

GUJARAT PUBLIC SERVICE COMMISSION
NOTIFICATION

No:- CCE-27-2016-17-Main-CNF

DATE:- 20.05.2017

1. The result of the Combined Competitive Examination (Main) for the post of Deputy Section Officer (State Secretariat), Deputy Section Officer (Gujarat Public Service Commission) and Deputy Mamlatdar (Revenue Department), Class-III (Advertisement No. 27/2016-17) held on 11-Mar-2017 and 12-Mar-2017 is hereby declared as per **Annexure-I**.
2. The above result is declared taking into consideration the provisions of the Gujarat Secretariat Deputy Section Officers, Deputy Mamlatdars and Sales Tax Inspectors Recruitment (Examination) Rules, 1979 as amended from time to time, and the ratio laid down by the following Judgements of the Hon'ble Supreme Court:
 - (A)
 - (i) Rajesh Kumar Daria V/s. Rajasthan Public Service Commission, - Civil Appeal Nos. 3132 of 2007, 3773 of 2007 decided on 18-07-2007.
 - (ii) Public Service Commission, Uttaranchal V/s. Mamta Bist & Others, - Civil Appeal Nos. 5987 of 2007, with Civil Appeal No.5982 of 2007 decided on 03-06-2010.
 - (iii) Union of India V/s. Ramesh Ram and Others - Civil Appeal Nos. 4310, 4311 of 2010 [arising out of SLP(C) Nos.13571-72 of 2008] decided on 07-05-2010.
 - (B) The Reserved Category Candidates (SC / ST / SEBC), who get either equal or more than minimum marks fixed as qualifying standard for general candidates, and have not availed of any relaxation in age, qualifying standard etc. at any point of the examination process have been selected against unreserved posts in order of merit, as per the Government circular, G.A.D. No. PVS- 1099-MM-13-G4 dated 29-01-2000 and PVS-102003-900-G4, dated 23-07-2004.
 - (C) The Reserved Category Candidates (SC / ST / SEBC) who had secured their place in the Merit List of General category, but had availed the benefit of relaxation for the respective reserved category at one point of

the examination process or the other, have been selected as Reserved Category candidates for the respective category.

(D) In case of equal marks, the merit was assigned taking into consideration the date of birth (i.e. preference is given to the elder). Where the date of birth is also equal the merit is assigned on the basis of the marks obtained in paper III (General Studies).

3. In paragraph No,-5 of the Judgement delivered in the case of Rajesh Kumar Daria V/s. Rajasthan Public Service Commission, (Dated:18-07-2007), the Hon'ble Supreme Court has laid down the following principles:

"Before Examining whether the reservation provision relating to Women, had been correctly applied, it will be advantageous to refer to the nature of horizontal reservation and the manner of its application, In Indra Sawhney V/s. Union of India (1992 SUPP.(3)SCC 217), the principle of horizontal reservation was explained thus (Pr,812):

"all reservations are not of the same nature. There are two types of reservation, which may, for the sake of convenience, be referred to as 'vertical reservations' and 'horizontal reservation'. The reservation in favour of Scheduled Castes, Scheduled Tribes and Other Backward Classes (under Article: 16(4) may be called vertical reservation, whereas reservations in favour of physically handicapped (under Clauses (1) of Article 16) can be referred to as horizontal reservations. Horizontal reservation cut across the vertical reservations - what is called interlocking reservations. To be more precise suppose 3% of the vacancies are reserved in favour of physically handicapped persons; this would be a reservation relatable to clause (1) of Article 16. The persons selected against the quota will be placed in that quota by making necessary adjustments; similarly, if he belongs to open competition (OC) category, he will be placed in that category by making necessary adjustments. Even after providing for these horizontal reservations, the percentage of reservation in favour of backward class of citizens remains - and should remain - the same.'

A special provision for women made under Article 15(3), in respect of employment, is a special reservation as contrasted from the social reservation under Article 16(4). The method of implementing special reservation, which is a horizontal reservation, cutting across vertical reservation, was explained by this Court in Anil Kumar Gupta V/s. State of U. P. (1995(5) SCC 173) thus:

'The proper and correct course is to first fill up the Open Competition quota (50%) On the basis of merit; then fill up each of the social reservation quotas, i.e. S.C., S.T. and B.C.; the third step would be to find out how many candidates belonging to special reservation have been selected on the above basis. If the quota fixed for horizontal reservations is already satisfied - in case it is an overall horizontal reservation - no further question arises. But if it is not so satisfied, the requisite number of special reservation candidate shall have to be taken and adjusted / accommodated against their respective social reservation categories by deleting the corresponding number of candidates therefrom. (If, however, it is a case of compartmentalized horizontal reservation, then the process of verification and adjustment / accommodation as stated above should be applied separately to each of the vertical reservations. In such a case the reservation of 15% in favour of special categories, overall, may be satisfied or may not be satisfied.) {Emphasis supplied}'

4. In paragraph No,-13 of the Judgement dated: 03-06-2010 delivered in the case of Public Service Commission, Uttaranchal Vis. Mamta Bist and Others, the Hon'ble Supreme Court has laid down the following principles:

"13. The view taken by the High Court on application of horizontal reservation is contrary to the law laid down by this Court in Rajesh Kumar Daria V/s. Rajasthan Public Service Commission and others. AIR 2007 SC 3127, wherein dealing with a similar issue this Court held as under:

"9. The second relates to the difference between the nature of vertical reservation and horizontal reservation. Social reservations in favour of SC, ST and OBC under Article 16(4) are "vertical reservations". Special reservations in favour of physically handicapped, women, etc., under Articles 16(1) of 15(3) are "horizontal reservations". Where a vertical reservation is made in favour of a Backward Class under Article 16(4), the

candidates belonging to such Backward Class may compete for non-reserved posts and if they are appointed to the non-reserved posts on their own merit, their number will not be counted against the quota reserved for respective Backward Class. Therefore, if the number of SC candidates, who by their own merit, get selected to open competition vacancies, equals or even exceeds the percentage of posts reserved for SC candidates, it cannot be said that the reservation quota for SCs has been filled. The entire reservation quota will be intact and available in addition to those selected under open competition category. (Vide Indra Sawhney, R.K. Sabharwal V/s. State of Punjab, Union of India V/s. Virpal Singh Chauhan and Ritesh R. Sah V/s. Dr. Y.L. Yamul) But the aforesaid principle applicable to vertical (social) reservations will not apply to horizontal (special) reservations. Whereas special reservation for women is provided within the social reservation for Scheduled Castes, the proper procedure is first to fill up the quota for Scheduled Castes in order of merit and then find out the number of candidates among them who belong to the, special reservation group of "Scheduled Caste women". If the number of women in such list is equal to or more than the number of special reservation quota, then there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of Scheduled Caste women shall have to be taken by deleting the corresponding number of candidates from the bottom of the list relating to Scheduled Castes. To this extent Horizontal (special) reservation differs from vertical (social) reservation. Thus women selected on merit within the vertical reservation quota will be counted against the horizontal reservation for women." (Emphasis added)

5. The Hon'ble Supreme Court in the case of Union of India V/s. Ramesh Ram and Others delivered Judgement on 07-05-2010 (in C.A. No.431 0/4311 of 2010 arising out of SLP(C) No.13571-72 of 2008) wherein it has laid down the following principles in paragraphs No.-47 to 50 :

"47. The proviso to Rule 16(1) and Rule 16(2) operate in different dimensions and it is untenable to argue that these provisions are contradictory or inconsistent with each other. As mentioned earlier, in the examination for the year 2005- 32 reserved candidates (31 OBC candidates and 1 SC candidate) qualified as per the general qualifying standard [Rule 16(1)]. These MRC candidates did not avail of any of other concessions and

relaxations in the eligibility criteria at any stage of examination, and further they secured enough marks to place them above the general qualifying standard MRC candidates are entitled to one of the two posts one depending on their performance in the General list and other depending on their position in the Reserved List. When MRC candidates are put in the General list on their own merit they do not automatically relinquish their reserved status. By the operation of Rule 16(2), the reserved status of an MRC candidate is protected so that his / her better performance does not deny such candidate the chance to be allotted to a more preferred service. Where, however, an MRC is able to obtain his preferred post by virtue of his / her ranking in the General list, he / she is not counted as a Reserved Candidate and is certainly not counted amongst the respective reservation quota.

48. We must also remember that affirmative action measures should be scrutinized as per the standard of proportionality. This means that the criteria for any form of differential treatment should bear a rational correlation with a legitimate governmental objective. In this case a distinction has been made between Meritorious Reserved Category candidates and relatively lower ranked Reserved Category candidates. The amended Rule 16(2) only seeks to recognize the inter-se merit between these two classes' of candidates for the purpose of allocation to the various civil services with due regard for the preferences indicated by the candidates.

49. With regard to the specific characteristics of the UPSC Examinations we hold that Reserved Category candidates (belonging to OBC, SC or ST categories among others) who are selected on merit and placed in the list of general / unreserved category candidates can choose to migrate to the respective reserved categories at the time of allocation of services. Such migration is enabled by Rule 16(2) of the Civil Services Examination Rules, which is not inconsistent with Rule 16(1) of the same or even the content of Articles 14, 16(4) and 335 of the Constitution of India.

50. We sum up our answers:

- (i) MRC candidates who avail the benefit of Rule 16(2) and adjusted in the reserved category should be counted as part of the reserved pool for the purpose of computing the aggregate reservation quotas. The seats vacated by MRC candidates in the General Pool will be offered to General category candidates.**
 - (ii) By operation of Rule 16(2), the reserved status of an MRC candidate is protected so that his / her better performance does not deny him of the chance to be allotted to a more preferred service.**
 - (iii) The amended Rule 16(2) only seeks to recognize the inter se merit between two classes of candidates i.e.**

 - a) meritorious reserved category candidates,**
 - b) relatively lower ranked reserve category candidates, for the purpose of allocation to the various Civil Services with due regard for the preferences indicated by them.**
 - (iv) The reserved category candidates, "belonging to OBC~ SC/ST categories" who are on merit and placed in the list of General / Unreserved category candidates can choose to migrate to the respective reserved category at the time of allocation of services. Such migration as envisaged by Rule 16(2) is not inconsistent with Rule 16(1) or Article: 14, 16(4) and 335 of the Constitution.**
6. In view of the above referred Judgments of the Hon'ble Supreme Court, the settled legal position appears to be that the women reservation is interlocutory within each category (SC / ST / SEBC / GENERAL) and the same is horizontal (Special) reservation, and not vertical (Social) reservation and that therefore, the women candidates selected as merit candidates will count towards women reservation quota for each category (i.e. SC / ST / SEBC / GENERAL). Under the circumstances, where a horizontal (Special) reservation is provided for women within each category SC / ST / SEBC / GENERAL, the proper procedure is first to fill up the quota for each category (SC / ST / SEBC / GENERAL) in order of merit and then find out the number of candidates among them who belong to the Special reservation group of " SC / ST / SEBC / GENERAL - Women". If the Women in such list are equal to or more than the number of special reservation quota, then in that case, there is no need for further selection towards the special reservation quota. Only if there is any shortfall, the requisite number of "SC / ST / SEBC / GENERAL - Women" shall have to be taken by deleting the corresponding number of candidates from the bottom of

the list of SC / ST / SEBC / GENERAL candidates. To this extent, horizontal (Special) reservation differs from Vertical (Social) reservation. Thus, Women selected on merit within SC / ST / SEBC / GENERAL quota will be counted against the horizontal reservation for women. The same provision also made by the G.O.G. vide G.A.D. notification NO. GS/2012/12/CRR/1096/2213/G-2 Dated 14-06-2012.

7. As per the Apex Court's Judgement in Union of India V/s. Ramesh Ram and Others, decided on 07-05-2010, Meritorious Reserved Category Candidates (MRC), who have availed any of the benefits / relaxations available to a Reserved Category Candidate, should be counted as part of the reserved pool for the purpose of computing the aggregate reservation quota. However, the MRC candidates who have not availed any of the benefits / relaxations available to a Reserved Category Candidate at any stage of the examination process will have to be considered as a Reserved Category Candidate, if he/she gets a more preferred service / post because of his /her being treated as a Reserved Category Candidate. In that eventuality, the reserved candidates in the bottom of the Merit List will proportionately reduce and such vacancies will go to the general pool and the seats vacated by MRC candidates on the general pool will be offered to general category candidates. Thus, the reserved status of an MRC candidate is protected so that his / her better performance does not deny him the chance to be allotted to more preferred service. Accordingly, the MRC candidates are treated as RC candidates for the purpose of allotment of their preferred post.
8. It needs to be clarified that the result of the examination under reference given in the **ANNEXURE-I** has been prepared by strictly applying the ratio laid down by the Apex Court in the cases of (i) Public Service Commission, Uttaranchal V/s. Mamta Bist and Others – Civil Appeal Nos. 5987 of 2007, with Civil Appeal No. 5982 of 2007 decided on 03-06-2010 and (ii) Union of India V/s. Ramesh Ram and Others - Civil Appeal Nos. 4310, 4311 of 2010 (arising out of SLP(C) Nos.13571-72 of 2008) decided on 07-05-2010.
9. The Reserved Category Candidates (SC / ST / SEBC), who get either equal or more than minimum marks fixed as qualifying standard for general candidates, and have not availed of any relaxation in age, qualifying standard etc. at any

stage of examination were recommended against unreserved posts. Number of Category-wise MRC candidates are as under.

SEBC : Total = 93

S.C. : Total = 25

Merit No. of MRC (SEBC) Candidates

5, 17, 19, 22, 23, 24, 28, 32, 36, 41, 45, 52, 59, 61, 65, 66, 72, 73, 80, 81, 82, 86, 98, 100, 103, 104, 105, 106, 107, 109,113, 115, 123, 126, 128, 131, 137, 148, 157, 158, 159, 160, 163, 164, 167, 168, 171, 173, 179, 180, 181, 183, 188, 193, 194, 195, 196, 204, 205, 206,208, 209, 213, 216, 217, 218, 220, 222, 227, 229, 234, 237, 239, 243, 244,249, 256, 257, 258, 266, 267, 281, 283, 286, 299, 310, 314, 321, 328, 331, 347, 446, 449

Merit No. of MRC (SC) Candidates

13, 25, 63, 70, 124, 136, 143, 144, 150, 155, 169, 174, 191, 192, 199, 214, 215, 230,235, 240, 255, 270, 272, 300, 345

10. The MRC candidates who have not availed any of the benefits / relaxations available to a Reserved Category Candidate at any stage of the examination process are considered as a Reserved Category Candidate, for they are getting more preferred service / post while treated them as a Reserved Category Candidate. Number of Category-wise RC (Having Better Preference) candidates are as under.

SEBC : Total = 32

S.C. : Total = 07

Merit No. of RC (Having Better Preference) (SEBC) Candidates

276, 278, 285, 292, 294, 296, 297, 303, 304, 305, 307, 308, 315, 316, 318,327, 341, 346, 349, 363, 368, 383, 390, 391, 399, 400, 407, 412, 421, 427,428, 437

Merit No. of RC (Having Better Preference) (SC) Candidates

306, 309, 329, 330, 334, 447, 448

11. The MRC candidates who have availed benefits/relaxations available to a Reserved Category Candidate at any stage of the examination process are considered as a Reserved Category Candidates. Number of Category-wise RC candidates is as under.

ST : Total = 02

Merit No. of RC (ST) Candidates

114,260

12. Two candidates with Physically Disabled status have been considered by relaxing the Qualifying standard of the respective category (General) by 10%.
13. The following details are relevant in respect of certain candidates who are treated as ineligible for the examination for one reason or the other, the brief details of which are given below :-

All the candidates who had applied online for the Preliminary Examination were allowed to appear for the Preliminary Examination without any scrutiny of the details given in the online applications. The candidates who were declared successful in the Preliminary Examination and allowed to appear for the Main Examination were asked to send the application forms for the Main Examination along-with all the requisite / stipulated documents / certificates. Such candidates were allowed to appear at the Main Examination subject to the verification of the documents / certificates sent by them along-with the application forms for the Main Examination.

- (i) The candidates who have shown the details of sports in the online application and not submitted sports certificate / sports details in the prescribed format or in order were treated as candidates without sports hence the 5% bonus marks of the obtained marks, granted to these candidates being sports-person during preliminary test was required to be deducted. While doing so, mark of those candidates went below the minimum cut off marks prescribed for the respective category of candidates to be eligible to appear for the Main Examination, such 3 candidates became ineligible to appear for the Main Examination and therefore they are declared as unsuccessful in the Preliminary Examination for which separate orders are being issued by the Commission.
- (ii) While scrutinizing the documents / certificates sent by the candidates, the applications have not been found with requisite certificates / documents. such as **S.S.C. Examination Certificate (for verification of date of birth), Non Creamy Layer certificate, Physically Disabled**

Certificate, Caste Certificate or the cases of not possessing requisite educational qualification, incomplete application form, non-submission of application forms for Main Examination etc. In such cases, the candidature of the candidates for the Main Examination have been treated as cancelled by the Commission. The number of such candidates are **357**.

- (iii) 1 Candidate, caught of copy case during the examination, the candidature of this candidate has been treated as cancelled ab-initio in main examination by the Commission.
- (iv) With reference to (ii) & (iii) above, necessary orders for cancellation of candidature are issued by the Commission separately.

Sd/-

(T. H. SONI)

JOINT SECRETARY

GUJARAT PUBLIC SERVICE COMMISSION

Place:- GANDHINAGAR

Date:- 20-05-2017