (ii) and (iii) of Para. 4 that the sons and daughters of—

- (a) parents either of whom or both of whom are directly recruited Class I / Group 'A' officers and such parent(s) dies / die or suffers / suffer permanent incapacitation while in service;
- (b) parents both of whom are directly recruited Class II / Group 'B' officers and one of them dies or suffers permanent incapacitation while in service; and
- (c) parents both of whom are directly recruited Class II / Group 'B' officers and both of them die or suffer permanent incapacitation while in service, even though either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years before their death or permanent incapacitation.

are not treated to be falling in creamy layer. But if the parent(s) dies / die or suffers / suffer permanent incapacitation in such cases after retirement from service, his / their sons and daughters would be treated to be falling in creamy layer and would not get the benefit of reservation.

6. In regard to Clause (v) of Para. 4, it is clarified that sons and daughters of parents who are included in the creamy layer on the basis of income

status of their parents shall continue to be treated in creamy layer even if their parents have retired or have died after retirement.

7. In regard to Clause (v) of Para. 4, it is clarified that the sons and daughters of parents of whom only the husband is a directly recruited Class II / Group 'B' officer who gets into Class I / Group 'A' at the age of 40 or earlier are treated to be in creamy layer. If the father is directly recruited Class III / Group 'C' or Class IV / Group 'D' employee and he gets into Class I / Group 'A' at the age of 40 or earlier, his sons and daughters shall not be treated to be falling in creamy layer.

8. In regard to Clauses (vi), (vii) and (viii) of Para. 4, it is clarified that the creamy layer status of a candidate is determined on the basis of the status of his parents and not on the basis of his own status or income or on the basis of status or income of his / her spouse. Therefore, while determining the creamy layer status of a person, the status or the income of the candidate himself or of his / her spouse shall not be taken into account.

9. In regard to Clause (ix) of Para. 4, it is clarified that the creamy layer status of sons and daughters of persons employed in organizations where equivalence or comparability of posts *vis-a-vis* posts in Government has not been evaluated is determined as follows:—

Income of the parents from the salaries and from the other sources [other than salaries and agricultural land] is determined separately. If either the income of the parents from the salaries or the income of the parents from other sources [other than salaries and agricultural land] exceeds the limit of Rs. 2.5 lakhs per annum for a period of three consecutive years, the sons and daughters of such persons shall be treated to fall in creamy layer. But the sons and daughters of parents whose income from salaries is less than Rs. 2.5 lakhs per annum and income from other sources is also less than Rs. 2.5 lakhs per annum will not be treated as falling in creamy layer even if the sum of the income from salaries and the income from the other sources is more than Rs. 2.5 lakhs per annum for a period of three consecutive years. It may be noted that income from agricultural land is not taken into account while applying the Test.

10. In regard to Clause (x) of Para. 4, it is clarified that while applying the Income / Wealth Test to determine creamy layer status of any candidate as given in Category-VI of the Schedule to the OM, income from the salaries and income from the agricultural land shall not be taken into account. It means that if income from salaries of the parents of any candidate is more than Rs. 2.5 lakhs per annum, income from agricultural land is more than Rs. 2.5 lakhs per annum, but income from other sources is less than Rs. 2.5 lakhs per annum, the candidate shall not be treated to be falling in creamy layer on the basis of Income / Wealth Test, provided his parent(s) do not possess wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.

11. You are requested to bring the contents of this letter to all concerned in the State.

(3) APPENDICES

APPENDIX — I

PERSONS/SECTIONS EXCLUDED FROM RESERVATION

[Schedule to G.I., Dept. of Per. & Trg., O.M. No. 36012/22/93-Estt. (SCT), dated 8-9-1993]

Description of category	To whom rule of exclusion will apply
I. Constitutional Posts	Son(s) and daughter(s) of— (a) President of India; (b) Vice-President of India; (c) Judges of the Supreme Court and of the High Courts; (d) Chairman and Members of UPSC and of the State Public Service Commission; Chief Election Commissioner, Comptroller and Auditor-General of India. (e) persons holding constitutional positions of like nature.
II. Service Category	Son(s) and daughter(s) of—
A. Group 'A' /Class I Officers of the All India Central and State Services (Direct Recruits).	(a) parents, both of whom are Class I Officers; (b) parents, either of whom is a Class I Officer; (c) parents, both of whom are Class I Officers, but one of them dies or suffers permanent incapacitation; (d) parents, either of whom is a Class I Officer and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years; (e) parents, both of whom are Class I Officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organization like UN, IMF, World Bank, etc., for a period of not less than 5 years.

APPENDIX-3

(1)

FORM OF CERTIFICATE TO BE PRODUCED BY OTHER BACKWARD CLASSES APPLYING FOR APPOINTMENT TO POSTS UNDER THE GOVERNMENT OF INDIA

[G.I., Dept. of Per. & Trg., O.M. No. 36033/28/94-Estt. (Res.), dated 2-7-1997.]

This is to certify that _____, son of _____, of village _____ District/Division _____ in the _____ State _____ belongs to the _____ community which is recognized as a Backward Class under—

- * (i) Government of India, Ministry of Welfare, Resolution No. 12011/68/93-BCC (C), dated the 10th September, 1993, published in the Gazette of India, Extraordinary, Part-I, Section I, No. 186, dated the 13th September, 1993.
- * (ii) Government of India, Ministry of Welfare, Resolution No. 12011/9/94-BCC, dated the 19th October, 1994, published in the Gazette of India, Extraordinary, Part-I, Section I, No. 163, dated the 20th October, 1994.
- * (iii) Government of India, Ministry of Welfare, Resolution No. 12011/7/95-BCC, dated the 24th May, 1995, published in the Gazette of India, Extraordinary, Part-I, Section I, No. 88, dated the 25th May, 1995.
- * (iv) Government of India, Ministry of Welfare, Resolution No. 12011/44/96-BCC, dated the 6th December, 1996, published in the Gazette of India, Extraordinary, Part-I, Section I, No. 210, dated the 11th December, 1996.

Shri _____ and/or his family ordinarily reside(s) in the _____ District/Division of the _____ State. This is also to certify that he/she does not belong to the persons/sections (Creamy Layer) mentioned in Column 3 of the Schedule to the Government of India, Department of Personnel and Training, O.M. No. 36012/22/93-Estt. (SCT), dated 8-9-1993.

District Magistrate,
Deputy Commissioner, etc.

Dated:

SEAL

* Strike out whichever is not applicable.

FORM OF APPLICATION BY OBCs FOR CERTIFICATE

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N.B.— (a) The term 'Ordinarily' used here will have the same meaning as in Section 20 of the Representation of the People's Act, 1950.

(b) The authorities competent to issue caste certificates are indicated below:—

- (i) District Magistrate/Additional Magistrate/Collector/Deputy Commissioner/Additional Deputy Commissioner/Deputy Collector/First Class Stipendiary Magistrate/Sub-Divisional Magistrate/Taluka Magistrate/Executive Magistrate/Extra Assistant Commissioner (not below the rank of First Class Stipendiary Magistrate).
- (ii) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency Magistrate.
- (iii) Revenue Officer not below the rank of Tehsildar; and
- (iv) Sub-Divisional Officer of the area where the candidate and/or his family resides.

(2)

APPLICATION FORM FOR A CERTIFICATE FOR ELIGIBILITY FOR RESERVATION OF JOBS FOR OTHER BACKWARD CLASSES IN CIVIL POSTS AND SERVICES UNDER GOVERNMENT OF INDIA

[G.I., Dept. of Per. & Trg., Lr. No. 36012/22/93-Estt. (SCT), dated 15-11-1993.]

(This form, however, should be used only as a model. Additional items, if necessary, may be incorporated to suit to the local situation in the form).

To _____

Sir,

I request that a certificate in respect of reservation for Other Backward Classes in Civil Posts and Services under Government of India be granted to me.

I give below the necessary particulars—

1. Full Name of the applicant (in Block letters) ...
2. Date of birth ...
3. Complete Residential Address:
 - (a) Present ...
 - (b) Permanent ...
4. Religion ...
5. Caste ...
6. Sub-caste ...