



Government of India, Ministry of Finance,
Department of Revenue

Office of the Chief Commissioner of Goods and
Service Tax, Chandigarh Zone, C.R. Building,
Plot No.19, Sector 17-C, Chandigarh

NATION
TAX
MARKET

C.No. II-3(5)SEC/DPC/2017

8239

Dated: 27/8/2018

To

The Commissioner,
Goods & Service Tax Commissionerate,
Chandigarh.

Subject: Final revised consolidated seniority list of Inspectors/Tax Assistants in accordance with the provisions of DOPT OM dated 07.02.1986, 03.07.1986 and 04.3.2014 read with Board's Instruction dated 23.2.2018 - regarding

Please refer to your letter C.No. II-39(25)ET-I/2013/pt.II/877 dated 10.08.2018 on the cited subject.

2. In this connection, it is stated that you may please go through your records and ascertain the correct position on the issue from your office records.

3. It has been stated in Para (3) (vi) of the your letter ibid that the letter F.No.A.32022/31/2013-Ad.IIIA dated 17.09.2014 **was probably not acted upon**. In this regard attention is invited to your office letter C.No.II-39(25)ET.I/2013/1860 dated 18.12.2014 (Copy enclosed as **Annexure-A**) wherein proposal for implementing the judgment of the Hon'ble Supreme Court in the case of N.R. Parmar & Ors for all Inspectors (Applicants in OA No.1088/2013 and non-Applicants), was forwarded to this office for concurrence which was concurred and communicated to your office vide this office letter C.No.II-3(47)SEC/DPC/2012/1384 dated 15.01.2015 (Copy enclosed as **Annexure-B**). **It is evident that the above proposal was initiated after receipt of letter dated 17.09.2014 from the Board and after taking due cognizance thereof. The relevant Para 5 of your office letter reads as under:**

"5. However, vide letter dated 17.09.2014 the Board has now written to this office that the speaking order passed in the case of applicants was not in consonance with DEPT's OM dated 04.03.2014. It has further been directed that action on fixation of inter-se seniority of the direct recruits and the promote officers may be taken in compliance with the Supreme Court judgment circulated vide Board's letter dated 08.09.2014."

3.1 Consequent to the concurrence as above from this office, your office, vide Establishment Order No.08/2015 dated 11.02.2015 (Copy enclosed as **Annexure-C**), had constituted a committee duly mentioning the letter dated 17.09.2014 of the Board for

revision of inter-se-seniority w.e.f. 1986 onwards. Even the said Establishment Order mentions the letter dated 17.09.2014.

3.2 Thus, as against the claim that the letter F.No.A.32022/31/2013-Ad.IIIA dated 17.09.2014 was not acted upon, it is clear that the entire process of revision of seniority of the Inspectors w.e.f. 1986 onwards, was initiated after receipt of the above letter only and thus, it cannot be claimed that the said letter was not acted upon. It was only thereafter, the committee prepared the revised draft seniority list w.e.f. 1986 onwards, which was uploaded for objections limited to the inadvertent errors.

4. As regards the claim that the second issue is sub-judice in the CAT Chandigarh, it is obvious that once the decision already taken way back in 2015, to implement the judgment of the Hon'ble Supreme Court in N.R. Parmar case w.e.f. 1986 onwards, is implemented in letter and spirit and as directed from time to time, **the case titled Dhirendra Bhakta & Ors in the CAT would become in-fructuous.** Thus, non-finalization of the seniority by your office in consonance with the Board's directions and the directions issued by this office and also contempt of the decision of the Hon'ble Supreme Court, has only lead to the above case.

4.1 Further, in Para 3(III)(i) it has been stated that the reply to OA in Dhirendra Bhakta case have been sent to Board for vetting. **Facts narrated above also make evident that even the Board office is not being appraised of the full facts of the issue.** It is therefore, directed that the comments to the **Miscellaneous Application and OA** filed by **Dhirendra Bhakta & Ors in the CAT**, should also be amended to the **above extent and revised comments, giving correct details as above, should be re-sent to the Board for approval.**

5. On the third issue i.e. of regularization of the promotions being made in the grade of Superintendents since, 2014, it has been stated that the same has been taken up line with the Board's letter F.No. A-10C18/3/2017-Ad.IIIB dated 27.10.2017 and DoPT's OM issued under F.No.36012/11/2016-Estt.(Res-I)(Pt. II) dated 15.06.2018. In this regard attention is invited to OM issued under F.No.22011/4/2013-Estt(D) dated 08.05.2017 and the then Special Secretary & Member (Admn) D.O. No. C-30013/11/2018-Ad.IVA dated 13.03.2018 which specifies the time frame within which DPCs are to be conducted for a calendar year. The above OM gives time frame to conduct the DPC's from **May to October.** **Further, the foot note appended to the model calendar also mentions that the same does not put any bar on earlier completion of various pre-post DPC related actions and stresses for putting efforts for speedy action without waiting for the last date of completion.**

6. In view of the above, it is, reiterated that the directions given in this office letter C.No.II-3(5)SEC/DPC/2017/7567 dated 31.07.2018 be implemented immediately without any further delay.


Chief Commissioner





केंद्रीय उत्पाद शुल्क आयंक्तालय, चंडीगढ़-1
Central Excise Commissionerate, Chandigarh-I
 केंद्रीय राजस्व भवन, प्लॉट नं.-१६, सेक्टर-१७ सी
Central Revenue Building, Plot No.-19, Sector-17C,
 चण्डीगढ़
Chandigarh

C.No.II-39(25)ET.I/2013/1860
 18/12/14

Dated : 12.12.2014

To

The Additional Commissioner (CCU),
 Customs & Central Excise,
 Chandigarh Zone,
 Chandigarh.

Sir,

Sub: - Representation regarding correct fixation of seniority in the recruitment year 2003 as per instructions contained in two 'OFFICE MEMORANDUM' dated 07.02.1986 and 03.07.1986 issued by the DOPT, New Delhi and held by the Hon'ble Supreme Court in its judgment dated 27.11.2012 in Civil Appeal No. 7514-7515 of 2005 in the case of UOI Vs. N.R. Parmar & Other connected matters- reg.

Please refer to your office letter C.No.II-3(47)SEC/DPC/2012/1090 dated 16.10.2014 vide which representations of some officers were forwarded to this office for taking action taken on their representations regarding implementation of subject Supreme Court judgement. Reference is also invited to Board's letter F.No. A 32022/31/2013/Ad.IIIA dated 17.09.2014 (copy enclosed as Annexure 'A'), on the subject cited above wherein it has been intimated that the draft speaking order is not in consonance with DOP&T's O.M. dated 04.03.2014.

2. In this regard, it is submitted that the issue of inter-se seniority of direct and promotee officers was decided by the Hon'ble Supreme Court in its judgment dated 27.11.2012 in Civil Appeal No.7514-7515 of 2005 in the case of UOI Vs N.R. Parmar & Others and other connected matters (for brevity the 'judgment'). The Hon'ble Supreme Court had ordered that "rotation of quotas" principle, would be fully applicable to the direct recruits i.e to say that the seniority of direct recruits would be fixed with promotees of the year of initialization of the process of recruitment. While adjudging the above interpretation, the Hon'ble Supreme Court has also declared the clarification given vide O.M. dated 03.03.2008 non-est. The

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operative portion of the judgment of the Hon'ble Supreme Court is reproduced below:

"33. Having interpreted the effect of the OM's dated 07.02.1986 and 03.07.1986 (In paragraphs 20 and 21 hereinabove), we are satisfied, that not only the requisition but also the advertisement for direct recruitment was issued by the SSC in the recruitment year in which direct recruit vacancies had arisen. The said factual position, as confirmed by the rival parties, is common in all matters being collectively disposed of. In all these cases the advertised vacancies were filled up in the original/ first examination/selection conducted for the same. None of the direct recruit Income Tax Inspectors herein can be stated to be occupying carried forward vacancies, or vacancies which came to be filled up by a "later" examination/selection process. The facts only reveal that the examination and the selection process of direct recruits could not be completed within the recruitment year itself. For this, the modification/amendment in the manner of determining the inter-se seniority between the direct recruits and promotees, carried out through the O.M. dated 07.02.1986, and the compilation of the instructions pertaining to seniority in the OM dated 03.07.1986, leave no room for any doubt, that the "rotation of quotas" principle, would be fully applicable to the direct recruits in the present controversy. The direct recruits herein will therefore have to be interspaced with promotees of the same recruitment year.

34. In view of the above, the Civil Appeals, the Transferred Case, as well as, the Transferred Case (filed by the direct recruits and the Union Of India) are hereby allowed. The claim of the promotees, that the direct recruit Income Tax Inspectors, in the instant case should be assigned seniority with reference to the date of their actual appointment in the Income Tax Department is declined.

23(b) The words "initiation of action for recruitment", and the words "initiation of recruitment process", were explained to mean, the date of sending the requisition to the recruiting authority."

3. Some of the officers in this zone approached the Hon'ble Central Administrative Tribunal for implementation of the judgment in OA No. 1088 of 2013. The hon'ble CAT vide order dated 17.10.2013 directed the department to pass a speaking order on the representations of officers.

4. Meanwhile DOPT issued OM No. dated 04.03.2014 in compliance to the judgment, but with a rider that the judgment would not be applicable to those cases where the seniorities had already been settled as per the available interpretations during the relevant times. Accordingly, in the light of the above OM, speaking order dated 30.05.2014 (copy enclosed as Annexure 'B'), after taking approval from Board

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(copy enclosed as Annexure 'C') was passed by this office stating that the claim of the applicants could not be considered in view of the above referred OM.

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5. However, vide letter dated 17.09.2014 the Board has now written to this office that the speaking order passed in the case of the applicants was not in consonance with DOPT's OM dated 04.03.2014. It has further been directed that action on fixation of inter-se seniority of the direct recruits and the promotee officers may be taken in compliance with the Supreme Court judgment circulated vide Board's letter dated 08.09.2014.

6. Board's letter dated 08.09.2014 referred to above clarifies the department's stand on the issue as under:

a. Since the OM dated 03.03.2008 has been declared non-est by the Apex Court, all the seniorities fixed in the light of this O.M. are required to be re-fixed in the light of the Supreme Court judgment.

b. For the period upto 27.11.2012, the O.M. dated 07.02.1986 and 03.07.1986 would be in force. After 27.11.2012, the N.R. Parmar judgment would be applicable.

c. The cases of seniority fixed on the basis of available interpretation should not be re-opened suo-moto.

7) **It is opined that:**

i. As far as the implementation of Supreme Court judgment in respect of the applicants in OA No.1088 of 2013 before Hon'ble CAT is concerned, this office has to implement the same in the light of the Board's letter dated 17.09.2014. There are 26 applicants in the O.A.

ii. Further, for others who are not applicants in the CAT case but have their seniorities fixed as per OM dated 03.03.2008 there is no ambiguity that the seniorities fixed in terms of OM dated 03.03.2008 need to be re-visited and re-fixed.

✓ # iii. As regards implementation of the judgment for the remaining officers not a party to the CAT case, not implementing the judgment for the remaining would mean selective implementation of the judgment. Selective implementation of the judgment of the Hon'ble Supreme Court would mean further litigation in the matter as similarly placed officers might go to court for their due. It has also been advised by the Board vide their letter dated 08.09.2014 that the cases of seniority already settled may not be suo-moto reopened. This implies that if some representation is received even today, the same needs to be considered in addition to the representations which might have already been filed in the past by officers. In effect this means re-fixing the seniorities of all officers as per the Supreme Court Judgment.

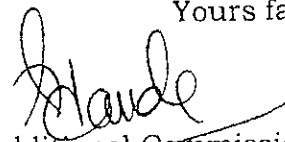
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iv. As has also been clarified vide Board's letter dated 08.09.2014, OM dated 04.03.2014 has prospective effect and the cases prior to 27.11.2012 are governed by the Supreme Court's judgment.

It is submitted that this office is of the view that seniorities of all officers need to be refixed as per the Supreme Court judgment. This office is, therefore, going ahead with the exercise and forming a Committee for the purpose. In case there is any difference of opinion, this office may be informed accordingly.

This issues with the approval of Commissioner.

Yours faithfully,



Additional Commissioner(P&V)

Office of the Chief Commissioner
Customs & Central Excise: Chandigarh Zone
Central Revenue Building, Plot No. 19, Sector 17-C,
Chandigarh-160017.

C.No. II-3(47)SEC/DPC/2012/ 1384

Dated: 15.01.2015

To

The Commissioner,
Central Excise Commissionerate,
Chandigarh-I.

Sir,

Sub: Representation regarding correct fixation of seniority in the recruitment year 2003 as per instruction contained in two 'OFFICE MEMORANDA' dated 07.02.1986 & 03.07.1986 issued by the DOPT, New Delhi and held by the Hon'ble Supreme Court in its judgement dated 27.11.2012 in Civil Appeal No. 7514-7515 of 2005 in the case of UOI Vs N.R. Parmar & Others and other connected matters - Regarding.

Please refer to your office letter C.No. II-39(25)ET-I/2013/1060 dated 18.12.2014, on the above mentioned subject.

In this context, it is informed that this office is in the agreement of your office opinion contained under para 7 (iii) of above referred letter. The Chief Commissioner has directed to convey^{to} your office to keep the Board office informed about the action in progress and the reasons for the same.

Yours faithfully,

Administrative Officer (CCU)

o/c

OFFICE OF THE COMMISSIONER, CENTRAL EXCISE & SERVICE TAX COMMISSIONERATE,
CHANDIGARH-1

ESTABLISHMENT ORDER No. 08 /2015

In compliance to the Judgment dated 27.11.2012 of Hon'ble Supreme Court in the case of UOI Vs N.R. Parmar and Others and Govt. of India's directions contained in letter F.No.A.32022/31/2013-Ad.IIIA dated 17.09.2014 a committee comprising of the following officers is hereby constituted to prepare a draft seniority list of Tax Assistants/Senior Tax Assistants (earlier LDC's and UDC's), Inspectors and Superintendents. The committee is directed to complete the assigned work within one month from the date of its formation.

S. No.	Name of the Officer	Designation	Place of Posting
1.	Ajit Singh	Assistant Commissioner	Personnel (HQRs)
2.	Munish Arya	Superintendent	Systems
3.	Munish Kumar	Superintendent	MGG
4.	S.S.Mehra	Superintendent	Adjudication
5.	Vijay Bansal	Inspector	HQR's Preventive
6.	Sunil Kumar	Inspector	HQR's Preventive
7.	Tilak Raj	Inspector	Baddi Range-II
8.	Manoj Joshi	STA	ET-I
9.	Sumit Kumar	TA	ET-I

This issues with the approval of the Commissioner.


(Dr. ATUL HANDA)
Additional Commissioner

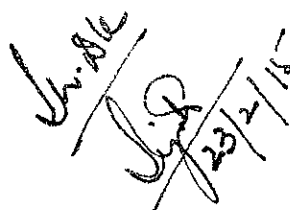
DATED: 11/02/2015



C.No. II-39(25) ET-I/2013 / 216
Copy forwarded to:

- ✓ 1. The Additional Commissioner(CCU), Central Excise(CZ), Chandigarh.
2. The Deputy / Assistant Commissioner, Central Excise Division, Bagdi/ Mandi Gobindgarh with request to give suitable directions to the individual officers for compliance.
3. All Concerned officers for necessary compliance.



Additional Commissioner



	<p>Government of India, Ministry of Finance, Department of Revenue</p> <p>Office of the Chief Commissioner of Goods and Service Tax, Chandigarh Zone, C.R. Building, Plot No.19, Sector 17-C, Chandigarh</p>	
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C.No. II-3(5)SEC/DPC/2017/7567

Dated: 31.7.2018

To

The Commissioner,
Goods & Service Tax Commissionerate,
Chandigarh.

Subject: Final revised consolidated seniority list of Inspectors/Tax Assistants in accordance with the provisions of DOPT OM dated 07.02.1986, 03.07.1986 and 04.3.2014 read with Board's Instruction dated 23.2.2018 - regarding

Please refer to your letter C.No. II-39(25)ET-I/2013/pt.II/523 dated 13.06.2018 on the cited subject.

2. Despite clear instructions issued by this office on the issue of implementation of N.R Parmar judgment, regularization of Ad-hoc Superintendents and DPC of Inspector to Superintendent, CCA is seeking clarifications time and again that too in piecemeal without any outcome, thus delaying the matter since long.

3.1 There has been protracted correspondence on the subject as regards the date of applicability of the judgment in the N.R. Parmar case. It is also observed that there is deliberate omission of facts/ in above correspondence addressed to this office with specific omission of the letter F.No.A32022/31/2013-Ad.IIIA dated 17.09.2014 which **was issued latter to Board's communication dated 29.04.2014** and taken cognizance of by the then Commissioner in concurrence with this office as the seniorities already stood challenged and were not treated to be settled. Attention is also invited to Board's correspondence dated 08.09.2014 wherein it has categorically clarified that each case has to be dealt with on the facts peculiar to the specific case.

3.2 The letter also on one hand mentions that **as per the official records** the seniorities determined prior to 2008 were in consonance with the OM's dated 07.286/03.7.86 and on the other that **"though there are no records available vis-à-vis vacancy registers"**. The above assertion is also **on the presumption that no other interpretation of inter-se seniority of Direct and Promotee was available before DOPT OM dated 03.03.2008. In addition to the fact that the both the claims are contradictory to one another,** it is also not understood how it has been presumed that the OM dated 07.2.1986/03.7.1986 have been followed for determining the inter-se seniority, when the relevant records are said to be not available. It is seen that Initially when a committee to implement the N.R. Parmar Judgment was constituted on 20.10.2015 a revised draft seniority list w.e.f. 1.1.1986 was prepared by the said committee on the information supplied by the Cadre Controlling authority. It is thus clear that sufficient

records were available with the CCA to revise the seniority list. Further, there is nothing on record that the objections as regards the authenticity of the records, were raised by the Cadre Control at the time of uploading the draft seniority list.

3.3 Further, the case of P. Bharathan is limited to implementation of the judgment of N.R. Parmar case, to the period prior to 1986 and therefore the interpretation drawn out in your letter is contrary to the essence of the Board's correspondence dated 23.02.2018.

3.4 Thus, I do not find any ambiguity in the date of implementation of the judgment in N.R. Parmar case and the **same is to be implemented w.e.f 1986** onwards as communicated vide this office letter dated 15.01.2015 and further directions issued vide letter of even C.No.933 dated 23.02.2018 and 5051 dated 17.05.2018.

4.1 Further, vide letter dated 07.3.2018 it was directed to complete the process of regularization of ad-hoc superintendents promoted since 2014, by April-May,2018 positively but the same is still pending. As a result of ad-hoc promotions in cadre of Superintendents, the following crisis have arisen in the cadre of Inspectors and Superintendent Cadre, which is weighing heavily in the GST regime:

- i. Effecting the promotion in the Grade of Superintendent on adhoc basis has resulted in blocking vacancies in the grade of Inspector and resultantly shortage of staff at Inspector level, the working cadre of the department and burdening the existing staff strength.
- ii. The names of the Superintendents is not figuring in all India seniority of Superintendents. With Cadre Restructuring having been announced, in the case of availability of vacancies of Assistant Commissioners, the names of such superintendents would not be considered for promotions.
- iii. Promotions in all cadres i.e **TA/STA/Inspector/CAO except Superintendents** are being carried out on regular basis and not on adhoc basis. Effecting adhoc promotions in **one cadre** is not correct as the application of any judgment in a particular zone/cadre has to be made applicable across the board, failing which it would tantamount to prejudiced approach.

4.2 In view of above, adhoc promotions in the cadre of Superintendent needs to be regularized immediately without any further delay or query and the same may be carried out in the light of the directions contained in this office letter C.No.II-3(33)SEC/DPC/2014/2313 dated 07.03.2018.

5. Moreover, process of DPC for the promotion from Inspector to Superintendent was to be completed before 31.3.2018. However, inspite of clear instructions of the undersigned, Cadre Control has taken a view contrary to the directions of this office owing to which the said process stands stalled by the Hon'ble CAT, Chandigarh. In many other Zones, process has been completed in March-18 and newly promoted Superintendents have already joined on 1.4.2018.

You are therefore, directed to:

- i. Revise the seniority list of Inspectors/Tax Assistants/UDC's w.e.f. 1986 onwards in compliance to judgment of the Hon'ble Apex Court in the case of N.R.Parmar & Ors, by 15.08.2018 without any further reference in the matter.
- ii. Conduct DPC/review DPC for the promotion of Inspector to Superintendent on regular basis by 15.8.2018 positively.

The above timeline should be adhered to strictly.


Chief Commissioner
