



JOINT COUNCIL OF ACTION
INCOME TAX EMPLOYEES FEDERATION &
INCOME TAX GAZETTED OFFICERS' ASSOCIATION
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No.N-1/JCA/2017-18

Dated, 05th April, 2017

To,
The Hon'ble Revenue Secretary,
Govt. of India,
New Delhi.

Respected Sir,

Sub: Removal of stagnation in the cadre of ITO - Promotion from ITO to ACIT – Failure of CBDT in honouring your directions - regarding.

This letter is with reference to your kind directions, issued 17 months back, on 03-11-2015 for effecting promotions to the cadre of ACIT from the post ITO to three Recruitment Years against the vacancies of the R.Y.s 2014-15, 2015-16 & 2016-17 before **31.3.2016** in order to reduce the stagnation in the ITO cadre. In consequent to your direction, the CBDT, New Delhi has till now completed 2 (two) Ad-hoc DPCs for the Recruitment Year 2014-15 and 2015-16 on 07-04-2016 and 22-07-2016 respectively for which we are very much thankful to you. Both these DPCs could not be held within the time stipulated by your honour primarily due to various cases / litigation pending in courts across the country.

It is to bring into your kind notice that the DPC for the RY 2016-17 could not be held by the CBDT till date even after the lapse of one year from the date stipulated by you i.e. 31st March 2016. Due to the constant persuasion by the ITGOA for immediate holding of the DPC for the R.Y. 2016-17, approval from your honour and the Hon'ble FM, GOI, was finally obtained by the CBDT on 17-02-2017 for holding the DPC for the said Recruitment Year. While the process for holding the DPC has reached the final stage, the same got stuck again due to number of court cases filed by various persons against the non implementation of Judgment of the Hon'ble Supreme Court of India relating to fixation of inter-se seniority between Direct Recruit and Promotees of the Department.

In the meantime, the Hon'ble High Court of Gujarat has delivered an order on 03-04-2017 in the case (**SCA No 4720 of 2017 titled as Mukeshkumar Mansukhbhai Solanki vs. UOI and Others**) staying further promotion to the cadre of ACsIT on the same issue of non-implementation of the judgment of Hon'ble SC in the case of N R Parmar and others. Though the Board was well aware of the reasons for delay in implementation of the N R Parmar Judgment in the various charges, they have miserably failed to properly highlight these facts before the Hon'ble Gujarat High Court in case No 4720 of 2017 of 'Sri Mukeshkumar M. Solanki vs. UOI and Others' which resulted in the stay in promotion to the cadre of ACsIT.

It may be pertinent to mention that the implementation of N R Parmar Judgment was got delayed due to various court cases filed across the country. We would like to share our apprehension that even after the finalization of revised all India seniority list of ITOs on the basis of the judgment in the case of NR Parmar, the same has to stand the test of law and the entire process may not be completed in near future.

The CBDT has finally taken up the job of preparing the revised all India seniority list of ITOs as per the NRP Judgment and the Association is also providing all possible assistance to the Board. It is not possible to ascertain the expected time period required for completion of this exercise as there is every possibility that the aggrieved officers may approach the Court of Law even after the preparation of the final draft seniority list.

In the above scenario, it was expected that the CBDT would handle the Court cases pending in various Courts, specially the case of 'Sri Mukeshkumar M. Solanki vs. UOI and Others' in the Hon'ble HC, Gujarat with more positive intention so that the promotion in the cadre of ACIT can be materialized. **But, as the Departmental Counsel was not fully updated on the status of various cases pending/ decided on the subject and as the reply filed on behalf of the CBDT did not convey the complications relating to the issue, the verdict of the case was delivered against the Department which resulted in stalling the process of holding even the ad-hoc DPC for R.Y. 2016-17. It is a case where the Department has failed to get an order from the Hon'ble High Court for ad hoc promotions, in consonance with the DopT OM of the year 1988, which stipulates that wherever the regular promotions are not possible owing to court cases etc. in the administrative exigencies the Department may hold ad hoc DPC. In spite of an option being given by the Hon'ble Court to the Department to approach the court in case of any administrative exigencies, the CBDT could not make out a case for filling up of more than 200 vacancies. As a result the workload of all these vacant positions is to be borne by the existing strength of Officers leading to pressure and additional charges on long term basis.**

In this context, the only possible way to give effect to the promotions and honour the commitment made by you in the meeting dated 03-11-2015 is to approach the Hon'ble Supreme Court a 'Writ Petition' with a pray to set aside the 'Stay on Promotion' pronounced by the Hon'ble Gujarat High Court.

Hence, the Association is constrained to approach your honour again soliciting your kind intervention in this matter. It is, therefore, requested that immediate direction may be given to the CBDT to file a Writ Petition before the Hon'ble SC at the earliest. The CBDT may also expedite the process of seeking sanction of the competent authorities for the purpose on war-footing.

In a meeting with the Member(P), DGIT(HRD) and members of JCA on 03.11.2015, you have given directions to reduce the stagnation in the cadre of ITO from 15 years to 12 years by holding DPC upto RY 2016-17 by 31.3.2016. In the present date the DPC for RY 2017-18 is also due and the proposal for recruitment of 200 Officers has been sent to UPSC by CBDT against the vacancies for RY 2017-18.. If the process for DPC for RY 2017-18 is not initiated immediately the stagnation in the cadre of ITO is going to 15 years again.

To sum up, we wish to inform you that the stagnation is at all time high in the cadre of ITO, Officers promoted in RY 2002-03 as ITO continue to serve as ITO till this date and that the directions of Hon'ble High Court are not in consonance with the DoPT OM of the year 1988.



Accordingly in the current situation, we request you to issue instructions to CBDT

- to convene ad hoc DPC for RY 2016-17 after seeking immediate relief from the court;
- to draw panel for RY 2017-18 in a time bound manner (the due date has already lapsed);
- to simultaneously publish All India Seniority List in the cadre of ITO immediately without any further delay as per the directions of Hon'ble Supreme Court in the case of N R Parmar;
- to file TRANSFER PETITION in all the pending litigations in the matter relating to implementation of NR Parmar Decision to a centralized Court like Hon'ble Delhi High Court / Hon'ble Supreme Court.

We, on behalf of the JCA, also request your honour to allow us a brief audience at your convenience so that we can explain the present state of affairs in person.

Thanking you,

Yours sincerely,

 
(Bhaskar Bhattacharya) (Rupak Sarkar)
Joint Convenors

Copy for information and necessary action to:

1. The Chairman, CBDT