



I.T.G.O.A  
ZINDABAD

# Income Tax Gazetted Officers Association

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Date: 17<sup>th</sup> September, 2014

To

The Secretary,  
Department of Personal & Training  
M/o Personnel, Public Grievances & Pensions  
North Block, New Delhi.

Respected Sir,

**Sub: Proposed amendments in IRS Recruitment Rules- Objections regarding**

Kindly refer to the draft recruitment rules of Indian Revenue Service sent for obtaining concurrence of the DOPT by the Central Board of Direct Taxes. Such rules are proposed to replace the existing IRS Recruitment Rules, 1988.

In this regard, it is to submit that Income Tax Gazetted Officers' Association is the only recognized association in the Income Tax Department representing all Group-B & promotee Group-A officers of the Department. We have gone through the draft IRS recruitment rules sent to the DOPT by the CBDT and found that many clauses of these rules are not framed as per the Government/DOPT guidelines. We have also found that many clauses in these draft rules are detrimental to the carrier prospects of our members. We are highlighting all such issues in the Annexure-A enclosed herewith, with the request to consider the same and make suitable lawful changes while granting concurrence to these draft rules.

Thanking you.

Encl. As above

Yours faithfully,

**(Bhaskar Bhattacharya)**  
**Secretary General**



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## Annexure-A

### **A. Issue No. 1**

#### **Draft Recruitment Rule**

#### **6. Initial constitution of the Service**

(1) The existing officers of the Indian Income-tax Service (Group 'A') holding duty posts in various grades of that Service on regular basis or holding lien on such duty posts on the date of commencement of these Rules shall be deemed to have been appointed to the appropriate duty posts and grades in the Service in a substantive or officiating capacity, as the case may be.

(2) The regular continuous service of officers referred to in sub-rule (1) above, in the respective corresponding grades, rendered prior to the commencement of these Rules, shall be counted as qualifying service for the purpose of seniority, confirmation, promotion, non-functional upgradation and pension.

#### **9. Seniority at Initial Constitution of the Service**

The relative seniority of the members of the Service appointed to any Grade in accordance with Rule 6 at the time of initial constitution of the Service shall be governed by their relative seniority obtaining immediately before the date of commencement of these Rules;

Provided that if the seniority of any such member has not been specifically determined immediately before the said date, the same shall be determined in accordance with the Rules applicable to such members before the commencement of these Rules

#### **Existing IRS Recruitment Rules, 1988**

#### **6. Initial constitution of the Service**

The existing officers of the Indian Income-tax Service (Group 'A') holding duty posts in various grades of that service on regular basis or holding lien on such duty posts on

the date of commencement of these rules shall be deemed to have been appointed to the appropriate duty posts and grade in the Service in a substantive or officiating capacity, as the case may be

## **8. Seniority at initial constitution of the Service**

The relative seniority of the member of the service, appointed to any grade in accordance with rule 6, at the time of initial constitution of the service shall be governed by their relative seniority obtaining immediately before the date of commencement of these rules.

Provided that if the seniority of any such member has not been specifically determined immediately before the said date, the same shall be determined in accordance with the rules applicable to such member before the commencement of these rules.

### **Observations/Objections**

A new sub rule 6(2) has been inserted in the draft RR rule. According to which the regular continuous service of officers mentioned in sub-rule 1 of Rule 6, rendered prior to commencement of these Rules shall be counted as qualifying service for the purpose of seniority, confirmation, promotion etc.

This draft sub-rule is discriminatory against the promotee officers. Almost all the DPCs for ITO to ACIT, ACIT to DCIT etc. are not held in time. Sometimes there is inordinate delay of more than one year. The details for last 23 years are as under:

<b>Vacancy/ Panel Year</b>	<b>Month of Promotion</b>	<b>DPC to be held by as per DOPT OM</b>	<b>Delay (in Months)</b>
1991-92	December, 1991	January, 1991	11
1992-93	June, 1993	January, 1992	17
1993-94	April, 1994	January, 1993	15
1994-95	January, 1995	January, 1994	12
1995-96	January, 1996	January, 1995	12
1996-97	February, 1997	January, 1996	13
1997-98	January, 1998	January, 1997	12
1998-99	January, 2001	January, 1998	36
1999-00	January, 2001	January, 1999	24
2000-01	November, 2001	January, 2000	22
2001-02	November, 2001	January, 2001	10
2002-03	November, 2003	January, 2002	22
2003-04	January, 2005	January, 2003	24
2004-05	November, 2006	January, 2004	34
2005-06	November, 2006	January, 2005	22
2006-07	May, 2007	January, 2006	16

2007-08	October, 2008	January, 2007	21
2008-09	October, 2008	January, 2008	09
2009-10	September, 2010	January, 2009	20
2010-11	March, 2012	January, 2010	26
2011-12	March, 2012	January, 2011	14
2012-13	May, 2013	January, 2012	17
2013-14	September, 2014	January, 2013	20
2014-15	Not yet held	January, 2014	8

If qualifying service for the purpose of seniority, confirmation etc. are counted from the date of assumption of charge / promotion order instead of from the year of vacancy, the future career prospect of existing promotee IRS officers will be jeopardized. Though the existing IRS Recruitment Rules, 1988 has no such Sub-Rule and Rule 8 of the existing RR Rule & Rule 9 of the Draft RR rule are identical, because of insertion of Rule 6(2) in the draft Rule the future career prospect of existing promotee IRS officers will be stunted.

### **Suggestions**

Either the Rule 6(2) in the Draft Recruitment Rule should be deleted or the **regular continuous service should be reckoned from the vacancy year.**

## **B. Issue No. 2**

### **Draft Recruitment Rule**

#### **7. Future maintenance of the Service**

(1) Any vacancy arising in any of the grades after the initial constitution of the Service under Rule 6 shall be filled in the manner hereinafter provided in these Rules.

(2) The Board shall determine the number of vacancies to be filled in each year in the grade of Assistant Commissioner of Income Tax. 50 percent of the vacancies so determined shall be filled by direct recruitment on the basis of the results of the Examination and the remaining 50 per cent of such vacancies arising in that grade shall be filled by promotion of Income Tax Officers on the basis of selection in accordance with the provisions of Schedule II.

(3) Appointment in the Service to the posts of Deputy Commissioner of Income Tax and above shall be made in the manner specified in column (3) of Schedule II from amongst the officers of the next lower grade with the minimum qualifying service as specified in column (4) of Schedule II.

(4) The selection of officers for promotion shall be made by selection, except in the case of promotion on non-functional basis to posts in the grade of Deputy Commissioner of Income Tax (STS) and Additional Commissioner of Income Tax (NFSG), which shall be by screening on the basis of seniority subject to rejection of the unfit on the recommendation of the Committee constituted for this purpose in accordance with Schedule-III.

### **Existing IRS Recruitment Rules, 1988**

#### **7. Future maintenance of the Service**

(1) Any vacancy arising in any of the grades after the initial constitution of the Service under Rule 6 shall be filled in the manner hereinafter provided in these Rules.

(2) 50 percent of the vacancies shall be filled by direct recruitment on the basis of the results of the Examination and the remaining 50 per cent of vacancies arising in that grade shall be filled by promotion of Income Tax Officers on the basis of selection in accordance with the provisions of Schedule II.

(3) Appointment in the Service to the posts of Assistant Commissioners of Income tax (Senior Scale) and above shall be made from amongst the officers of the next lower grade with the minimum qualifying service as specified in column (4) of Schedule II.

(4) The selection of officers for promotion shall be made by selection, except in the case of promotion to posts in the grade of Assistant Commissioner of Income tax (Senior Scale) and Deputy Commissioner of Income tax (Selection Grade) which shall be seniority subject to rejection of the unfit on the recommendation of the Committee constituted in accordance with Schedule-III.

### **Observations/Objections**

In the draft rule 7(2), it has been provided that the Central Board of Direct Taxes shall determine the number of vacancies to be filled in each year in the grade of Assistant Commissioner of Income Tax. The vacancies so determined shall be filled up in the ratio of 50:50 between the direct recruits and the promotees.

By this change in rule, the CBDT will decide the number of vacancies to be filled up every year. This number may vary from the actual vacancies arising in the cadre. Direct recruitment in the in the grade of Assistant Commissioner of Income Tax is done through the UPSC whereas promotion is made through the eligible Income Tax Officers. By this change, the CBDT may restrict the number of promotions to the number of available direct recruits since the quota is 50:50. Illustratively, if vacancies in particular year are arising say 300 then vacancies of both direct recruit and promotion quota will be 150 each. But if the direct recruits are available say only 100, in case UPSC is unable to provide the requisite number, then CBDT will determine only 200 vacancies to be filled in the year to maintain equal number in both quota. This way, the number of promotion will be reduced which will increase the stagnation period and will thereby be detrimental to the career prospects of the Income Tax Officers.

The residency period for promotion from ITO to ACIT grade is 3 years whereas currently their waiting period is more than 13 years.

In such circumstances, if the UPSC is not providing the requisite number of direct recruits, the number of promotion will be restricted by determining lesser number to be filled up in the year, which will be against the interest of the ITOs with no fault of them.

In the existing rules of 1988, there has been no such provision.

Determination of regular vacancies has been provided in Para 4.1 of the DOPT OM No.22011/5/86-Estt.(D) dated 10.04.1989 i.e. consolidated instructions on DPC and related matters, as under:

*"It is essential that the number of vacancies in respect of which a panel is to be prepared by a DPC should be estimated as accurately as possible. For this purpose, the vacancies to be taken into account should be the clear vacancies arising in a post/grade/service due to death, retirement, resignation, regular long term promotions and deputation or from creation of additional posts on a long term. As regards vacancies arising out of deputation, only those cases of deputation for periods exceeding one year should be taken into account, due note, however, being kept also of the number of deputationists likely to return to the cadre. Purely short term vacancies arising as a result of the officers proceeding on leave, or on deputation for a short-term period, training etc. should not be taken into account for the purpose of preparation of a panel. In cases where there has been delay in holding DPCs for a year or more, vacancies should be indicated year-wise separately."*

These guidelines have been reiterated in the DOPT OM No.22034/1/2006-Estt.(D) dated 15.04.2007.

Similar DOPT guidelines on vacancy determination are also provided in the rules pertaining to the promotion in various grades in IAS cadre.

Further, the DOPT OM No. 22011/9/98-Estt (D) dated 8-9-1998 also provides as under:

*"Since in accordance with the suggested Model Calendar being prescribed herein, the panels for all the grades available on the first day of the vacancy year, it is expected that all chain vacancies may become available during the same vacancy year. Accordingly, for the sake of uniform procedure it is provided that a DPC for a grade may take into account all clear expected vacancies by retirement etc in all the concerned grade as well as chain vacancies on account of retirement etc in the higher grades which can be clearly anticipated in the same vacancy year."*

Hence, as per the DOPT guidelines, the vacancies may be determined and may be filled up through respective quota of recruitment.

**The proposed change in the rules is therefore against the DOPT guidelines.**

The sole purpose of making the said change is to restrict the number of ACIT promotions to the number of direct recruitment. But, in the zeal to ensure equal number of Promotee and Direct Recruit ACIT in a particular year (purportedly to obviate the need for bunching of left-over Promotee Officers at the bottom of seniority list of that year), the following facts have been lost sight of:

- More number of ACIT posts will remain vacant, if the number of vacancies determined to be filled up is less than actual number of vacancies.
- Normally on account of austerity measures, there is restriction on the number of direct recruitment. For example DOPT OM No. No. I-11011/1/2009-CRD dated 14-12-210 (On the Subject: Consolidated Guidelines for Cadre Review of Central Group 'A' Services) provides that :

*"The Cadre Controlling Authorities are, however, advised not to resort to any bulk recruitment as it would create a bulge in the structure leading to stagnation at later stage. This may be kept in view while projecting recruitment planning." (para-7)*

Further, the DOPT OM No. 2/8/2001-PIC dated 16.05.2001 (Sub: Optimization of Direct Recruitment to Civilian Posts) provided that:

*"2.2 While preparing the Annual Recruitment Plans, the concerned Screening Committees would ensure that direct recruitment does not in any case exceed 1% of the total sanctioned strength of the Department. Since about 3% of staff retire every year, this would translate into only 1/3rd of the direct recruitment vacancies occurring in each year being filled up. Accordingly, direct recruitment would be limited to 1/3rd of the direct recruitment vacancies arising in the year subject to a further ceiling that this does not exceed 1% of the total sanctioned strength of the Department.....*

*3. The other modes of recruitment (including that of 'promotion') prescribed in the Recruitment Rules/Service Rules would, however, continue to be adhered to as per the provisions of the notified Recruitment Rules/Service Rules."*

The above restriction in direct recruitment was effective from 2001 to 2009. But, such restriction was not there on promotion, probably because of the fact that the officers who will be promoted are already in Govt. Service & by promoting them, extra burden on the Govt. will be only to the extent of increment in pay, while direct recruitment will involve a much larger outlay for the Govt.

The proposed Recruitment Rule for IRS fails to provide for the functional needs of the Income Tax Department, which is sure to be adversely affected with more number of ACIT posts remaining vacant, especially due to the this rule.

- Even with this rule, number of Direct Recruit ACIT & Promotee ACIT will not be exactly the same in any vacancy year, because of technical resignation by Direct Recruits due to their selection to higher service.
- Lastly, wording of proposed Rule has already been improved upon vis-a-vis the existing Rule, whereby instead of the term '50% of the vacancy in the grade of ACIT shall be filled' the Rule clearly lays down that 'Proportion of recruitment for the Direct Recruit Officers and Promotee Officers to the JTS Grade post of ACIT shall be 50% by Direct Recruitment & 50% by Promotion. Here it is pertinent to mention that, Quota Rule must provide for correct allotment of vacancy to each channel of recruitment. If the quota is based on recruitment (instead of annual vacancy) then, it will result in large number of ACIT posts remaining vacant, even when there is stagnation in the ITO grade (which is presently more than 13 years, highest in the Department in any grade). This will result in important cutting edge level (ACIT) posts lying vacant and a demoralized ITO cadre, with a direct impact on Revenue Collection. The maxim coined by Venerable Kautilya/Chanakya and adopted by Income Tax department as its motto 'Kosh Moolo Dandah' (Revenue is the back-bone of a State) will be directly compromised, if ACIT posts are allowed to remain vacant indefinitely. Hence, the proposed rule is against the interest of the nation in general and that of Income Tax Department in particular.

Another important aspect is that these rules will result in arriving at wrong number for posts for reserved categories both in Direct Recruitment and Promotion (where reservation is applicable) by not considering total vacancy for the purpose of recruitment. Thus the proposed rules will be against reservation policy of Govt. of India, which is not desirable, both legally and socially.

Further, the proposed rules will defeat the very purpose of recruitment rules as it only provides for a gap between the number of vacancies that would arise in any year and the number of recruitment/promotion, which gap will increase year after year. The proposed Recruitment Rules do not contain any answer, as to how the situation of such large number of vacant posts in the cutting edge level, is going to be dealt with. Thus, these Rules in its proposed form are self defeating by not providing for functional needs of the Department.

The Hon'ble Supreme Court in the case of the Union Of India & another Vs. Hemraj Singh Chauhan & Others in their judgment dated 23.03.2010 in Civil Appeal No.2651-52 of 2010 have ruled that governments at the Centre and states should "act as model employers" and that all eligible employees virtually had a "fundamental right" to promotion as guaranteed under Article 16 of the Constitution.

Further, the Hon'ble Supreme Court in the case of Major General H.M. Singh, VSM Vs. Union of India & others in their judgement dated 09.01.2014 in Civil Appeal No. 192 of 2014, have held that promotion cannot be denied to an employee if vacancy is available. The Hon'ble Supreme Court has held that an eligible candidate has a



fundamental right to be considered for promotion against the available vacancy and promoted if adjudged suitable

The proposed change in the rules is therefore not judicious.

### **Suggestions**

There should be no change in Rule 7(2) and existing rule may be continued. Alternatively, the clause should provide that the **vacancies should be determined as per the Government of India/ DOPT guidelines**. Otherwise, it will only give rise to avoidable litigation due to arbitrary action.

### **C. Issue No. 3**

#### **Draft Recruitment Rule**

#### **7. Future maintenance of the Service -**

(5) For the purpose of appointment to any grade, the length of service shall be reckoned to have commenced from the 1st of January of the year following the year of the Examination on the basis of which the Direct Recruit was recruited and shall include any period during which he would have held a post in the Service but for his being on leave or otherwise not being available for holding such post.

#### **Existing IRS Recruitment Rules, 1988**

There is no such sub rule (5) in the existing rules

#### **Observations/Objections**

The sub rule has been inserted in the proposed IRS recruitments Rules. In this rule, the length of service to be reckoned for the Direct Recruits only has been provided. At the entry level, 50% vacancies belong to promotion quota also. No such rule has been provided here for promotees. Here, the length of service to be reckoned for the Promotee Officer should be the same as of Direct Recruit of that Corresponding vacancy Year. DPC meetings are often conducted late and in many years, delay in conducting DPC is about 2-3 years. Such delay results not only in monetary loss to Officers but all their future promotions also get delayed for no reasons attributable to such officers. Therefore, there should be made suitable provision in Rule 7(5) regarding the length of service to be reckoned for the Promotee Officer as the same as

of Direct Recruit of that Corresponding Vacancy Year. To mitigate genuine hardships faced by the promotee officers in late conduct of DPC, such provision in the sub-rule (5) is required. By such provision for the promotee officers, the future promotion of officers will not be adversely affected on account of delay in conducting of DPC, thus conforming to DOPT OM No. 20011/1/2006-Estt.(D) dated 03.04.2012 and No.20011/1/2012-Estt.(D) dated 04.03.2014 as well as principles of equity. Clause 5(f) of the DOPT OM dated 04.03.2014 on seniority clearly provides that the initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well. The proposed rule should be in consonance of this clause of the DOPT guidelines.

### **Suggestions**

Suitable provision in Rule 7(5) should be made regarding the length of service to be reckoned for the Promotee Officer as the same as of Direct Recruit of that Corresponding Vacancy Year. Further, in lines of the **Clause 5(f) of the DOPT OM dated 04.03.2014 on seniority**, it should be provided that the initiation of recruitment process for any of the modes viz. direct recruitment or promotion would be deemed to be the initiation of recruitment process for the other mode as well.

## **D. Issue No. 4**

### **Draft Recruitment Rule**

#### **8. Appointment to the Service**

All appointments to the Service shall be made by the Controlling Authority for all the duty posts in various Grades of the Service.

#### **13. Appointment to the Service**

All appointments to the Service for all the duty posts in various grades shall be made by the Controlling Authority acting on behalf of the President.

### **Existing IRS Recruitment Rules, 1988**

#### **12. Appointment to the Service**

All appointments to the Service shall be made by the Controlling Authority for all the duty posts in various Grades of the Service.

### **Observations/Objections**

In the proposed rules, two rules i.e. Rule 8 & Rule 13 are provided with same heading. As per the DOPT guidelines for framing/amending recruitment rules, Rule 8 should be on 'Appointments by deputation'. Since there is no such appointment provided in IRS cadre, Rule 8 may be drafted accordingly.

### **Suggestions**

Proposed Rule 8 should be either on 'Appointments by deputation' or it may be removed.

## **E. Issue No. 5**

### **Draft Recruitment Rule**

#### **10. Seniority of Assistant Commissioner of Income tax**

The seniority of persons appointed to the post of Assistant Commissioner of Income tax shall be determined in the manner indicated below -

(i) The seniority among such officers promoted from the grade of the ITOs inter-se shall be determined in the order of their selection for such promotion and officers promoted on the basis of an earlier selection shall rank senior to those promoted on the basis of a subsequent selection.

(ii) The seniority among the direct recruits inter-se shall be determined by the order of merit in which they are selected for such appointment by the Commission and any person appointed on the basis of an earlier selection shall rank senior to all other persons appointed on the basis of any subsequent selection.

(iii) The relative seniority amongst the promotees and the direct recruits shall be in the ratio of 1:1 and the same shall be so determined and regulated in accordance with a roster maintained for the purpose which shall follow the sequence, namely:

- (a) Promotee,
- (b) Direct recruit,
- (c) Promotee,
- (d) Direct recruit, and so on.

### **Existing IRS Recruitment Rules, 1988**

Same as above

### **Observations/Objections**

There is no change in the rule on Seniority of Assistant Commissioner of Income tax.

On relative seniority between Promotee & Direct Recruit Officers Following facts are relevant and need to be considered:

- That in the last 2 decades there is no such roster maintained for Promotee and Direct Recruit Officers.
- That the system of such a roster is as per General Principles for determining seniority in Central services as contained in MHA O.M. No. 9/11/55-RPS dated 22.12.1959, especially in the Explanatory Memorandum to the said principles. Effectively, Promotees and Direct Recruits were given definite slots in the Seniority List and when these slots were vacant due to non-filling up or otherwise, the later entrants were allowed to frog-jump over existing officers such as to occupy the respective vacant slots.
- That the system of assigning definite slots for Promotee and Direct Recruit officers have been dispensed with from 1986, vide DOPT OM No. 35014/2/80-Estt(D) dated 07.02.1986 (reiterated by DOPT OM No. 22011/7/86-Estt(D) dated 03.07.1986) read with the DOPT OM No.20011/1/2012-Estt.(D) 04.03.2014 and instead it is provided that arraigining of PR & DR will be till the last available PR (or DR) and all the left-over PR (or DR) will be bunched at the bottom of that year.
- Number of Promotee & Direct Recruit will not be exactly equal in any year, for reasons like technical resignation by Direct Recruit officers, retirement of Promotee Officer before date of promotion.

Hence, there is a need for a clarification that in case of any Promotee or Direct Recruit Officer who is left after arraigining them in the ratio of 1:1, such left-over PR or DR will be bunched at the bottom of seniority list of that particular year. This will be line with Rule 12 (2) which stipulates that Officers of an earlier 'year of allotment' will rank senior to officers with later 'year of allotment'. Moreover, and absence of this provision will result in avoidable litigation, as is presently going on. Following case-laws of Hon'ble SC are relevant on this issue:

### **1. A. Janardhana - 1983 SCC L&S 467**

*"It is therefore time to clearly initiate a proposition that a direct recruit who comes in to service after the promotee was already unconditionally and without reservation promoted and whose promotion is not shown to be invalid or illegal according to relevant statutory or non-statutory rules should not be permitted by any principle of seniority to score a march over a promotee because that itself being arbitrary would be violative of Articles 14 and 16."*

### **2. N.K.Chauhan Vs. State of Gujarat - 1977 (1) SCC 308**

Para 32(3) of the judgement dated 01.11.1976

*".....The impact of this position is that if sufficient number of direct recruits have not been forthcoming in the years since 1960 to fill in the ratio due to them and those deficient vacancies have been filled up by promotees, later direct recruits cannot claim 'deemed' dates of appointment for seniority in service with effect from the time, according to the rota or turn, the*

*direct recruits' vacancy arose. Seniority will depend on the length of continuous service and cannot be upset by later arrivals from the open market."*

Para 40(d) of the judgment ".....Promotees regularly appointed during period A in excess of their quota, for want of direct recruits (reasonably sought but not secured and because tarrying longer would injure the administration) can claim their whole length of service for seniority even against direct recruits who may turn up in succeeding periods."

### **3. Direct Recruit Class II Engg. Officers Vs. St. of Maharashtra [1991 SCC(2) 715 ]**

Para 44 of Order dated 02.05.1990, 5 judge Constitution Bench has held

*"(A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation."*

*"(E) Where the quota rule has broken down and the appointments are made from one source in excess of the quota, but are made after following the procedure prescribed by the rules for the appointment, the appointees should not be pushed down below the appointees from the other source inducted in the service at a later date."*

### **4. S P Gupta Vs. St. of J&K-2000(7) SCC 561. (Para 79 of order dated 28.04.2000) :**

*"Seniority has to be worked out between direct recruits and promotees for each year.*

The proposed clause without the concept of bunching is against the spirit of the existing DOPT guidelines on fixation of inter-se- seniority between direct recruits and promotes.

### **Suggestions**

Proposed Rule 10 (3) be reframed as under:

10(3) The relative seniority among the Promotee Officers and the Direct Recruit Officers in a particular vacancy year shall be in the ratio of 1:1, being corresponding to the quota rule of 50% each for Promotion and Direct Recruitment It shall be fixed in accordance with the DOPT OMs dated 07.02.1986, 03.07.1986 & 04.03.2014 or as decided by the DOPT from time to time, in the following sequence, namely:-

- (a) Promotee,
- (b) Direct recruit,
- (c) Promotee,
- (d) Direct recruit, and so on till the last available Promotee or Direct Recruit Officer and left-over officers, if any, will be bunched at the bottom of that particular vacancy year and this bunched portion may be considered for further promotion etc. altogether.

### **F. Issue No. 6**

### **Draft Recruitment Rule**

## **12. Probation -**

(1) Every officer on appointment to the Service, either by direct recruitment or by promotion to the post of Assistant Commissioner of Income tax, shall be on probation for a period of two years;

Provided that the Controlling Authority may extend the period of probation in accordance with the orders or instructions issued by the Government from time to time in this regard.

Provided further that any decision for extension of the period of probation shall be taken ordinarily within eight weeks of the expiry of the previous period of probation and communicated in writing to the concerned officer together with the reasons for so doing within the said period.

(2) On completion of the period of probation or any extension thereof, the officer shall, if considered fit for permanent appointment, be retained in his appointment on regular basis and be confirmed in due course against the available substantive vacancy.

(3) If, during the period of probation or any extension thereof, as the case may be, the Government is of the opinion that an officer is not fit for permanent appointment, the Government may -

(a) if he was appointed by direct recruitment, discharge him from service;

(b) if he was appointed by promotion, revert him to the post held by him immediately before such promotion.

(4) During the period of probation, or during the extension of probation period, an officer may be required by the Government to undergo such course of training and instructions and to pass such examinations and tests (including examinations in Hindi) as the Government may consider necessary as a condition to satisfactory completion of the probation.

(5) As regards other matters relating to probation, the members of the Service will be governed by the orders or instructions issued by the Government from time to time in this regard.

### **Existing IRS Recruitment Rules, 1988**

## **12. Probation -**

Same as above

### **Observations/Objections**

No change in existing and draft rules. However, following observations / objections are being made:

(i) In the career span of any government official, there is generally only one period of probation and subsequent confirmation. As the promotee officers are already confirmed in their feeder cadre after probation, there is no need for putting them on probation of two years after promotion to the grade of ACIT.

(ii) The logic behind this rule may be given that the ACIT is all India service while the cadre upto ITO is region based, hence for initiation in the IRS cadre, probation is

required. This logic is also ill found. The recruitment in the cadre of ACIT is from two streams. One is from selection through Civil Services Exam conducted by UPSC. Another is through Department Promotion of ITOs.

The ITOs are promoted because of their seniority acquired expertise or knowledge in the Department works through working for a long period in the Department and their APARs being above bench mark and having no pendency of vigilance cases. Hence, there cases cannot be equated with the newly recruited direct IRS officers who have, in most of the cases, having no exposure, experience of the working of the Department works.

### **Suggestions**

Hence, because of already been confirmed in the feeder cadre and having lots of experience and knowledge in the Departmental field, there should be no probation period for promotee officers. Of course there should be training for shorter / truncated duration to enhance, upgrade the knowledge and to interact with best of talents / brains / trainers of the Department.

## **G. Issue No. 7**

### **Draft Recruitment Rule**

#### **SCHEDULE - III**

Composition of Department Promotion Committee for considering cases of appointment, promotion and confirmation of Group 'A' officers of the Indian Revenue Service.

### **Existing IRS Recruitment Rules, 1988**

#### **SCHEDULE - III**

Composition of Department Promotion Committee for considering cases of promotion and confirmation of Group 'A' officers of the Indian Revenue Service.

### **Observations/Objections**

In this schedule, the composition of Departmental Promotion Committee/Screening Committee for considering appointment to all the grade has been provided. It has been provided that the DPC for all the posts (except for Addl. CIT and DCIT cadres, where screening committee shall function) shall comprise of Chairman/Member, Union Public Service Commission as Chairman.

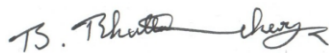
Kind attention is invited to the DOPT OM I-11019/17/2013-CRD dated 31.07.2014 wherein it has been mentioned that the DOPT is processing the recommendation of 2<sup>nd</sup> Administrative Reforms Committee in its 10<sup>th</sup> report titled 'Refurbishing of Personnel Administration- Scaling New Heights', which inter-alia recommends that promotions of officers through Departmental Promotion Committee, up to the level of Selection Grade may be delegated to the concerned departments and the UPSC should supervise the functioning of these DPCs through periodic review, audit etc. The GOM has accepted these recommendations.

Therefore, in view of these facts, the DPC up to the level of Addl.CIT may be conducted by the CBDT only without involving UPSC.

### **Suggestions**

The composition of Departmental Promotion Committee for JCIT & ACIT cadres should be:

1. Secretary, Department of Revenue- Chairman
2. Chairman, Central Board of Direct Taxes- Member
3. Member, Central Board of Direct Taxes- Member



**(Bhaskar Bhattacharya)**  
**Secretary General**