

of para 7.1 may issue the OBC Certificate to a person who has migrated from another State on the production of a genuine certificate issued to his father by the prescribed authority of the State of his father's origin except where the prescribed authority feels that a detailed enquiry is necessary through the State of origin before the issue of the certificate.

- iv) The certificate will be issued irrespective of whether the OBC candidate in question is included in the list of OBC pertaining to the State/UT to which the person has migrated. The facility does not alter the OBC status of the person in relation to one or the other State/UT where his caste is not in the OBC list is entitled to the concessions/benefits admissible to the OBCs from the State of his origin and Union government but not from the State where he has migrated.

8. NO DE-RESERVATION:

- i) The vacancies reserved for other Backward Classes which remain unfilled should not be de-reserved but should be carried forward as such for a period of three recruitment years or till the vacancies are filled by OBC candidates, whichever is earlier.

9. LIAISON OFFICER:

There should be a separate liaison officer for looking after matter relating to the reservation for Other Backward Classes.

New Delhi

Under Secretary to the Govt. of India

Dated:

(Administrative Ministry/Department)

ANNEXURE-A

Sl. No.	Description of Category	To whom Rule of Exclusion will apply
I	Constitutional posts	Son(s) and daughter(s) of i) President of India; ii) Vice President of India; iii) Judges of Supreme Court and the High Courts iv) Chairman & Members of UPSC and of the State Public Service Commission; Chief Election Commissioner; Comptroller & Auditor General of India; v) Persons holding constitutional positions of like nature.
II.	Service Category A) Group A/class-I Officers of the All India Central and State Services (Direct Recruits)	i) Parents, both of whom are Class I Officers; ii) Parents, either of whom is a Class I officer; iii) Parents, both of whom are Class-I officers, but one of them dies or suffers permanent incapacitation (iv) Parents, both of whom are Class-I officer and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years. v) Parents, both of whom are class-I officers die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organisation like UN, IMF, World bank, etc. for a period of not less than 5 years. Provided that the rule of exclusion shall not apply in the following cases: a) Sons and daughters of parents either of whom or both of whom are Class I Officers and such parent(s) dies/die or suffer permanent incapacitation. b) A lady belonging to OBC category has got married to a Class-I Officer, and may herself like to apply for a job.

B. Group B/class II officers of the Central & State Services (Direct Recruitment)	Son(s) and daughter(s) of i) Parents both of whom are Class-II officers. ii) Parents of whom only the husband is a Class II officer and he gets into Class-I at the age of 40 or earlier. iii) Parents, both of whom are Class-II officers and one of them does or suffers permanent incapacitation and either one of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before such death or permanent incapacitation; iv) Parents of whom the husband is a Class I officer (direct recruit or pre-forty promoted) and the wife is a Class II officer and the wife dies; or suffers permanent incapacitation, and v) Parents, of whom the wife is a Class I officer (direct Recruit or pre-forty promoted) and the husband is a Class II officer and the husband dies or suffers permanent incapacitation provided that the rule of exclusion shall not apply in the following cases: a) Parents both of whom are Class II officers and one of them does or suffers permanent incapacitation) Parents, both of whom die or suffer permanent incapacitation even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 before their death or permanent incapacitation
C. Employees in Public Sector Undertakings, etc. of the Central & State Services (Direct Recruitment)	The criteria enumerated in A & B above in this category will apply mutatis mutandis to officers holding equivalent or comparable posts in PSUs, Banks, Insurance Organisations, Universities, etc. and also to equivalent or comparable posts and positions under private employment. Pending the evaluation of the posts on equivalent or comparable basis in these institutions, the criteria Specified in Category VI below will apply to the officers in these institutions

III. Armed Forces including Para Military Forces (persons holding civil posts are not included)	Son(s) and daughter(s) of parents either or both of whom is or are in the rank of Colonel and above in the Army and to equivalent posts in the Navy and the Air Force and the Para Military Forces; provided that: i) If the wife of an Armed Forces Officers is herself in the Armed Forces (i.e., the category under consideration) the rule of exclusion will apply only when she herself has reached the rank of Colonel; ii) The service rank's below Colonel of husband and wife shall not be clubbed together. iii) If the wife of an officer in the Armed Forces is in civil employment, this will not be taken into account for applying the rule of exclusion unless she falls in the service category under item No. 11 in which case the criteria and conditions enumerated therein will apply to her independently.
IV. Professional Class and those engaged in trade and industry A) Persons engaged in profession as a doctor, lawyer, chartered Accountant, Income-tax Consultant, Financial or Management consultant, dental surgeon, engineer, architect, computer specialist, film artists and other film	Criteria specified against Category VI will apply

	professional, author, pay-Wright, sports persons, sports professional, media professional or any other vocations of like status	
	B. Persons engaged in trade, business and industry	Criteria specified against Category VI will apply: Explanation: i) Where the husband is in some profession and the wife is in a Class II or lower grade employment, the income/wealth test will apply only on the basis of the husband's income. ii) If the wife is in any profession and the husband is in employment in a Class II or lower rank post, then the income/wealth criterion will apply only on the basis of the wife's income and the husband's income will not be clubbed with it.
V.	Property Owners A) Agricultural Holdings	Son(s) and daughter(s) of persons belonging to a family (father, mother and minor children) which owns i) Only irrigated land which is equal to or more than 85% of the statutory ceiling area, or ii) Both irrigated and unirrigated land, as follows: a) The rule of exclusion will apply where the precondition exists that the irrigated area (having been brought to a single type under a common denominator) 40% or more of the statutory ceiling limit for irrigated land (this being calculated by excluding the unirrigated portion) If this pre-condition of not less than 40% exists, then only the area of unirrigated land will be taken into account. This will be done by converting the unirrigated land on the basis of the conversion formula existing, into the irrigated type. The irrigated area so computed from unirrigated land shall be

		added to the actual area of irrigated land and if after such clubbing together the total area in terms of irrigated land is 80% or more of the statutory ceiling limit for irrigated land, then the rule of exclusion will apply and disentitlement will Occur (b) The rule of exclusion will not apply if the land holding of a family is exclusively unirrigated.
	B. Plantations i) Coffee tea, rubber, etc. ii) Mango, citrus, apply plantations etc.	Criteria of income/wealth specified in Category VI below will apply. Deemed as agricultural holding and hence criteria at A above under this Category will apply.
	C. Vacant land and/or buildings in urban areas or urban agglomerations	Criteria specified in Category VI below will apply Explanation: Building may be used for residential, industrial or commercial purpose and the like two or more such purposes.
VI	Income/Wealth Test	Son(s) and daughter(s) of i) Persons having gross annual income of Rs. 1 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years. ii) Persons in Categories I, II, III and V. A who are not disintitled to the benefit of reservation but have income from other sources of wealth which will bring them within the income/wealth criteria mentioned in (a) above.
		Explanation: i) Income from salaries or agricultural land shall not be clubbed. ii) The income criteria in terms of rupee will be modified taking into account the change in its value every three years. If the situation, however, so demands, the interregnum may be less.

Explanation: Wherever the expression "Permanent incapacitation" occurs in this schedule, it shall mean incapacitation, which results in putting an officer out of services

Note: Annual Income of Rs. 1 lakh against item VI above raised to Rs. 2.5 lakh vide DOPT's OM No. 36033/3/04 dated 09.03.04 and to Rs. 4.5 lakh vide DOPT's OM No. 36033/3/2004-Estt, (Res) dt. 14.10.2008

No. 36033/5/2004-Estt(Res)
Government of India
Ministry of Personnel, Public Grievances & Pensions
Department of Personnel & Training

New Delhi
Dated the 14th October, 2004

To

The Chief Secretaries of all the States, Union Territories

Sub: Clarifications regarding creamy layer amongst OBCs.

Sir,

I am directed to invite your attention to the Schedule to this Department's OM No. 36012/22/93-(SCT) dated 8th September, 1993 which contains the criteria to determine the creamy layer amongst the OBCs. In regard to the children of the persons in civil services of the Central and the State Governments, it provides that son(s) and daughter(s) of:

- (a) parents, both of whom are directly recruited Class I/Group A Officers;
- (b) parents, either of whom are directly recruited Class I/Group A officers;
- (c) parents both of whom are directly recruited Class II/Group A officers, but one of them dies or suffers permanent incapacitation;
- (d) parents, either of whom is a directly recruited Class I/Group A officers and such parent dies or suffers permanent incapacitation and before such death or such incapacitation has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.
- (e) Parents, both of whom are directly recruited Class I/Group A Officers and both of them die or suffer permanent incapacitation and before such death or such incapacitation of the both, either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years.

- (f) parents both of whom are directly recruited Class I /Group B officers;
- (g) parents of whom only the husband is a directly recruited Class II/ Group B officer and he gets into Class I/Group A at the age of 40 or earlier;
- (h) parents, both of whom are directly recruited Class II/Group B officers and one of them dies or suffers permanent incapacitation and either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years;
- (i) parents of whom the husband is a Class I/Group A officer (direct recruit or pre-forty promoted) and the wife is a directly recruited Class II/Group B officer and the wife dies; or suffers permanent incapacitation; and
- (j) parents, of whom wife is a Class I/Group A officer (Direct Recruit or property promoted) and the husband is a directly recruited Class II/Group B officer and the husband dies or suffers permanent incapacitation

shall be treated as falling in creamy layer.

2. The Schedule further provides that sons and daughters of:

- (i) parents either of whom or both of whom are directly recruited Class I/Group A officer(s) and such parent(s) dies/die or suffers/suffers permanent incapacitation;
- (ii) parents both of whom are directly recruited Class II/Group B officers and one of them dies or suffers permanent incapacitation;
- (iii) parents both of whom are directly recruited Class II/Group B officers and both of them die or suffer permanent incapacitation, even though either of them has had the benefit of employment in any International Organisation like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.

shall not be treated to be falling in creamy layer.

3. The criteria prescribed for determining creamy layer status of sons and daughters of persons in Government service mutatis mutandis applies to the sons and daughters of persons holding equivalent or

comparable posts in PSUs, Banks, Insurance Organisations, Universities etc. and also holding equivalent or comparable posts and positions under private employment. The creamy layer status of the sons and daughters of employees of organizations where evaluation of the posts on equivalent or comparable basis has not been made is determined on the basis of 'Income/Wealth Test' given in the Schedule. The Income/Wealth Test prescribes that the sons and daughters of persons having gross annual income of Rs. 2.5 lakh or above or possessing wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years would be treated to fall in creamy layer. An explanation is given below the Income/Wealth Test which provides that 'income from salaries or agricultural land shall not be clubbed.'

4. Following questions have been raised from time to time about the application of the above provisions to determine creamy layer:

- (i) Will the sons and daughters of parents either of whom or both of whom are directly recruited Class I/Group A Officer(s) and such parent(s) dies/die or suffers/suffer permanent incapacitation after retirement be treated to be excluded from the creamy layer?
- (ii) Will the sons and daughters of parents both of whom are directly recruited Class II/Group B officers and one of them dies or suffer permanent incapacitation after retirement be excluded from the creamy layer?
- (iii) Will the sons and daughters of parents both of whom are directly recruited Class II/Group B officers and both of them die or suffer permanent incapacitation after retirement even though either of them has had the benefit of employment in any International Organisation like UN, IMF World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation be treated to be excluded from the purview of creamy layer?
- (iv) Will the sons and daughters of parent(s) who retire from the service on the basis of which their sons and daughters fall in creamy layer, continue to fall in creamy layer after retirement of the parent(s)?
- (v) Will the sons and daughters of parents of whom husband is directly recruited Class II/Group C or Class IV/Group D em-

ployee and he gets into Class I/Group A at the age of 40 or earlier be treated to be falling in creamy layer?

- (vi) Will a candidate who himself is a directly recruited Class I/ Group A officer or a directly recruited Class B officer who got into Class I/Group A at the age of 40 or earlier be treated to be falling in creamy layer on the basis of his service status?
 - (vii) Will a candidate who has gross annual income of Rs. 2.5 lakh or above or possesses wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years be treated to fall in creamy layer?
 - (viii) The instructions provide that a lady belonging to OBC category who has got married to a directly recruited Class I/ Group A officer shall not be treated as falling in creamy layer on the basis of her marriage. Will a man belonging to OBC category who is married to a directly recruited class I/Group 'A' officer be treated as falling in creamy layer on the basis of his marriage?
 - (ix) How will be the Income/Wealth Test apply in case of sons and daughters of parent(s) employed in PSUs etc. in which equivalence or comparability of posts has not been established visa-vis post in the Government?
 - (x) What is the scope of the explanation, 'Income from salaries or agricultural land shall not be clubbed', given below the Income/Wealth Test?
5. Its is clarified in regard to clauses (i), (ii) and (iii) of para 4 that the sons and daughters of:
- (a) parents either of whom or both of whom are directly recruited Class II/Group A officers and such parent(s) dies/die or suffers/suffer permanent incapacitation while in service;
 - (b) parents both of whom are directly recruited Class II/Group B officers and one of them dies or suffers permanent incapacitation while in service;
 - (c) parents both of whom are directly recruited Class II/Group B officers and both of them die or suffer permanent incapacitation while in service, even though either of them has had the

benefit of employment in any International Organization like UN, IMF, World Bank, etc. for a period of not less than 5 years before their death or permanent incapacitation.

are not treated to be falling in creamy layer. But if the parent(s) dies/die or suffers/suffer permanent incapacitation in such cases after retirement from service, his/her sons and daughters would be treated to be falling in creamy layer and would not get the benefit of reservation.

6. In regard to clause (iv) of para 4, it is clarified that sons and daughters of parents who are included in the creamy layer on the basis of service status of their parents shall continue to be treated in creamy layer even if their parents have retired or have died after retirement.

7. In regard to clause (v) of para 4, it is clarified that the sons and daughters of parents of whom only the husband is a directly recruited Class II/Group B officer who gets into Class I/Group A at the age of 40 or earlier are treated to be in creamy layer. If the father is directly recruited Class III/Group C or Class IV/Group D employee and he gets into Class I/Group A at the age of 40 or earlier, his sons and daughters shall not be treated to be falling in creamy layer.

8. In regard to clauses (vi), (vii) and (viii) of para 4, it is clarified that the creamy layer status of a candidate is determined on the basis of the status of his parents and not on the basis of his own status or income or on the basis of status or income of his/her spouse. Therefore, while determining the creamy layer status of a person the status or the income of the candidate himself or of his/her spouse shall not be taken into account.

9. In regard to clause (ix) of para 4, it is clarified that the creamy layer status of sons and daughters of persons employed in organization where equivalence of comparability of post vis-a-vis posts in Government has not been evaluated is determined as follows:

Income of the parents from the salaries and from the other sources [other than salaries and agricultural land] is determined separately. If either the income of the parents from the salaries or the income of the parents from other sources [other than salaries and agricultural land] exceeds the limit of Rs. 2.5 lakh per annum for a period of three consecutive years, the sons and daughters of such persons shall be treated to fall in creamy layer. But the sons and daughters of parents

whose income from salaries is less than Rs. 2.5 lakh per annum will not be treated as falling in creamy layer even if the sum of the income from salaries and the income from the other sources is more than Rs. 2.5 lakh per annum for a period of three consecutive years. It may be noted that income from agricultural land is not taken into account while applying the Test.

10. In regard to clause (x) of para 4, it is clarified that while applying the Income/Wealth Test to determine creamy layer status of any candidate as given in Category-VI of this Schedule to the OM, income from the agricultural land shall not be taken into account. It means that if income from salaries of the parents of any candidate is more than Rs. 2.5 lakh per annum, income from agricultural land is more than Rs. 2.5 lakh per annum, but income from other sources is less than Rs. 2.5 lakh per annum, the candidate shall not be treated to be falling in creamy layer on the basis of Income/wealth Test provided his parent(s) do not possess wealth above the exemption limit as prescribed in the Wealth Tax Act for a period of three consecutive years.

11. You are requested to bring the contents of this letter to all concerned in the State.

Yours faithfully

Sd/-

(K.G. Verma)

Deputy Secretary to the Govt. of India

Note: Income limit of Rs. 2.5 lakh has since been revised to Rs. 4.5 lakh vide DOPT's OM dated 14.10.08