



सत्यमेव जयते

GOVERNMENT OF INDIA, MINISTRY OF FINANCE
CENTRAL BOARD OF DIRECT TAXES
DIRECTORATE OF INCOME TAX
(HUMAN RESOURCE DEVELOPMENT)
 ICADR Building, Plot No. 6, Vasant Kunj Institutional Area Phase-II
 New Delhi

F. No. HRD/CM/220/14/275

Dated: 29-09-2014

To

All Principal Chief Commissioner of Income Tax (CCA),
 Andhra Pradesh/Gujrat/Mumbai/Pune/Nagpur/Delhi/NWR/
 NER/UP(E)/UP(W)/West Bengal/Odisha/Bihar/Rajasthan/MP&CG/
 Kerala/Karnatka/Tamilnadu.

Sir/Madam,

**Subject: Implementation of the decision of the Hon'ble Supreme Court in the case of
 NR Parmar (CA No. 7514-7515 and others) - Issue of Advisory - Regarding -**

The matter of drawing up of inter se seniority at the Group C cadres has been delegated to the respective Pr. CCIT(CCA)s by the CBDT. Various disputes relating to inter-se seniority between Direct Recruit (DR) and Promotee Recruit (PR) Inspectors of Income Tax (ITI) in certain Pr. CCIT(CCA) Regions had arisen on account of seniority lists prepared by various CCAs. The determination of the year of appointment of a Direct Recruit for purposes of seniority has now been settled by the hon'ble Supreme Court in the case of "Union of India & others vs NR Parmar & Others" vide its Order dated 27-11-2012.

2. Letters have been received in the CBDT from various CCAs pointing out difficulties in the implementation of the decision and seeking directions/clarifications on the mode of implementation to be adopted. Representations have also been received from CCsIT(CCA), ITGOA and ITEF, as well as from individual employees, seeking an early implementation of the judgement.

3. Letters were issued by the Member (P&V), CBDT seeking inputs from the all Pr. CCsIT (CCA) in the matter. Based on the inputs received, extensive consultations have been carried out by Pr. DGIT(HRD) on behalf of CBDT, with representatives of Pr. CCsIT(CCA)s and the ITGOA and ITEF. Minutes of the meetings held on 3rd December, 2013 and 11th December, 2013 in the course of consultation process have been circulated to all the participants. No dissent note has been received from the participants against the Minutes of meetings.

4. After consultations, the following Advisory based on the common queries of the Pr. CCsIT(CCA) and other issues that surfaced during the consultation process, are being issued in a FAQ format for uniform implementation of the revision of seniority lists in all Regions in the country, as follows :

S. no.	Issues	Draft response
1	Will the seniority of the Direct Recruit reckon from the year of vacancy or the year in which the intimation has been sent to SSC or the year in which the exam was conducted or the year of selection.	<p>The SC judgement is clear that the seniority of the DR would arise from the year in which the requisition has been sent to SSC.</p> <p>However, in the case before the Supreme Court, both the year of requisition and the vacancy year were the same; The Apex Court is silent on the situation that would arise if the years were different.</p> <p>In case requisition has been made in advance (i.e. before of the year in which the vacancy arises), then the vacancy year shall be adopted as the year of seniority. In case requisition has been made after the vacancy arises, then it is the year of such requisition that is material. Such an interpretation would not run contrary to the decision of the Supreme Court, as clearly, wherever the letter of requisition preceded the vacancy year, the vacancy itself did not exist in the year of requisition. Thus the year of vacancy and year of requisition must be read together.</p> <p>Of course, the SC has explicitly held that the year of examination or the year of appointment/joining is of no relevance for this purpose. Similarly, the date of advertisement by SSC would have no relevance.</p> <p>Further, the year of requisition will be the year in which the requisition has been sent to the SSC. The year in which requisition has been made by the CCsIT(CCA) to the CBDT is not relevant.</p>
2	From which date would the implementation of the Supreme Court decision be made applicable?	The SC decision relies on the 1986 circulars of DoPT, which are, in turn, prospective in application. DoPT has also advised that the seniority has to

Ans:

		be decided under the DoPT OMs dt 7.2.1986/3.7.1986 till 27.11.2012. Thus review DPCs for all DPCs conducted till 27.11.2012 would be held as per DoPT OMs dt 7.2.1986/3.7.1986. After 27.11.2012, the DoPT OM dt 04.03.2014 would be applicable.
3	Is the NR Parmar decision applicable only to the post of Inspectors?	DoPT has advised that the NR Parmar judgement is applicable to the post of Inspectors.
4	The dates of requisition letters informed by the Board to the SSC year-wise are not known to the CCIT(CCA)s	Till the vacancy year 1991-92, CCIT(CCA)s were requisitioning the Direct Recruits directly from SSC. The dates of requisition letters (vacancy year-wise), as intimated by CCIT(CCA) to SSC, should be available from their records. In the subsequent years, the notification of vacancies were made to SSC by the Board. The dates of the requisition letter in respect of the various vacancy years, along with the year to which seniority of Direct Recruit ITIs relates to, are given in Annexure 1.
5	How to deal with cases of inter-charge transfers and with those who have worked earlier in other Departments/PSUs?	This issue is not related to the revision of seniority lists on basis of the NR Parmar decision. This is governed by separate CBDT instructions on the matter.
6	CCIT, Nagpur became CCA only with effect from 2001, and no records are available for the earlier years.	See comments at S. No. 4 above. The dossiers of the Direct Recruits received from SSC may be examined from their personal records to ascertain the Year of examination and accordingly the date of letter of requisition can be determined.
7	Can refixation of inter se seniority be done without holding a Review DPC?	Instructions on Review DPCs are available at para 18.1 to 18.4.2 of DoPT OM no. 22011/5/86-Estt. (D) dt. 10.4.89. Accordingly, it would be necessary to conduct Review DPC.
8	Whether ADRP would fall in the purview of Para 2.4.4 of the OM of 1986 i.e., whether under reporting/ no reporting of DR vacancy due to ADRP would lead to Promotees being bunched together on ad hoc basis.	Since Para 2.4.4 of the OM was not subject matter of the Supreme Court judgment, this is not required to be dealt with here.

5. This advisory is being issued for enabling all Pr. CCsIT(CCA) to carry out the process of re-fixing of Seniority Lists of Inspectors of Income Tax (ITI) in their Regions in accordance with the Supreme Court judgement, to be followed uniformly by all Pr. CCsIT(CCA) Regions for the purpose of uniformity and consistency. It may be noted that the implementation relates to assignment of correct Recruitment Year to Direct Recruits in the ITI cadre. All other provisions of the extant OMs of DoPT relating to fixing of inter-se seniority between Direct Recruits and Promotees (other than the OM dated 30-03-2008 which has been quashed by the Supreme Court) have to be followed.
6. The Pr. CCsIT(CCAs) are advised to form a Task Force in their respective Regions for early implementation of the Hon'ble Supreme Court decision as per the Advisory and to complete the exercise of conducting review DPCs latest by 10.10.2014.
7. This issues with prior approval of Chairman, CBDT.

Encl: As above.


Yours faithfully,


(NITIN GARG)

Deputy Director of Income Tax (HRD)

Copy to

1. The Web Manager, www.lrsofficersonline.gov.in, with request to upload the letter and annexure on the website.
2. The Web Manager, www.incometaxindia.gov.in, with request to upload the letter and annexure on the website.


Deputy Director of Income Tax (HRD)

LETTERS OF REQUISITION SENT TO SSCFor ITI level recruitment

S.no.	Vacancy Year	Date of requisition letter	Examination year	File no.	Recruitment year of Direct Recruits	Remarks
1	1986-87				Requisition by CCIT(CCA)s from SSC directly. Information is available with SSCs	CCsIT(CCA) to utilize the date of requisition letter sent by them to SSC in order to determine correct RY for DRs
2	1987-88				-do-	-do-
3	1988-89				-do-	-do-
4	1989-90				-do-	-do-
5	1990-91				-do-	-do-
6	1991-92				-do-	-do-
7	1992-93		1991	A-12021/2/92-Ad.VII	Seniority of DRs is of 1992-93.	Letter to SSC not available. However, the letter of SSC forwarding the dossiers to CCIT, Ahmedabad, mentions the CBDT letter no. A-12021/2/92/Ad.VII dt. 03.06.1992.
8	1993-94	29.12.1993	1992	A-12021/1/93-Ad.VII	Seniority of DRs is of 1993-94	-
9	1994-95	27.07.1994	1993	A-12021/14/94-Ad.VII	Seniority of DRs is of 1994-95	--
10	1995-96	16.10.1995	1994	A-12021/7/95-Ad.VII	Seniority of DRs is of 1995-96	--
11	1996-97	7.6.1999	1995	A-12021/1/99-Ad.VII	Seniority of DRs is of 1999-2000	-

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ANNEXURE 1

S.no.	Vacancy Year	Date of requisition letter	Examination year	File no.	Recruitment year of Direct Recruits	Remarks
12	1997-98	28.11.2001	1996	A-41015/51/2000-Ad VII	Seniority of DRs is of 2001-02	--
13	1998-99 & 1999-00	10.8. 2001	1999	A-12021/3/2000-Ad VII	Seniority of DRs is of 2001-02	Selections of vacancy year 1997-98 would get seniority over selections of vacancy year 1998-99/1999-00
14	2000-01	--	--	A-12021/11/99-Ad.VII dt 21.12.2011 r.w. DOPT instruction no. 48/1/2001-AP/DOMS/41 dt 4.6.01		No Direct Recruitment Undertaken
15	2001-02	9.5. 2006	2005	A-14013/1/2004-Ad.VII	Seniority of DRs is of 2006-07	--
16	2002-03 to 2005-06	20.2. 2007	2005	A-12021/3/2004-Ad.VII	Seniority of DRs is of 2006-07	--
17	2006-07 & 2007-08	1.2. 2008	2006	A-12021/27/2007-Ad.VII	Seniority of DRs is of 2007-08	--
18	2008-09	13.7.2009	2008	A-12021/15/2009-Ad.VII	Seniority of DRs is of 2009-10	--
19	2009-10	21.01.2010	2009	A-12021/37/2009-Ad.VII	Seniority of DRs is of 2009-10	Selections of vacancy year 2009-10 would get seniority over selections of vacancy year 2010-11
20	2010-11	27.10.2010	2010	A-12021/11/2010-Ad.VII	Seniority of DRs is of 2010-11	--
21	2011-12	02.02.2011	2011	HRD/CM/127/2/2010-11	Seniority of DRs is of 2011-12	--

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ANNEXURE 1

S.no.	Vacancy Year	Date of requisition letter	Examination year	File no.	Recruitment year of Direct Recruits	Remarks
22	2012-13	12.10.2012	2012	HRD/CM/127/14/2 011-12	Seniority of DRs is of 2012-13	-
23	2013-14	17.12.2013	2013	HRD/CM/127/07/2 012-13	Seniority of DRs is of 2013-14	-

Pass: