

**COMMITTEE
ON
GOVERNMENT ASSURANCES
(1993-94)**
TENTH LOK SABHA

**TWENTY-SIXTH REPORT
ON
RELAXATION IN AGE FOR OTHER BACKWARD
CLASSES (OBCs)**

(Presented on 7 December, 1994)



C
**LOK SABHA SECRETARIAT
NEW DELHI**

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LOK SABHA

C O R R I G E N D A

to the Twenty - Sixth Report of
Committee on Government Assurances
(1993-94) Tenth Lok Sabha

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Page	No.	Para No.	Line	Correction
3		12	14	<u>for</u> Zoo <u>read</u> 200
4		14	14-15	<u>for</u> separately their <u>read</u> separately. Their
8		21	11	<u>for</u> to MD <u>read</u> to PM
9		24	3	<u>for</u> if <u>read</u> it
		25	24	<u>for</u> them <u>read</u> then
10		30	4	<u>for</u> that a final decision should be taken <u>read</u> that a final and positive decision in line with relaxation given to other categories should be taken
13		6	3	<u>for</u> fc <u>read</u> for
			11	<u>for</u> candidated <u>read</u> candidates
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CONTENTS

	PAGE
COMPOSITION OF THE COMMITTEE	(iii)
INTRODUCTION	(v)
REPORT	1
Assurances given on	
(i) December 16, 1993 in reply to USQ 2311; and	
(ii) March 1, 1994 in reply to a point raised during Zero Hour regarding relaxation in age for other backward classes (OBCs).....	1
Recommendations/Observations.....	9

APPENDICES

(i) Minutes of Fifteenth Sitting held on November 7, 1994	11
(ii) Minutes of Seventeenth Sitting held on November 30, 1994	19

**@ COMPOSITION OF THE COMMITTEE ON GOVERNMENT
ASSURANCES
(1993-94)**
CHAIRMAN

Shri Basudeb Acharia

MEMBERS

2. Shri Vishveshwar Bhagat
3. Shri Gurcharan Singh Dadhahoor
4. Prof. K. Venkatagiri Gowda
5. Shri P.P. Kaliaperumal
- *6. Major D.D. Khanoria
7. Shri Harpal Panwar
8. Shri Surendra Pal Pathak
9. Shrimati Suryakanta Patil
10. Shri V. Sreenivasa Prasad
11. Shri Nawal Kishore Rai
12. Shri G. Ganga Reddy
13. Shri Yoganand Saraswati
14. Shri Shibu Soren
15. Shri V.S. Vijayaraghavan

SECRETARIAT

Shri Murari Lal	— <i>Joint Secretary</i>
Smt. Paramjit Kaur Sandhu	— <i>Director</i>
Shri Madan Lal	— <i>Assistant Director</i>

@ The Committee was nominated by the Speaker w.e.f. 20 December, 1993 *vide* para 2609 of Lok Sabha Bulletin Part-II dated 20.12.1993.

* Nominated to the Committee on 23 December, 1993 *vide* para 1628 of Lok Sabha Bulletin Part-II dated 23.12.1993.

INTRODUCTION

I, the Chairman of the Committee on Government Assurances, having been authorised by the Committee to submit the Report on their behalf, present this Twenty-Sixth Report of the Committee on Government Assurances.

2. The Committee (1993-94) were constituted on December 20, 1993.
3. The Committee at their Sitting held on November 7, 1994 took the oral evidence of the Ministry of Welfare on two pending assurances given on:—
 - (i) December 16, 1993 in reply to USQ 2311; and
 - (ii) March 1, 1994 in reply to a point raised during Zero Hour regarding relaxation in age for Other Backward Classes (OBCs).
4. At their sitting held in November 30, 1994 the Committee considered and adopted the Twenty-Sixth Report.
5. The Minutes of the aforesaid sitting of the Committee form part of the Report.
6. The conclusions/observations of the Committee are contained in the succeeding paragraphs of the Report.

BASUDEB ACHARIA,
Chairman,
Committee on Government Assurances.

NEW DELHI;
November 30, 1994

Agrahayana 9, 1916 (Saka)

REPORT

RELAXATION IN AGE FOR OTHER BACKWARD CLASSES (OBCs).

1. On December 16, 1993, the following Unstarred Question (No. 2311) given notice of by

Shri Ram Vilas Paswan M.P., was addressed to the Minister of Welfare:—

“(a) whether the Government are considering age relaxation to OBCs in terms of the recommendations of Mandal Commission;

(b) if so, the steps taken so far in this regard; and

(c) if not, the reasons therefor?”

2. The Minister of State in the Ministry of Welfare (Shri K.V. Thangka Balu) gave the following reply:—

(a), (b) and (c): “The matter is under examination.”

3. March 1, 1994, Shri Nitish Kumar and other Members raised a point during zero hour regarding relaxation in age for Other Backward Classes (OBCs) in the Civil Services Examinations.

4. The Minister of Welfare (Shri Sita Ram Kesri) gave the following reply:—

“Sir, as stated by Shri Nitish Kumar and other Members that there should be age relaxation to students as has been announced on August 13, 1990 and if it was to be implemented the relaxation should have been given. But the matter has gone to Supreme Court. According to the decision given on November 16, 1992 by the Supreme Court it was implemented. The attention drawn towards the Supreme Court’s decision by Shri Nitish Kumar, the relaxation in age should be given. I shall think over it”.

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5. Mr. Speaker: “You wanted an assurance. The Minister has already said it”.

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6. The above reply of the Minister was treated as assurance and was required to be implemented within the three months from the date of the each assurance given.

7. The Ministry of Welfare sought extension of time upto June 6, 1994 and September 16, 1994. The Ministry of Welfare sought further extension of time upto December 16, 1994 on the following grounds:—

“That the matter regarding age relaxation to the OBCs is still under

consideration of the Government. It will take some more time to arrive at a decision."

8. The Committee did not accept the grounds given for seeking further extension of time upto December 16, 1994. The Committee, therefore, decided to take oral evidence of the Ministry of Welfare at their sitting to be held on November 7, 1994 to know at what stage the issue is pending.

9. On November 4, 1994, the Ministry of Welfare furnished the following brief to the Committee *vide* their OM No. 16011/131/94-B CC dated November 4, 1994:—

"The Supreme Court, in the Mandal Case judgement, upheld reservation for OBCs in Civil Services and Posts under the Government of India subject to the exclusion of the 'Creamy Layer'.

2. The Government implemented reservation for OBCs on 8th September, 1993 when an O.M. was issued by the DOPT on that date providing 27% reservation of vacancies in Civil Services and Posts under the Government of India in favour of the OBCs. Subsequently, the DOPT issued another O.M. on 22nd October, 1993 that "no other relaxation/concession is admissible to OBCs."

3. Hence, there is no relaxation or concession given to OBCs in matters such as maximum age limit, the number of attempts for Civil Services Examination, examination fee, etc.

4. Several representations have been received from various quarters including Members of Parliament and Backward Classes Associations requesting for age relaxation to OBCs. A number of Writ Petitions for extension of age relaxation were filed in the CAT Benches, High Courts and Supreme Court. On 7th April, 1994, in the Writ Petition of 75094 Rajendra Kumar Bhati and Others vs UPSC and Others, the Supreme Court gave the following Orders:—

"Whether any concession in any form are to be extended to the Backward Classes is a matter of Policy for the Government to consider. This Court cannot go into this question. The Special Leave Petition is dismissed."

5. The Mandal Commission, in its Report (Para 13:13(4) (Part-I), had stated

"Relaxation in the upper age limit for direct recruitment should be extended to the candidates of OBCs in the same manner as is done in the case of SCs & STs.

6. Keeping in view the above, the Government is closely examining the issue of extension of age relaxation to OBCs in Civil Services and Posts under the Government of India."

10. The Committee took oral evidence of the representatives of the Ministry of Welfare in connection with the following pending assurances given on (i) December 16, 1993 in reply to USQ No. 2311 and

(ii) March 1, 1994 in reply to point raised during zero hour regarding relaxation in age for Other Backward Classes (OBCs).

11. At the outset, the Chairman drew the attention of the representatives to direction 58 of the Directions by the Speaker and explained to them that their evidence was likely to be treated as public and liable to be published unless the representatives specifically desire that all or any part of the evidence given by them was to be treated confidential. It was also explained to the representatives that even though the evidence was desired to be confidential, such evidence was liable to be made available to the Members of Parliament.

12. The Committee enquired about the delay in the implementation of the assurances. While giving general statement the representative stated, as follows:—

"This is a matter of great importance. As regards reservation to OBCs, the policy of the Government on reservation and the steps taken by the Ministry of Welfare, I would like to mention that we have already taken certain steps. Based on the Supreme Court's decision on Mandal case, the Government have implemented the reservation for OBCs, on the 8th September, 1993. The orders were issued by the Department of Personnel and Training providing for 27 percent reservation of vacancies in favour of OBCs. Again in October 1993, detailed instructions were issued by the Department of Personnel and Training with regard to the roster system, which was 200 point roster and the format of maintaining of the Zoo point roster. These instructions were issued to the Central Government and other Recruitment Agencies under the Central Government. Recently there have been representatives from the Members of Parliament to the Ministry of Welfare and also to the Department of Personnel and Training. These representations mainly related to the question of age relaxation. While we are considering this matter, at the same time, we have taken some major important steps. The Department of Personnel and Training have also agreed with the Ministry of Welfare. Instructions were issued to the UPSC. The UPSC has agreed to accept the reduced standards for the Civil Services Examinations of 1994. The reduced standards are almost similar to those meant for the Scheduled Castes and Tribes. You will be glad to know that the UPSC has published the first list of candidates at the reduced standards. We also took up with the DOPT that the total number of OBC candidates who have been qualified as per the list, did not come up to 27 percent of the total candidates who have passed the preliminary examination. So at the instance of the Ministry of Welfare, the Department of Personnel and Training issued further instructions to the UPSC. Subsequently, the UPSC released another list. Both the lists put together, the total number of OBC candidates who have been declared eligible for the Main

Examination comes to 3098 and all these candidates have been declared eligible for the Main Examination. As for reservation for OBC to the extent of almost 26 percent was maintained. It shows that a number of candidates from OBCs have got a chance for appearing in the Main Examination proportionate to the reservation provided for them."

13. The Committee categorically pointed that the issue was regarding age relaxation in various examinations and not the reservation for OBCs and enquired about the steps taken by the Ministry in this direction. The representative explained that the assurance was given in December 1993 and they took up the issue of age relaxation with the Department of Personnel and Training in January, 1994. It was the Department of Personnel which should issue such directions with regard to the age relaxation for the recruitments in the Civil Services Examination.

14. The representative further submitted as follows:—

"Department of Personnel also handle some of the questions which were concerned with certain other legislation for OBCs for Civil Services. They took a view that we have only recently taken a decision to allow reservation for the Civil Services Examination, 1994 the results of which are going to be out. Their view has been that it is worthwhile to have some experience. They feel that the policy has just been enunciated and the first All-India Civil Services Examination 1994 was the Preliminary Examination was held in June this year. They felt that we should see the experience as to how many candidates belonging to OBCs were there to take up the Main Examination. If the number of OBC candidates was not sufficient or if we do not get sufficient persons, then the Department of Personnel would like to consider the matter separately. Their view was that we should first have an experience of the results of All-India Examination to know whether sufficient candidates come forward to take up the examination and how many of them are successful. If the number of successful candidates of OBCs is more than 27 percent we should think of adopting it as a regular feature. They wanted to have this experience before taking any decision."

15. The Committee desired to have the comments of the representative on the recommendations of the Mandal Commission to allow the age relaxation to OBCs almost at par with the SCs/STs. The representative made a reference of the Supreme Court judgement in Indira Sawhney case and stated:

"In our opinion, where the State finds it necessary for the purpose of giving full effect to the provision of reservation to provide certain exemptions, concessions or preferences to members of the backward classes, it can extend the same under Clause 4 itself. In other

words, all supplementary and ancillary provisions can be made as part of the concept of reservation itself.

What is important is where the State finds it necessary for giving full effect to the concern of reservation. . . . The concern of the Ministry of Welfare has been to ensure that 27 percent reservation quota, which has been provided for OBCs, is fully implemented. We in the Ministry of Welfare did, at one point of time, had an apprehension on the basis of the apprehension expressed by the hon. members of the Parliament that although we had provided 27% quota for the OBCs; we may not get adequate number of OBC candidates for competing in this examination. At that point of time the thinking was that this issue be examined as to whether the relaxation should be extended to the other backward classes also or not. The question is not of simply equating the OBCs with SCs/STs. The basic need is to ensure implementation of the reservations provided. The decision making process in the Government takes time since it goes through so many steps. While the proposal was being examined and being considered at certain levels a major development that took place has an important bearing on this also. The Government accepted the demand for extending the facility of relaxed standard for OBCs. That is what I would like to submit for your consideration. The idea behind this is to effectively implement the concept of reservation."

16. The Committee, thereafter, questioned how there could be an effective implementation without extending age relaxation to OBCs. In reply the representative submitted as follows:—

"The reservation would be effectively implemented if we are able to find eligible number of candidates from out of OBCs so that certain criteria and standards could be laid down. Now, one of the important things that has been done by the Government is to extend the relaxed standards to the extent it is necessary to fulfil the reservation quota. The Department of Personnel and Training in their letter have stated that relaxation will certainly be given. Now, we are coming to the end of the Civil Services Examination for 1994 and since the Main Examination have already been completed let the results be out. Only after that we will see and review whether we have actually been able to effectively implement the reservation policy or not."

17. The representative further submitted as follows:—

"The Department of Personnel and Training in their letter dated 13th October have stated that for filling the quota of OBCs, age relaxation can be provided to them as in the case of SC/ST candidates. Now, the emphasis here is on fulfilling the quota earmarked and I suppose that is germane to the effective implementation."

18. The Committee again enquired when the review would take place and whether it would be conducted independently by the Ministry of

Welfare or jointly by the Ministry of Personnel. The witness replied as follows:—

"The matter is being deeply followed up and consultations are going on with the Department of Personnel. Apart from the Department of Personnel we are also taking the views of the Law Ministry into account. We are also thinking very seriously about the age relaxation. As you have rightly said, Mandal Commission has also made a recommendation to this effect. The Department of Personnel was saying that let us first have the experience of at least, one Civil Services Examination before extending the facility of age relaxation to OBCs. We will be able to know whether the requisite number of 27 percent of OBC candidates have qualified in the examination without giving age relaxation or not. All these statistics are very important for taking a cogent and logical decision. . . This particular matter has been discussed jointly and a decision will be taken in consultation with the concerned Ministries. This is an issue where the matter would have to go up to the highest level. The process is seriously on. . .

The matter will be reviewed and if there is need for age relaxation also then it will be extended. In this connection, I draw your attention to the judgement of Supreme Court which says:

The question is whether the said words contemplate only one form of provision, namely, reservation simplicitor or do they take any other forms of special provisions like preference, concessions and examinations. In our opinion reservation is the highest form of special provision while preference, concessions and examinations are lesser forms. The constitutional scheme and context of Article 16(4) induces us to take the view of larger concept of reservations, takes within its sweep all supplemental and ancillary provisions as also lesser types of special provisions like examinations, concessions and relaxations consistent, no doubt, with the requirement of maintenance of efficiency of administration and admonition of Article 335. So. . after the review if it is felt necessary that further concession like age relaxation or any other concession is necessary, we well have no hesitation on that. It may further be stated that consultations are going on at the highest level and have also sought the views of other Ministries. In due course the results of the Civil Services Examination of 1994 will also be declared. As the scheme of reservation for OBCs has just started it is necessary to watch its implementation for some more time before extending the age relaxation to OBCs for examination. The view of the Department is that let us first see the results of the Preliminary Examination so that the exact number of boys who have qualified for the general examination on the basis of reduced standards which the Department of Personnel have now notified for OBCs on the lines of the SC/ST candidates could be known. We

hope that the number of successful candidates would be according to the reservation quota. Should it be necessary to extend age relaxation to OBCs the Government will consider it."

19. The Committee further enquired whether there will be any discrimination in extending age relaxation to the OBCs as has been extended to SCs/STs. The representative submitted as below:—

"The Supreme Court has made that distinction because there are certain aspects of reservation where they have given a different dispensation in respect of SCs/STs as compared to OBCs. For instance, the Supreme Court while ordering that the 'Creamy layer' should be excluded from the backward classes of citizens, they specifically be excluded the SCs/STs from that.

The SCs/STs have to be seen as a category apart from other backward classes, that is, in the scheme of things as ordered by the Supreme Court. Therefore, we do not say that this is a sort of closed chapter. Government will have an open mind on this and if at any point of time it becomes necessary to extend any relaxation or concessions, the Government will certainly consider it. But it depends on the review."

20. The Committee pointed out that the Ministry should have furnished the required information within three months from the date of the assurance but the Ministry had already taken full one year as the assurance was given in December, 1993. The representative clarified as follows:—

"In fact, till the last night we were wanting to come to some decision. What I am saying is that we should wait till the results come. But nevertheless, we in the Ministry of Welfare, which is a nodal Ministry for matters relating to OBCs and backward classes, are certainly moving in that direction to get the final decision of the Government as quickly as possible. . . The issue of reservation is very serious and attracts more and more discussions. All the decisions in this regard should be well considered and farsighted. We will proceed in the matter after consulting different units of the Government. The Ministry of Welfare invites all the concerned Ministries and discuss this issue. The matter is also being considered at high level in the Department of Personnel and Training. I want to draw your attention towards the fact that although provision of reservation was there but the relaxation in age for non-Gazetted SCs/STs was given from 1952. Age relaxation for the Gazetted posts was given since 1955.

The Ministry of Law, Department of Personnel and Training and the Cabinet Secretariat are involved in this matter. The Government have taken a policy decision. We are making serious efforts to expedite a decision at the highest level. It is a matter of great significance. We are posted with each and every development. Whenever a view was put forth, immediately we examine and send to

the concerned Ministries. The process of consideration is going on. The decision is to be taken at the Ministries level. There is no higher level than the Minister. The question is being examined.

I cannot give any time frame. I can only say that we will try and take a decision as early as possible. We have reached a stage where some decision will be taken sooner than expected."

21. The Committee desired to know the fate of these candidates belonging to OBCs who had crossed the prescribed age limit for appearing in All India Civil Services examination and enquired whether a chance would be given to them to appear in the All India Civil Services Examination for the year 1993. The Committee also drew attention of the representatives in case the age relaxation is also given to OBCs, the better quality of the candidates from amongst these communities will be available. The representative submitted as follows:—

"The matter is under consideration. We have taken it seriously soon after the assurance was given. Letter was issued on behalf of the Hon. Minister also. We took this matter to -MD. It was discussed there also. We told Ministry of Law in the month of May that this is the judgement of the Supreme Court under which you can do this thing. Then we, forwarded these details to Department of Personnel. Other Ministries were also intimated about this and they were asked to take decision on it as early as possible. It is being considered seriously at every level for the last 3 to 4 months. We are of the view that we should have convincing figures because any one can ask from the Government that on what ground they have taken decision on it. Therefore, it becomes necessary to put it on test. But I would like to give assurance that there has not been any delay in this matter. It is our effort that decision is taken on this matter at the earliest. We will place this matter again before the hon. Minister.

I can only say on behalf of my Department that we are always making efforts in this regard. We are trying to take a decision without any delay but as per the procedure, no Ministry can take on their own decision under Allocation of Business Rules. Probably this matter may be taken to the Cabinet. Whatever steps are to be initiated will be taken up at the earliest. We can only do this and we are doing."

22. The Committee desired to know the legal impediments, if any in extending the age relaxation to OBCs. The representative submitted that there was no legal hurdle in the matter. It is only a policy decision.

23. The Committee further enquired whether the Ministry had conducted any survey regarding the backward classes un-employed people during the period between the date of the assurance and till date. The representative gave the following information:—

"No survey has been conducted and such a survey can't be easily carried out. But it can be ascertained at the end of the results by the UPSC as to how many candidates who had applied for the examination hoping for age relaxation, were not issued examination tickets. But it will take time. If the hon. Members so desire, we will make an effort to get that information".

24. The Committee enquired whether the Ministry is also considering relaxation in qualification alongwith age relaxation. To it, the representative submitted in negative and further submitted that it was a question of age relaxation only.

Recommendations/Observations

25. The Committee take notice of the fact that the Supreme Court had in the **Mandal Case Judgement**, upheld 27% reservation for OBCs in Civil Services and Posts under the Government of India subject to the exclusion of the "Creamy Layer". The Government of India did not implement the Supreme Court Judgement in letter & spirit as the Department of Personnel & Training had issued an order on September 8, 1993 for providing 27% reservation in Civil Services Examination and Posts under the Government of India for OBCs and subsequently the Department of Personnel issued another order on October 22, 1993 stating that "no other relaxation/concession is admissible to OBCs". After it, the Members of Parliament raised the matter regarding age relaxation to the candidates appearing in All India Civil Services Examination on different occasions but the matter was kept pending for reasons best known to the Government of India. The Committee on Government Assurances called the representatives of the Ministry of Welfare on November 7, 1994 to know the status of assurances regarding age relaxation to OBCs. The representatives submitted that the matter was taken up with the Department of Personnel & Training in January, 1994 and in turn the Department of Personnel & Training approached the UPSC for accepting the reduced standards for the Civil Services Examination of 1994. The UPSC has since agreed to it. The Department of Personnel & Training is closely monitoring the percentage of those candidates amongst the OBCs who have qualified the Civil Services Examination, 1994 with the reduced standard. In case the 27% candidates do not get a place in the final list than the Government might reconsider granting extension of the age relaxation to OBCs.

26. The Committee find that the Ministries of Welfare and Personnel, Public Grievances & Pension (Dept. of Personnel & Training) have been trying to make such a simple issue into a complicated one by following the past procedures in respect of age relaxation to SCs/STs by furnishing the facts that the age relaxation in respect of SCs/STs was extended in the year 1952 to the Non-Gazetted posts and thereafter it was extended to Gazetted posts in the year 1955.

27. The Committee observe that the assurance has been given on December 16, 1993 regarding age relaxation to OBCs in Civil Services

Examination and the matter of such an important magnitude has remained undecided for such a long time. It is also not justified to correlate this issue with the issue which had already been decided way back in 1952 while deciding the question of granting relaxation to SCs/STs candidates. That issue was at initial policy stage whereas this issue for age relaxation to OBCs is only in furtherance of that policy matter and yet it has been pending for a long time.

28. Again on March 1, 1994, the Minister of Welfare promised that ... "I shall think over it".

29. The Committee feel that in case the age relaxation is given to OBCs and the UPSC accepts the reduced standards for Civil Services Examination a larger number of candidates from amongst these communities will be available.

30. In view of the above, the Committee desire that the Ministry of Welfare should take a policy decision in consonance with the decision of the Supreme Court and the promises made on the floor of the House. The Committee Emphatically recommend that a final decision should be taken before the announcement of the next All India Civil Services Examination.

NEW DELHI;
November 30, 1994

Agrahayana 9, 1916 (Saka)

BASUDEB ACHARIA,
Chairman,
Committee on Government Assurances.

APPENDIX I
MINUTES
FIFTEENTH SITTING

MINUTES OF THE SITTING OF THE COMMITTEE ON GOVERNMENT ASSURANCES HELD ON NOVEMBER 7, 1994, IN PARTY MEETING ROOM NO. 139, PARLIAMENT HOUSE ANNEXE, NEW DELHI

The Committee met on Monday, November 7, 1994 from 15.00 hrs. to 16.00 hrs.

PRESENT

Shri Basudeb Acharia—Chairman

MEMBERS

2. Shri Gurcharan Singh Dadhahoor
3. Shri P.P. Kaliaperumal
4. Major D.D. Khanoria
5. Shri Surendra Pal Pathak
6. Shrimati Suryakanta Patil
7. Shri Nawal Kishore Rai
8. Shri G. Ganga Reddy
9. Shri Yoganand Saraswati
10. Shri V.S. Vijayaraghavan

SECRETARIAT

Shri Murari Lal	— <i>Joint Secretary</i>
Shri Joginder Singh	— <i>Director</i>
Shri Madan Lal	— <i>Assistant Director</i>

REPRESENTATIVES OF THE MINISTRY OF WELFARE

1. Shri V.S. Ailawadi, Additional Secretary (W)
2. Shri M.S. Pandit, Joint Secretary (Welfare)
3. Smt. Majula Krishnan, Director (BCC)

2. The Committee took oral evidence of the representatives of the Ministry of Welfare in connection with the following pending assurances given on (i) December 16, 1993 in reply to USQ No. 2311 and (ii) March 1, 1994 in reply to point raised during zero hour regarding relaxation in age for other backward classes (OBCs).

3. At the outset, the Chairman drew the attention of the representatives to direction 58 of the Directions by the Speaker and explained to them that their evidence was likely to be treated as public and liable to be published unless the representatives specifically desire that all or any part of the evidence given by them was to be treated confidential. It was also explained to the representatives that even though the evidence

was desired to be confidential such evidence was liable to be made available to the Members of Parliament.

4. The Committee enquired about the delay in the implementation of the assurances. While giving general statement the representatives stated as follows:—

“This is a matter of great importance. As regards reservation to OBCs, the policy of the Government on reservation and the steps taken by the Ministry of Welfare, I would like to mention that we have already taken certain steps. Based on the Supreme Court's decision on Mandal case, the Government have implemented the reservation for OBCs on the 8th of September, 1993. The orders were issued by the Department of Personnel and Training providing for 27 percent reservation of vacancies in favour of OBCs. Again in October 1993, detailed instructions were issued by the Department of Personnel and Training with regard to the roster system, which was 200 point roster, and the format of maintaining of the 200 point roster. These instructions were issued to the Central Government and other Recruitment Agencies under the Central Government. Recently there have been representations from the members of Parliament to the Ministry of Welfare and also to the Department of Personnel and Training. These representations mainly related to the question of age relaxation. While we are considering this matter, at the same time, we have taken some major important steps. The Department of Personnel and Training have also agreed with the Ministry of Welfare. Instructions were issued to the UPSC. The UPSC has agreed to accept the reduced standards for the Civil Service Examinations of 1994. The reduced standards are almost similar to those meant for the Scheduled Castes and Tribes. You will be glad to know that the UPSC has published the first list of candidates at the reduced standards. We also took up with the DOPT that the total number of OBC candidates who have been qualified, as per the list, did not come up to 27 percent of the total candidates who have passed the preliminary examination. So at the instance of the Ministry of Welfare, the Department of Personnel and Training issued further instructions to the UPSC. Subsequently, the UPSC released another list. Both the lists put together, the total number of OBC candidates who have been declared eligible for the Main Examination comes to 3098 and all these candidates have been declared eligible for the Main examination. As for reservation for OBC to the extent of almost 26 percent was maintained. It shows that a number of candidates from OBCs have got a chance for appearing in the Main Examination proportionate to the reservation provided for them.”

5. The Committee categorically pointed that the issue was regarding age relaxation in various examinations and not the reservation for OBCs and enquired about the steps taken by the Ministry in this direction. The

representative explained that the assurance was given in December 1993 and they took up the issue of age relaxation with the Department of Personnel and Training in January, 1994. It was the Department of Personnel which should issue such directions with regard to the age relaxations for the recruitments in the Civil Service Examinations.

6. The representative further submitted as follows:—

“Department of Personnel also handle some of the questions which were concerned with certain other legislation for OBCs for Civil Services. They took a view that we have only recently taken a decision to allow reservation for the Civil Services Examination, 1994 the results of which are going to be out. Their view has been that it is worthwhile to have some experience. They feel that the policy has just been enunciated and the first All-India Civil Services Examination 1994 was the Preliminary Examination held in June this year. They felt that we should see the experience as to how many candidates belonging to OBCs were there to take up the main examination. If the number of OBC candidate was not sufficient or if we do not get sufficient persons, then the Department of Personnel would like to consider the matter separately. Their view was that we should first have an experience of the results of All-India Examination to know whether sufficient candidates come forward to take up the examination and how many of them are successful. If the number of successful candidates of OBCs is more than 27 percent we should think of adopting it as a regular feature. They wanted to have this experience before taking any decision”.

7. The Committee desired to have the comments of the representative on the recommendation of the Mandal Commission to allow the age relaxation to OBCs almost at par with the SCs/STs. The representative made a reference of the Supreme Court judgement in Indira Sawhney case and stated:

“In our opinion, where the State finds it necessary for the purpose of giving full effect to the provision of reservation to provide certain exemptions, concessions or preferences to members of the backward classes, it can extend the same under Clause 4 itself. In other words, all supplementary and ancillary provisions can be made as part of the concept of reservation itself.

What is important is where the State finds it necessary for giving full effect to the concern of reservation. The concern of the Ministry of Welfare has been to ensure that 27 per cent reservation quota, which has been provided for OBCs, is fully implemented. We in the Ministry of Welfare did, at one point of time, had an apprehension on the basis of the apprehension expressed by the hon. members of the Parliament that although we had provided 27% quota for the OBC; we may not get adequate number of OBC candidates for

competing in this examination. At that point of time the thinking was that this issue be examined as to whether the age relaxation should be extended to the other backward classes also or not. The question is not of simply equating to OBCs with SCs/STs. The basic need is to ensure implementation of the reservations' provided. The decision making process in the Government takes time since it goes through so many steps. While the proposal was being examined and being considered at certain levels a major development that took place has an important bearing on this also. The Government accepted the demand for extending the facility of relaxed standard for OBCs. That is what I would like to submit for your consideration. The idea behind this is to effectively implement the concept of reservation."

8. The Committee, thereafter, questioned how there could be an effective implementation without extending age relaxation to OBCs. In reply the representative submitted as follows:

"The reservation would be effectively implemented if we are able to find eligible number of candidates from out of OBCs so that certain criteria and standards could be laid down. Now, one of the important things that has been done by the Government is to extend the relaxed standards to the extent it is necessary to fulfil the reservation Quota. The department of Personnel and Training in their letter have stated that relaxation will certainly be given. Now, we are coming to the end of the Civil Services Examination for 1994 and since the main examinations have already been completed let the results be out. Only after that we will see and review whether we have actually been able to effectively implement the reservation policy or not".

9. The representative further submitted as follows:

"The Department of Personnel and Training in their letter dated 13th October have stated that for filling the quota of OBCs age relaxation can be provided to them as in the case of SC/ST candidates. Now, the emphasis here is on fulfilling the quota earmarked and I suppose that is germane to the effective implementation".

10. The Committee again enquired when the review would take place and whether it would be conducted independently by the Ministry of Welfare or jointly by the Ministry of Personnel witness replied as follows:

"The matter is being deeply followed up and consultations are going on with the Department of Personnel. Apart from the Department of Personnel we are also taking the views of the Law Ministry into account. We are also thinking very seriously about the age relaxation. As you have rightly said, Mandal Commission has also made a recommendation to this effect. The Department of Personnel was saying that let us first have the experience of at least, one Civil Services Examinations before extending the facility of age relaxation to OBCs. We will be able to know whether the requisite number of

27 per cent of OBC candidates have qualified in the examination without giving age relaxation or not. All these statistics are very important for taking a congenit and logical decision. This particular matter has been discussed jointly and a decision will be taken in consultation with the concerned Ministries. This is an issue where the matter would have to go up to the highest level. The process is seriously on".

The matter will be reviewed and if there is need for age relaxation also then it will be extended. In this connection, I draw your attention to the judgement of Supreme Court which ways:

"The question is whether the said words contemplate only one from of provision, namely, reservation simplicitor or do they take any other forms of special provisions like preferences, concessions and examinations. In our opinion reservation is the highest form of special provision while preference, concessions and examinations are lesser forms. The constitutional scheme and context of Article 16(4) induces us to take the view of larger concept of reservations, takes within its sweep all supplemental and ancillary provisions as also lesser types of special provisions like examinations, concessions and relaxations consistent, no doubt, with the requirement of maintenance of efficiency of administration and admonition of Article 335".

So, after the review if it is felt necessary that further concession like age relaxation or any other concession is necessary, we will have no hesitation on that. It may further be stated that consultations are going on at the highest level and have also sought the views of other Ministries. In due course the results of the Civil Services Examination of 1994 will also be declared. As the scheme of reservation for OBCs has just started it is necessary to watch its implementation for some more time before extending the age relaxation to OBCs for examination. The view of the Department is that let us first see the results of the preliminary examination so that the exact number of boys who have qualified for the general examination on the basis of reduced standards which the Department of Personnel have now notified for OBCs on the lines of the SC/ST candidates could be known. We hope that the number of successful candidates would be according to the reservation quota. Should it be necessary to extend age relaxation to OBCs the Government will consider it.

11. The Committee further enquired whether there will be any discrimination in extending age relaxation to the OBCs as has been extended to SCs/STs. The representative submitted as below:—

"The Supreme Court had made that distinction because there are certain aspects of reservation where they have given a different dispensation in respect of SCs/STs as compared to OBCs. For instance, the Supreme Court while ordering that the 'creamy layer'

should be excluded from the backward classes of citizens. they specifically excluded the SCs/STs from that."

The SCs/STs have to be seen as a category apart from other backward classes, that is, in the scheme, of things as ordered by the Supreme Court. Therefore, we do not say that this is a sort of closed chapter. Government will have an open mind on this and if at any point of time it becomes necessary to extend any relaxation or concession, the Government will certainly consider it. But it depends on the review".

12. The Committee pointed out that the Ministry should have furnished the required information within three months from the date of the assurance but the Ministry had already taken full one year as the assurance was given in December, 1993. To it, the representative clarified as follows:

"In fact, till the last night we were wanting to come to some decision. What I am saying is that we should wait till the results come. But nevertheless, we in the Ministry of Welfare, which is a nodal Ministry for matters relating to OBCs and backward classes, are certainly moving in that direction to get the final decision of the Government as quickly as possible. The issue of reservation is very serious and attracts more and more discussions. All the decisions in this regard should be well considered and farsighted. We will proceed in the matter after consulting different units of the Government. The Ministry of Welfare invites all the concerned Ministries and discuss this issue. The matter is also being considered at high level in the Department of Personnel and Training. I want to draw your attention towards the fact that although provision of reservation was there but the relaxation in age for non-Gazetted SCs/STs was given from 1952. Age relaxation for the Gazetted posts was given since 1955.

The assurances have been given in Parliament saying that we are actively considering it. I have given my deposition earlier as to what steps we have taken since December. The Hon. Minister himself wrote to the Ministries concerned. We held discussions with the Ministries in the next three or four months. Then, we also referred the matter to the Law Ministry in the month of April. They gave the reply in May. It was sent to the Ministries concerned. The decision has to be taken in consultation with the Ministries concerned. The Ministry of Law, Department of Personnel and Training and the Cabinet Secretariat are involved in this matter. The Government have taken a policy decision. We are making serious efforts to expedite a decision at the highest level. It is a matter of great significance. We are posted with each and every development. Whenever a view was put forth, immediately we examine and send

to the concerned Ministries. The process of consideration is going on. The decision is to be taken at the Ministries level. There is no higher level than the Minister. The question is being examined.

I cannot give any time frame. I can only say that we will try and take a decision as early as possible. We have reached a stage where some decision will be taken sooner than expected."

13. The Committee desired to know the fate of these candidates belonging to OBCs who had crossed the prescribed age limit for appearing in All India Civil Services Examination and enquired whether a chance would be given to them to appear in the All India Civil Services Examination for the year 1995. The Committee also drew attention of the representatives in case the age relaxation is also given to OBCs, the better quality of the candidates from amongst these communities will be available. The representative submitted as follows:

"The matter is under consideration. We have taken it seriously soon after the assurance was given. A letter was issued on behalf of the Hon. Minister also. We took this matter to PMO. It was discussed there also. We told Ministry of Law in the month of May that this is the judgement of the Supreme Court under which you can do this thing. Then we, forwarded these details to Department of Personnel. Other Ministries were also intimated about this and they were asked to take decision on it as early as possible. It is being considered seriously at every level for the last 3 to 4 months. We are of the view that we should have convincing figures because any one can ask from the Government that on what ground they have taken decision on it. Therefore, it becomes necessary to put it on test. But I would like to give assurance that there has not been any delay in this matter. It is our effort that decision is taken on this matter at the earliest. We will place this matter again before the hon. Minister.

I can only say on behalf of my Department that we are always making efforts in this regard. We are trying to take a decision without any delay but as per the procedure, no Ministry can take on their own decisions under Allocation of Business Rules. Probably this matter may be taken to the Cabinet. Whatever steps are to be initiated will be taken up at the earliest. We can only do this and we are doing."

14. The Committee desired to know the legal implications, if any in extending the age relaxation to OBCs. The representatives submitted that there was no legal hurdle in the matter. It is only a policy decision.

15. The Committee further enquired whether the Ministry had conducted any survey regarding the backward classes unemployed people during the period between the date of the assurance and till date. The representatives gave the following information:

"No survey has been conducted and such a survey can't be easily

carried out. But it can be ascertained at the end of the results by the UPSC as to how many candidates who had applied for the examination hoping for age relaxation, were not issued examination tickets. But it will take time. If the hon. Members so desire, we will make an efforts to get that information."

16. The Committee enquired whether the Ministry is also considering relaxation in qualification alongwith age relaxation : To it, the representative submitted in negative and further submitted that it was question of age relaxation only.

17. In the concluding remarks the Committee expressed that the Ministry should come to a conclusion in regard to the age relaxation for OBCs and that an expeditious decision would be taken before the next Civil Services Examination which is likely to be announced in December, 1994.

The Committee then adjourned.

APPENDIX II

MINUTES

Seventeenth Sitting

MINUTES OF THE SITTING OF THE COMMITTEE ON GOVERNMENT ASSURANCES HELD ON NOVEMBER 30, 1994 IN THE PARTY MEETING ROOM NO. 139, PARLIAMENT HOUSE ANNEXE, NEW DELHI

The Committee met on Wednesday, November 30, 1994 from 15.00 hours to 15.45 hours.

PRESENT

Shri Basudeb Acharia — *Chairman*

MEMBERS

2. Shri P.P. Kaliaperumal
3. Shri Surendra Pal Pathak
4. Shri Nawal Kishore Rai
5. Shri Yoganand Saraswati
6. Shri V.S. Vijayaraghavan

SECRETARIAT

1. Shri Murari Lal — *Joint Secretary*
2. Smt. P.K. Sandhu — *Director*
3. Shri Madan Lal — *Assistant Director*

2. The Committee considered the draft Twenty-sixth Report and adopted the same after amending Paras 26 and 30 as under:—

“Para 26 The Committee find that the Ministries of Welfare and Personnel, Public Grievances & Pensions (Department of Personnel & Training) have been trying to complicate a simple issue by citing the past procedures in respect of age relaxation given to SCs/STs according to which the age relaxation in respect of SCs/STs was extended in the year 1952 to the Non-Gazetted posts and thereafter it was extended to the Gazetted posts in the year 1955.

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Para 30. In view of the above, the Committee desire that the Ministry of Welfare should take a policy decision in consonance with the decision of the Supreme Court and the assurance given on the floor of the House. The Committee emphatically recommend that a final and positive decision in line with relaxation given to other categories should be taken before the announcement of the next All India Civil Services Examination”.

3. The Committee authorised the Chairman to present the Report to the House on the first day of the ensuing Winter Session.

The Committee then adjourned.