



**KARNATAKA LEGISLATIVE ASSEMBLY
FIFTEENTH LEGISLATIVE ASSEMBLY
SECOND SESSION**

**THE KARNATAKA CIVIL SERVICES (PROCEDURE FOR SELECTION OF
CANDIDATES DURING RECRUITMENT) BILL, 2018**

(LA Bill No. 14 of 2018)

A Bill to provide for selection procedure for recruitment of candidates to any service or post under the civil services of the State.

Whereas the Selection Authorities or Recruiting Agencies are following selection procedure as prescribed in the Karnataka Recruitment of Gazetted Probationers (Appointment of Competitive Examination) Rules, 1997, in respect of Gazetted Probationers and in the Karnataka Civil Services (Direct Recruitment by Competitive Examinations and Selection) General Rules, 2006, in respect of service or post where no Special or General method of recruitment is prescribed by the State Government in respect of Group 'A', 'B', 'C' and 'D' posts. Where the State Government frames Special or General recruitment rules with procedure specified therein they are being followed by the recruiting agencies for preparation of select list;

Whereas different ratios are being followed in the process of selection of candidates for preparing list of the candidates eligible for written Competitive examination, main examination and the manner of preparing eligible candidates for personality test in accordance with the rules applicable for selection:

Whereas nowhere in these rules have specified the method of preparing list of candidates belonging to the Scheduled Castes, Scheduled Tribes, Other Backward Classes and others;

Whereas Government Order No. DPAR 20 SBC 1994, dated: 3rd May 1994 and DPAR 08 SBC 1995, dated: 20th June 1995 has specified the mode of selection of eligible candidates as list of the Scheduled Castes, Scheduled Tribes, Other Backward Classes and others who are eligible for final selection list and additional list, the above method is being followed since 3rd May 1994. The provisions of the said order reads as follows:-

- "(a) The concerned Selection Authority shall first prepare consolidated list of all eligible applicants irrespective of their caste, tribe, class and arrange them in the order of merit (hereinafter called the First List).

- (b) The Selection Authority shall then prepare from out of the first List, a second list (hereinafter called the Second list) containing the names of applicants equal to the number of posts to be filled up on the basis of general merit (i.e. the number of posts other than those reserved in favour of Scheduled Castes, Scheduled Tribes and other Backward Classes) arranging them in the order of merit commencing with the first name in the First List.
- (c) The Selection Authority shall then prepare from out of the First List, excluding the portion forming the Second List, a Third List (hereinafter called the Third List) containing the names of applicants belonging to the Scheduled Castes, Scheduled Tribes and other groups of Backward Classes equal to the number of vacancies reserved for each reserved category in the order of merit determined in the First List.
- (d) The Selection Authority shall then prepare a final list (which may called the Main List) of selected candidates for appointment to the category of posts for which selection is made by arranging the names of candidates included in the Second List and the Third List in the order of merit.
- (e) Where the 'Additional List' has to be prepared in accordance with rules of recruitment, the Selecting Authority shall prepare the additional list by adopting the method mentioned at (a), (b), (c) and (d) above, from among the name excluding the names which are included in the Main List, from the first list.";

Whereas the division bench of the High Court of Karnataka in Kaleel Ahmed K.P and others vs. State of Karnataka in writ petition no. 27674/2012 C/W 41366/2012, dated 21.06.2016 and other has held that,-

"135. As could be seen from the scheme of examination as provided in clause (A), the number of candidates to be admitted to the main examination shall be 20 times the vacancies notified for recruitment in the order of merit, on the basis of the performance in the preliminary examination subject to accommodating the same ratio in adequate number of candidates belonging to the categories of Scheduled Castes, Scheduled Tribes, each of the Other Backward Classes and Others. The word used is "same ratio". i.e., the number of candidates to be admitted to the main examination should be in the same ratio means the number of candidates belonging to Scheduled Castes, Scheduled Tribes and each of the Backward Classes and Others should be equal to that of the candidates who do not belong to the said category. The word used is adequate number of candidates. In other words, the number of candidates belonging to the unreserved category who are admitted to the written examination and number of candidates belonging to

the reserved category who should be admitted to the reservation, should be the same. Therefore, two lists have to be prepared, one is the list showing candidates belonging to the unreserved category and the second list showing the reserved category. While preparing these two lists there is no intense merit to be taken note of. These lists are list of candidates eligible to take the written examination and not list of candidates suitable for employment in the order of merit, which is called the First List in the Government Order dated 03.05.1994. Similarly, after the written examination also while calling the said successful candidates to the personality test, the same procedure is to be followed. i.e., prepare 2 lists, one list of unreserved candidates and one list of reserved candidates in order of merit. These two lists are list of candidates eligible to be called for personality test. It is not a list of candidates suitable for employment. It is only after completion of the personality test, the marks secured by each candidate in the written examination and personality test is totaled and a consolidated list of eligible candidates irrespective of their caste, tribe, class is arranged. The said Government Order is to be followed only at the stage of preparation of list of candidates suitable for appointment under Rule 11 as is clear from the wordings of Rule 11. At the time of admitting candidates for written examination and at the time of calling the candidates for personality test, the number of candidates to be admitted to the written examination and called for personality test should be in the same ratio of persons belonging to reserved category and unreserved category. Clauses (A) and (C) specifically refers to the word 'same ratio'. Therefore, at that stage the question of any meritorious unreserved category candidate being called either for written examination or for the personality test as an unreserved category would not arise. By wrongly applying these Government Orders at this two stages, substantial number of unreserved candidates who are meritorious are denied the opportunity to take the written examination as well as the personality test. The understanding of KPSC that Rules of 1997 do not provide as to the manner in which the ratio of 1:20 and 1:5 has to be carried out is erroneous, in the light of the express provision setting out how the list of candidates to be admitted to the written examination and list of candidates to be called for the personality test. Therefore, the error is apparent.

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167. It is now well entrenched principle of law that those members belonging to reserved category who get selected in the open competition on the basis of their own merit have right to be included in the general list/unreserved category and not to be counted against the quota reserved for Scheduled Caste. Reserved category candidate who is adjudged more meritorious than open category candidates is entitled to choose the

particular service/cadre/post as per his choice/preference and he cannot be compelled to accept appointment to an inferior post leaving the more important service/cadre/post in the reserved category for less meritorious candidate of that category.

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169. From the aforesaid discussion, it is clear that, the KPSC has followed the procedure prescribed in the Government Orders dated 3.5.1994 and 20.06.1995 in preparing the eligibility list of candidates who are admitted to the written examination and who are to be called for the personality test in 1998, 1999 and 2004 batch. It is illegal. It is contrary to the Rules. The said Government Order has to be applied after the personality test is over and at the time of preparation of list of candidates suitable for appointment under Rule 11 only. Thus, admittedly the ratio prescribed in the Rules has not been followed. The resultant position is, meritorious candidates from the unreserved category are denied the opportunity to take the written examination and also denied the opportunity for being called for the personality test. It violates Article 14 and 16(1) of the Constitution. It also violates the Rules and the Government Order referred to supra and, therefore, we have no hesitation in holding that the procedure followed by the KPSC in preparing the list of candidates who are admitted to the written examination and the list of candidates who are to be called for the personality list is unconstitutional and contrary to the Rules and the Government Order referred to supra.

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164. In the case of **UNION OF INDIA Vs. RAMESH RAM AND OTHERS** reported in **(2010) 7 SCC 234**, the Constitution Bench of the Apex Court dealing with the question of migration of meritorious reserved candidates from general merit to the reserved category held as under:

“72. 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 reserved 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 selected 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 Articles 14, 16 (4) and 335 of the Constitution."

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ORDER

(1) The procedure followed by the KPSC in preparing the list of candidates who are admitted to the written examination and the list of candidates who are called for the personality test in 1998, 1999 and 2004 for the post of Gazetted Probationers (Group A and B Posts) is unconstitutional, contrary to the Rules and the Government Orders.

However, on that ground, the entire selection of 1998, 1999 and 2004 batch selection cannot be set aside.

Segregation of tainted/ineligible candidates is possible. The KPSC shall undertake the following exercise to segregate the ineligible candidates:

- (a) The KPSC shall prepare a separate list of candidates belonging to the reserved category, who took the written examination, showing the marks secured in the written examination in the order of merit.
- (b) From out of the names in the said list prepared, prepare a list of candidates eligible to be called for the personality test in the ratio of 1:5, i.e., five times the number of candidates as there are vacancies reserved for each of the category out of reserved posts belonging to Scheduled Caste, Scheduled Tribes and other backward classes.
- (c) If the names of the selected candidates belonging to the reserved category finds a place in this list, whether as General Merit candidates or reserved candidates, then their appointment is valid and it shall not be disturbed.
- (d) If the names of the selected candidates do not find a place in this list, then their appointment is void and the same is hereby set aside.
- (e) The KPSC shall undertake this exercise within two months from the date of receipt of the copy of this order and forward the same to the Government for passing appropriate orders.

(2) The revised list prepared by the KPSC in terms of the order dated 11th October 2002 in W.P.No. 12548-589/2002 which is affirmed by the Apex Court in Civil Appeal No. 6172-6222/2005 vide Order dated 6th October, 2005, which was submitted to the Court by the KPSC in a sealed cover, which was web-hosted by virtue of the order dated 11.11.2014 of this Court, is upheld. The KPSC and the State Government shall give effect to the said list;

Whereas the above Judgement of the Honourable High Court was challenged in the Honourable Supreme Court in Gopalkrishnah N and others Vs. the State of Karnataka and others in SLP No. 29245/2016 where in it has held on 11.04.2018 as follows,-

"Upon hearing the counsel the Court made the following ORDER

Heard learned counsel for the parties.

Delay condoned.

We do not find any ground to interfere with the impugned order. The special leave petitions are, accordingly, dismissed.

Pending application (s), if any, shall also stand disposed of."

Whereas the Honourable Supreme Court in Jitendra Kumar Singh & Anr Vs. State of U.P. & Ors in C.A. No. 74/2010, has held on 08.01.2010 as follows,-

"52. From the above it becomes quite apparent that the relaxation in age limit is merely to enable the reserved category candidate to compete with the general category candidate, all other things being equal. The State has not treated the relaxation in age and fee as relaxation in the standard for selection, based on the merit of the candidate in the selection test i.e. Main Written Test followed by Interview. Therefore, such relaxations cannot deprive a reserved category candidate of the right to be considered as a general category candidate on the basis of merit in the competitive examination."

Whereas it is expedient to clarify as to how a list of eligible candidates has to be prepared for the purpose of competitive main examination, personality test and the manner of preparation of final and additional list.

Be it enacted by the Karnataka State Legislature in the sixty ninth year of the Republic of India, as follows:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Civil Services (Procedure for Selection of Candidates during Recruitment) Act, 2018.

(2) It shall be deemed to have come into force with effect from 3rd day of May 1994.

2. Procedure of selection of candidates for competitive main examination, preliminary test, final select list and additional list.- Notwithstanding anything contained in any Act or rules made or deemed to have been made under the Karnataka State Civil Services Act, 1978 (Karnataka Act 14 of 1990) relating to method of recruitment and selection to any service or post under the State, every selection Authority shall,-

- (i) while preparing a list of eligible candidates in the ratio prescribed for competitive main examination; or
- (ii) while preparing a list of eligible candidates in the ratio prescribed for personality test;

prepare a list of eligible candidates in the ratio in which candidates are to be called for, in the following procedure, namely:-

- (a) The concerned selection Authority shall first prepare consolidated list of all eligible applicants irrespective of their caste, tribe, class and arrange them in the order of merit without considering their caste, tribe or class belong to (hereinafter called the First List).
- (b) The selection Authority shall then prepare from out of the First List, a second list (hereinafter called the Second list) containing the names of applicants equal to the number of candidates required to be called for in the ratio prescribed in respect of posts to be filled up on the basis of general merit without considering their caste, tribe or class (i.e. the number of posts other than those reserved in favour of Scheduled Castes, Scheduled Tribes and other Backward Classes) arranging them in the order of merit commencing with the first name in the First List.

- (c) The selection Authority shall then prepare from out of the First List, excluding the portion forming the Second List, a third List (hereinafter called the Third List) containing the names of applicants belonging to the Scheduled Castes, Scheduled Tribes and other groups of Backward Classes equal to the number of candidates required to be called for in the ratio prescribed with reference to the posts reserved for each reserved category in the order of merit determined in the First List.
- (iii) while preparing a Final Selection list for appointment; and
- (iv) while preparing a Additional list.
- (a) The concerned selection Authority shall first prepare consolidated list of all eligible applicants irrespective of their caste, tribe, class and arrange them in the order of merit without considering their caste, tribe or class belong to. (hereinafter called the First List).
- (b) The selection Authority shall then prepare from out of the First List, a second list (hereinafter called the Second list) containing the names of applicants equal to the number of posts to be filled up on the basis of general merit without considering their caste, tribe or class (i.e. the number of posts other than those reserved in favour of Scheduled Castes, Scheduled Tribes and other Backward Classes) arranging them in the order of merit commencing with the first name in the First List.
- (c) The selection Authority shall then prepare from out of the First List, excluding the portion forming the Second List, a third List (hereinafter called the Third List) containing the names of applicants belonging to the Scheduled Castes, Scheduled Tribes and other groups of Backward Classes equal to the number of vacancies reserved for each reserved category in the order of merit determined in the First List.
- (d) The selection Authority shall then prepare a final list (which may called the Main List) of selected candidates for appointment

to the category of posts for which selection is made by arranging the names of candidates included in the Second List and the Third List in the order of merit.

- (e) Where the 'Additional List' has to be prepared in accordance with rules of recruitment, the Selecting Authority shall prepare the additional list by adopting the method mentioned at (a), (b), (c) and (d) above, from among the name excluding the names which are included in the Main List, from the first list.

Provided that, despite providing concession of fees, age or other relaxation given to a candidate belonging to the Scheduled Castes or Scheduled Tribes or other backward classes, he shall be considered as a general merit candidate on the basis of merit in every level of selection for competitive main examination, personality test, final selection list or additional selection list.

3. Validation of action taken.- Notwithstanding anything contained in any judgement decree or order of any court tribunal or other authority contrary of section 2 of this Act, any action taken or done in respect of any selection, for recruitment made or purporting to have been made and any action or thing done or taken by a selection Authority on or after 3rd May 1994 in pursuance to the Government orders or rules issued in this behalf before publication of this Act shall be deemed to be valid in relation to selection of candidates for competitive main examination, personality test, final list and additional list and effective as if those selections or action or thing has been made, taken or done under and in accordance with the provisions of this Act and accordingly,-

(a) no suit or other proceedings shall be maintained or continued in any court or any tribunal or before any authority for the review of any such promotions contrary to the provisions of this Act; and

(b) no court shall enforce any decree or order to direct the review of any such cases contrary to the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

It is considered necessary to provide for selection procedure for recruitment of candidates to any service or post under the civil services of the State.

Whereas the Selection Authorities or Recruiting Agencies are following selection procedure as prescribed in the Karnataka Recruitment of Gazetted Probationers (Appointment of Competitive Examination) Rules, 1997, in respect of Gazetted Probationers and in the Karnataka Civil Services (Direct Recruitment by Competitive Examinations and Selection) General Rules, 2006, in respect of service or post where no Special or General method of recruitment is prescribed by the State Government in respect of Group 'A', 'B', 'C' and 'D' posts. Where the State Government frames Special or General recruitment rules with procedure specified therein they are being followed by the recruiting agencies for preparation of select list;

Whereas different ratios are being followed in the process of selection of candidates for preparing list of the candidates eligible for written Competitive examination, main examination and the manner of preparing eligible candidates for personality test in accordance with the rules applicable for selection;

Whereas nowhere in these rules have specified the method of preparing list of candidates belonging to the Scheduled Castes, Scheduled Tribes, Other Backward Classes and others;

Whereas Government Order No. DPAR 20 SBC 1994, dated: 3rd May 1994 and DPAR 08 SBC 1995, dated: 20th June 1995 has specified the mode of selection of eligible candidates as list of the Scheduled Castes, Scheduled Tribes, Other Backward Classes and others who are eligible for final selection list and additional list, the above method is being followed since 3rd May 1994. The provisions of the said order reads as follows:-

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- (c) The Selection Authority shall then prepare from out of the First List, excluding the portion forming the Second List, a Third List (hereinafter called the Third List) containing the names of applicants belonging to the Scheduled Castes, Scheduled Tribes and other groups of Backward Classes equal to the number of vacancies reserved for each reserved category in the order of merit determined in the First List.
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dated 03.05.1994. Similarly, after the written examination also while calling the said successful candidates to the personality test, the same procedure is to be followed. i.e., prepare 2 lists, one list of unreserved candidates and one list of reserved candidates in order of merit. These two lists are list of candidates eligible to be called for personality test. It is not a list of candidates suitable for employment. It is only after completion of the personality test, the marks secured by each candidate in the written examination and personality test is totaled and a consolidated list of eligible candidates irrespective of their caste, tribe, class is arranged. The said Government Order is to be followed only at the stage of preparation of list of candidates suitable for appointment under Rule 11 as is clear from the wordings of Rule 11. At the time of admitting candidates for written examination and at the time of calling the candidates for personality test, the number of candidates to be admitted to the written examination and called for personality test should be in the same ratio of persons belonging to reserved category and unreserved category. Clauses (A) and (C) specifically refers to the word 'same ratio'. Therefore, at that stage the question of any meritorious unreserved category candidate being called either for written examination or for the personality test as an unreserved category would not arise. By wrongly applying these Government Orders at this two stages, substantial number of unreserved candidates who are meritorious are denied the opportunity to take the written examination as well as the personality test. The understanding of KPSC that Rules of 1997 do not provide as to the manner in which the ratio of 1:20 and 1:5 has to be carried out is erroneous, in the light of the express provision setting out how the list of candidates to be admitted to the written examination and list of candidates to be called for the personality test. Therefore, the error is apparent.

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167. It is now well entrenched principle of law that those members belonging to reserved category who get selected in the open competition on the basis of their own merit have right to be included in the general list/unreserved category and not to be counted against the quota reserved for Scheduled Caste. Reserved category candidate who is adjudged more meritorious than open category candidates is entitled to choose the particular service/cadre/post as per his choice/preference and he cannot be compelled to accept appointment to an inferior post leaving the more important service/cadre/post in the reserved category for less meritorious candidate of that category.

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169. From the aforesaid discussion, it is clear that, the KPSC has followed the procedure prescribed in the Government Orders dated 3.5.1994 and 20.06.1995 in preparing the eligibility list of candidates who are admitted to the written examination and who are to be called for the personality test in 1998, 1999 and 2004 batch. It is illegal. It is contrary to the Rules. The said Government Order has to be applied after the personality test is over and at the time of preparation of list of candidates suitable for appointment under Rule 11 only. Thus, admittedly the ratio prescribed in the Rules has not been followed. The resultant position is, meritorious candidates from the unreserved category are denied the opportunity to take the written examination and also denied the opportunity for being called for the personality test. It violates Article 14 and 16(1) of the Constitution. It also violates the Rules and the Government Order referred to supra and, therefore, we have no hesitation in holding that the procedure followed by the KPSC in preparing the list of candidates who are admitted to the written examination and the list of candidates who are to be called for the personality list is unconstitutional and contrary to the Rules and the Government Order referred to supra.

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- 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 reserved 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 selected 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 Articles 14, 16 (4) and 335 of the Constitution."

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ORDER

(1) The procedure followed by the KPSC in preparing the list of candidates who are admitted to the written examination and the list of candidates who are called for the personality test in 1998, 1999 and 2004 for the post of Gazetted Probationers (Group A and B Posts) is unconstitutional, contrary to the Rules and the Government Orders.

However, on that ground, the entire selection of 1998, 1999 and 2004 batch selection cannot be set aside.

Segregation of tainted/ineligible candidates is possible. The KPSC shall undertake the following exercise to segregate the ineligible candidates:

- (a) The KPSC shall prepare a separate list of candidates belonging to the reserved category, who took the written examination, showing the marks secured in the written examination in the order of merit.
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- (e) The KPSC shall undertake this exercise within two months from the date of receipt of the copy of this order and forward the same to the Government for passing appropriate orders.

(2) The revised list prepared by the KPSC in terms of the order dated 11th October 2002 in W.P.No. 12548-589/2002 which is affirmed by the Apex Court in Civil Appeal No. 6172-6222/2005 vide Order dated 6th October, 2005, which was submitted to the Court by the KPSC in a sealed cover, which was web-hosted by virtue of the order dated 11.11.2014 of this

Court, is upheld. The KPSC and the State Government shall give effect to the said list;

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Delay condoned.

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Whereas it is expedient to clarify as to how a list of eligible candidates has to be prepared for the purpose of competitive main examination, personality test and the manner of preparation of final and additional list.

Hence, the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed Legislative measure.

H.D. KUMARASWAMY
Chief Minister

S. MURTHY
Secretary
Karnataka Legislative Assembly