

**GOVERNMENT OF INDIA  
MINISTRY OF SOCIAL JUSTICE AND EMPOWERMENT  
LOK SABHA**

**UNSTARRED QUESTION NO. 1982  
TO BE ANSWERED ON 03.03.2020**

**COMPUTATION OF ANNUAL INCOME FOR OBC EMPLOYEES**

**1982. SHRI GANESH SINGH:**

**Will the Minister of SOCIAL JUSTICE AND EMPOWERMENT be pleased to refer to Unstarred Question No. 3495 dated 10.12.2019 regarding 'Income Ceiling for Creamy Layer' and state:**

(a) whether the income from the salaries and income from the agricultural land shall not be taken into account while computing the annual income of Other Backward Classes (OBCs) employees working in PSUs in case of pending evaluation of the posts on equivalent or comparable basis in Public Sector Undertakings (PSUs), Banks and educational institutions etc.;

(b) if so, the details thereof and if not, the reasons therefor;

(c) whether it is a fact that the income from the salaries has been taken into account while computing the annual income of 'Group-C' and 'Group-D' OBC employees working in PSUs, Banks and educational institutions and if so, the details thereof along with the constitutional validity as on date;

(d) the details of grievances of UPSC aspirants whose parent's income from the salaries and income from the agricultural land is being taken into account while computing the annual income during the last five years;

(e) whether any clarification has been issued by the Government for not taking into account income from the salaries and income from the agricultural land while computing the annual income of OBC employees; and

(f) if so, the details thereof and if not, the reasons therefor?

**ANSWER**

**MINISTER OF SOCIAL JUSTICE AND EMPOWERMENT**

**(SHRI KRISHAN PAL GURJAR)**

(a) & (b): As per the current system in vogue, the creamy layer formula for OBCs employed with the State/Central Government, PSUs and Banks is covered by the DoPT OM dated 08.09.1993 and letter dated 14.10.2004, the Department of Public Enterprises and the Department of Financial Services OMs vide dated 25.10.2017 and dated 6.12.2017, respectively.

As per category II C of the Schedule to the DoPT's OM dated 08.09.1993, pertaining to "Employees in Public Sector Undertakings etc." – it is clarified that the criteria enumerated in categories II A and II B (which clarify the position regarding Group A/Class I and Group B/Class II officers of the Central and State Governments) will apply mutatis mutandi to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organizations, Universities, etc.

Pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI of the schedule of DoPT OM dated 08.09.1993 will apply to the officers in these Institutions. As per category VI, the income from salaries or agricultural land shall not be clubbed.

(c): As per the Department of Public Enterprises' O.M. No. GM/1064/2014-FTS-2950 dated 27.02.2020, in terms of DPE OM No. DPE --GM/0020/2014-GM-FTS-1740 dated 25.10.2017 only the Executives level posts in CPSEs i.e. Board level Executives and below Board level Executives which are managerial level posts, have been proposed for consideration as 'creamy layer' subject to the proviso that those executives whose annual income as per criterion given in DoPT OM dated 08.09.1993 is less than Rs.8 lakhs will not fall under creamy layer criteria. Non-Executive level posts have not been proposed to be under "creamy layer" criteria.

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Pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria specified in Category VI of the schedule of DoPT OM dated 08.09.1993 will apply to the officers in these Institutions. As per category VI, the income from salaries or agricultural land shall not be clubbed.

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(e) and (f): Instructions contained in Department of Personnel and Training's O.M. dated 08.09.1993 and letter dated 14.10.2004 cover such cases at present.

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1. AIS-I Division of the Department of Personnel and Training (DoPT) deals with Civil Services Examination (CSE). The decision on Creamy/Non-Creamy Layer status of candidates, who claim benefit of OBC reservation, is taken as per DoP&T's O.M. No. 36012/22/93-Estt.(SCT) dated 08.09.1993 and clarificatory letter No. 36033/5/2004-Estt.(Res.) dated 14.10.2004 with the advice/concurrence of the Reservation Division of this Department. Accordingly, once decision is taken, the service is allocated to the candidate. Certain candidates, whose parent(s) are/were working in Central and State PSUs and other organizations like autonomous organizations, Universities, Government aided schools and private sector, whose income is more than the prescribed limit for 3 consecutive financial years, and are treated as falling under Creamy Layer, have submitted representations and filed court cases against this Department contending that income of their parents from salary should not be taken into account for determining their Creamy Layer/Non-Creamy Layer status.
2. In the cases of Rohith Nathan (CSE-2012) and G. Babu (CSE-2013), this Department has filed SLP No. 25622-24/2017 before the Hon'ble Supreme Court of India against the judgment dated 31.08.2017 of Hon'ble High Court of Madras. In the above SLP, this Department has contended that the salary of parents of the candidates, who have been working in PSUs/Autonomous bodies/Banks/Aided Organizations etc, where equivalence vis-à-vis Central/State Government has not been established, should be taken into account for determining their Creamy/Non-Creamy Layer status. In the above SLP, Hon'ble Supreme Court vide its order dated 06.11.2017 stayed the operation of order dated 31.08.2017 of Hon'ble Madras High Court. The matter is still sub-judice before the Hon'ble Supreme Court.
3. Meanwhile, it is submitted that 11 candidates of CSE-2015, who were found to be falling under 'Creamy Layer' of OBC, had filed W.P. Nos. 3080/2017, 3081/2017, 3083/2017, 3078/2017, 3077/2017, 3074/2017, 3076/2017, 3075/2017, 3079/2017, 3073/2017 and 3084/2017 before Hon'ble High Court of Delhi challenging the decision of DoP&T. Hon'ble High Court of Delhi vide its common order dated 22.03.2018 has set at naught DoP&T's clarificatory letter dated 14.10.2004 and directed DoP&T to verify the Creamy/Non-Creamy Layer Status of these petitioners by solely relying upon the O.M. of 8<sup>th</sup>September, 1993. Accordingly, in compliance of this order dated 22.03.2018 of Hon'ble High Court of Delhi, this Department has duly re-examined the Creamy/Non-Creamy Layer status of these candidates based upon the O.M. of 08.09.1993 and issued speaking order dated 22.05.2018 that they fall under 'Creamy Layer' category of OBC. Aggrieved with the speaking order dated 22.05.2018 of this Department, some candidates again filed contempt petitions against this Department. Thereafter, this Department has filed affidavits before the Hon'ble High Court of Delhi that the order dated 22.03.2018 has been duly complied with. But, as some other candidates also filed contempt petitions against this Department in the Hon'ble High Court of Delhi, this Department has filed SLP before the Supreme Court of India vide Dy. No. 6040/2020 against the order dated 22.03.2018 of Hon'ble High Court of Delhi after taking legal opinion of Department of Legal Affairs and Ld. Solicitor General of India. The above SLP, at present, is under defect list and is expected to be listed soon.
4. It is also stated that income from agriculture is never taken into account or clubbed with income from salaries or income from other sources while deciding the Creamy/Non-Creamy Layer status of OBC candidates who are recommended by UPSC in Civil Services Examination (CSE) in accordance with OM dated 8<sup>th</sup> September, 1993 of this Department.