

THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT) ACT, 2001

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[4th January, 2002.]

An Act further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-second Year of the Republic of India as follows:-

1.Short title and commencement.-(1) This Act may be called the Constitution (Eighty-fifth Amendment) Act, 2001.

(2) It shall be deemed to have come into force on the 17th day of June, 1995.

2.Amendment of article 16.-In article 16 of the Constitution, in clause (4A), for the words "in matters of promotion to any class", the words "in matters of promotion, with consequential seniority, to any class" shall be substituted.

SUBHASH C. JAIN,

Secy.to the Govt. of India.

STATEMENT OF OBJECTS AND REASONS

The Government servants belonging to the Scheduled Castes and the Scheduled Tribes had been enjoying the benefit of consequential seniority on their promotion on the basis of rule of reservation. The judgments of the Supreme Court in the case of Virpal Singh Chauhan (1995) 6 SCC 684 and Ajit Singh No. I AIR 1996 SC 1189, which led to the issue of the O.M. dated 30th January, 1997, have adversely affected the interest of the Government servants belonging to the Scheduled Castes and Scheduled Tribes category in the matter of seniority on promotion to the next higher grade. This has led to considerable anxiety and representations have also been received from various quarters including Members of Parliament to protect the interest of the Government servants belonging to Scheduled Castes and Scheduled Tribes.

2. The Government has reviewed the position in the light of views received from various quarters and in order to protect the interest of the Government servants belonging to the Scheduled Castes and Scheduled Tribes, it has been decided to negate the effect of O.M. dated 30th January, 1997 immediately. Mere withdrawal of the O.M dated 30th January, 1997 will not meet the desired purpose and review or revision of seniority of the Government servants and grant of consequential benefits to such Government servants will also be necessary. This will require amendment to article 16(4A) of the Constitution to provide for consequential seniority in the case of promotion by virtue of rule of reservation. It is also necessary to give retrospective effect to the proposed constitutional amendment to article 16(4A) with effect from the date of coming into force of article 16(4A) itself, that is, from the 17th day of June, 1995.

3. The Bill seeks to achieve the aforesaid objects.

VASUNDHARA RAJE.

NEW DELHI;

The 19th November,2001.