



I.T.G.O.A  
ZINDABAD

# Income Tax Gazetted Officers Association

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Date: 8<sup>th</sup> October, 2014

To,  
The Chairman,  
Central Board of Direct Taxes,  
New Delhi.

Respected Sir,

**Sub : In the matter of promotion & regularisation as JCIT - 2000 & 2001 promotees – regarding.**

The CBDT vide its affidavit dated 20th October, 2010 filed before the larger bench of CAT, Principal Bench, New Delhi during hearing in the case of “Vikas Keraba Suryawanshi & Ors v. Union of India & Ors” had furnished the vacancy position in the grade of JCIT (Joint Commissioner of Income Tax) as on that day and the number of officers likely to be promoted consequent to the DPC which was held on 20th to 23rd September, 2010. The relevant para of affidavit giving the vacancy position in the grade of JCIT is as under:-

- |   |       |
|---|-------|
| A. Total number of vacancies in the grade of JCIT reported to the DPC for the vacancy year 2010-11  | : 503 |
| B. Total number of eligible DCITs (including those officers in whose case minimum eligible service has been relaxed by one year) as on 01.01.2010 available for consideration | : 385 |
| C. Number of officers out of (B) above, who have retired or expired, till 30.09.2010  | : 046 |
| D. Number of officers available for promotion, if found fit by the DPC (i.e. B-C)   | : 339 |

2. The Principal Bench of CAT, New Delhi in its order dated 2nd November, 2010 in O.A. No. 1052/2010 alongwith the connected Miscellaneous Applications in M.A Nos. 2410, 2415, 2427, 2428, 2562 and 2594/2010 in the case held that the Civil List published by the CBDT is not exclusively for seniority, but it is a directory of officers of different grades with their particulars including transfers and postings. It directed the Board to draw a seniority list within a period of two weeks by applying the relevant rules and thereafter allow two weeks more time to the affected parties to represent against the said seniority list. A further period of two weeks was allowed to the Board to dispose of the

representations, if any, and to finalize the seniority list. It was further directed that the finalized seniority list be published and thereafter, the DPC be held by the Union Public Service Commission. The CBDT was also directed not to revisit the promotions already effected by earlier DPC. The CBDT was further directed to consider the claim of the Promotees for promotion as per the settled final seniority list. It was also directed that if during the interregnum, any of the officials have retired and were later on found to be fit for promotion, then the CBDT should allow them their due promotions with all the consequential benefits. The Tribunal also directed not to publish the promotion orders subsequent to the DPC, instead directing the recommendations of the DPC be placed in sealed cover before the Tribunal during the next hearing. It also held that the interest of the Promotees who have been considered and recommended for promotion in the said DPC be protected and that if they would be found to be within the zone of consideration and are eligible for promotion after the drafting of the fresh seniority list, then irrespective of their retirement, they would receive all the consequences of such a promotion.

3. In view of the above order of the CAT, Principal Bench, New Delhi, the Board could not publish the regular promotion order for JCIT (2000 & 2001 Batch), the DPC for which was concluded by the UPSC on 23.09.2010. The Govt. challenged the above order of the CAT vide writ petition (Union of India and ors. in WP (C) 8018 of 2010 )before the Hon'ble Delhi High Court praying for quashing of the order dated 02.11.2010 in O.A no. 1052 of 2010 and connected Miscellaneous applications and also sought that the CBDT be allowed to issue promotion orders for Junior Administrative Grade (JCIT) on the basis of the **DPC that was concluded on 23.09.2010.**

3.1 Meanwhile, subject to outcome of the judgement of the Hon'ble Delhi High Court in the above WP (C) 8018 of 2010 in the matter of "UOI & Ors. Vs. V.K. Suryawanshi & Ors.", the CBDT vide its **Order No. 53 of 2011 dated 30.03.2011 appointed 295 nos. officers who had not retired and were available for promotion as on date to the grade of JCIT on purely ad hoc basis.**

4. The Hon'ble Delhi High Court vide its judgement dated 06.07.2012 in WP (C) 8018 of 2010 and also in WP (C) 8017 of 2010 and WP(C) 7990 of 2010 held that the decision of the Tribunal that the Civil List is not the seniority list is erroneous and set it aside holding that the Civil List operated by the petitioners (CBDT) is the seniority list for the officers of IRS and it will be liable to be amended/modified according to the reference which is to be decided by the Tribunal. Consequently, the decision of the Tribunal to prepare a fresh seniority list was also set aside. **The Hon'ble High Court also set aside the directions of the Tribunal that the promotion effected by the DPC not to be acted upon and held that the petitioners (CBDT) shall be entitled to implement the recommendations of the DPC held on 20th September, 2010 to 23rd September, 2010 subject to outcome of the reference to be decided by the Tribunal. The Hon'ble High Court also directed Union of India & Ors to give the petitioners in writ petition Nos. 8017 of 2010 & 7990 of 2010 all the consequential benefits.**

5. **However, the CBDT passed regular promotion order from the grade of DCIT to the grade of JCIT only on 12.11.2013 and that too only in respect of 185 nos. officers who had not retired and were available for promotion on 12.11.2013 vide its Order No. 211 of 2013.**

5.1 The DPC for regular promotion to JCIT for the vacancy year 2010-11 was held by the UPSC from 20.09.2010 to 23.09.2010 and keeping in view the judgement of the Hon'ble Delhi High Court dated 06.07.2012, **the date of order should have related back to the date of conclusion of DPC, i.e, 23.09.2010.**

5.2 As per CBDT's affidavit referred at Para-1, total number of vacancies reported to the DPC for the vacancy year 2010-11 was 503 nos. Eligible DCITs available for consideration as on 01.01.2010 was 385 nos. out of which number of officers available for promotion after taking into account officers who have retired or expired till 30.09.2010 was 339 nos. Accordingly, all the officers found fit by the DPC out of these 339 nos. officers should have been promoted instead of only 185 nos. officers who were available for promotion on 12.11.2013.

6. The CAT, Principal Bench, New Delhi had directed in its order dated 02.11.2010 that if during the interregnum, i.e, period allowed by it to finalize the seniority list, any of the officials have retired and were later on found to be fit for empanelment, then the Board was to accord them promotions with all the consequences.

6.1 The Hon'ble Delhi High Court found the Tribunal's decision that Civil List is not the seniority list erroneous and set it aside and held that the Civil List is the seniority list and CBDT shall be entitled to implement the recommendations of the DPC held from 20.09.2010 to 23.09.2010. Accordingly also, the officials who have retired but were found fit in the DPC were to be promoted.

6.2 Further, the Hon'ble Delhi High Court also directed the Union of India & Ors to give the petitioners S.K.Mehra & Ors in writ petition No. 7990 of 2010 all the consequential benefits. However, they were also not considered in the promotion order given on 12.11.2013.

**In view of the above, it is requested that the regular promotion in the cadre of JCIT for 2000 & 2001 Batch be allowed to all the 339 officers w.e.f. 23.09.2010 i.e. the date of holding the DPC by UPSC.**

Soliciting for your urgent intervention in this matter.

Thanking you.  
Yours faithfully,



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