



**JOINT COUNCIL OF ACTION
OF
INCOME TAX EMPLOYEES FEDERATION &
INCOME TAX GAZETTED OFFICERS ASSOCIATION**

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**Joint Convenors
KP Rajagopal & Bhaskar Bhattacharya**

No. N-1/M-12/2014

Dated: 29th Sept. 2014

To
The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi 110 001.

Sir,

Sub:- Implementation of the decision of the Hon'ble Supreme Court in the case of NR Parmar [CA No. 7514-7515 and others] -Request for amendments to the advisory Regarding-

Ref: Letter in F.No. HRD/CM/220/14/2013-14/4275 dated 29.09.2014-

This has reference to the above letter issued from the Directorate of HRD on the subject. We have been requesting the Authorities in formal meeting and through letters to issue clear cut guidelines for uniform implementation of the DOPT instructions in the matter of interse-seniority of direct recruits and promotes, after the judgement of the Supreme Court in the above case. Our request was based on the fact that the case before the Supreme Court itself was the product of various lines of interpretation adopted by the different CCAs, partisan attitude of the authorities and the neglect of monitoring the seniority list of Officers/officials periodically. On the directions of the Member (P&V), we have also fully cooperated in the two meetings held on 03.12.2013 and 11.12.2013 in finalising the "Advisory".

On going through the above letter and the "advisory", we are shaken and taken aback. Not only the "advisory" now circulated is arbitrary altered and curtailed but the contents of the letter are also incorrect and contrary to the facts.

In paragraph 3 of the above letter it is mentioned that "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 have been received from the participants against the minutes of the meetings. We would like to bring to your kind notice that after going through the minutes of the meeting held on 3.12.2013, the

discrepancy in item No. 17 of the minutes with regard to the applicability of the ratio of the Supreme Court order” was raised by the JCA as first item in the subsequent meeting held on 11.12.2013. In that meeting it was agreed to amend the minutes and accordingly a corrigendum to the minutes was issued vide F No. HRD/CM/220//14/2013-14/4150 dated 16.12.2013 amending the paragraph as under:

“The participants agreed that the judgement of the Supreme Court, though it is rendered in the case of Inspector of Income Tax, applies equally to all cadres where there are elements of both Direct Recruitment and Promotion for the purpose of Recruitment into the cadre”.

The position be so, in the present advisory ”it is mentioned against Col. 3 that the DoPT has advised that the NR Parmar judgement is applicable to the post of Inspectors”, In this connection it has to be noted that the Advisory referred to the DoPT for their examination against the Col. No. 3 i.e. Is the NR Parmar decision applicable only to the post of Inspector?, the clarification is mentioned as “No, the SC decision applies to the Direct Recruit Upper Division Clerks and Tax Assistants also.

In reference to the above, the DoPT in Note DOR/F.No. 18012/26/2003-V&L/ DOPT Dy. No. 969484/CR/14 dated 30.1.2014, conveyed no observation or objection to the above item whereas further clarifications were provided in para 5 (a) to (f) on other issues.

In the General OM issued by the DoPT on 4.3.2014 in the wake of the Supreme Court Judgement in the NR Parmar case also the DoPT has not restricted its applicability to a particular cadre in the Income Tax Department.

Further on reference from the Income Tax Department, in note DOR F No. c.18015/37/2014-V&L/ DOPT Dy. No. 944370/OR/14 dated 01.05.2014, the Department as been advised in para 2 as under:

“In the specific context of Income Tax Department, wherein the inter-se seniority of Direct Recruits and Promotes have been under dispute on the ground of misinterpretation of the provisions of OM dated 7.2.1986, 3.7.1986 and has led to Parmar Judgement of Supreme Court, it is unambiguously confirmed that the entire issue of seniority of the officers of Income Tax Department would have to be revisited in compliance of the judgement of the Supreme Court.”

From the above it is clear that the in the Department, the misinterpretation of the provisions of OM dated 7.2.1986 and 3.7.86 was not restricted to the cadre of Inspectors alone, the same interpretation was adopted for fixing inter se seniority of Direct Recruits and Promotees in all cadres. The Departments arbitrary selection of only one cadre for implementation of a general principle, in the name of a Supreme Court Judgement in effect is forcing every person in other cadre to approach courts. We, the officers and employees have already suffered losses of carrer progression and

financial benefits due to various stands and instructions issued by the Board in the instant issue forcing the employees to seek legal redressal. As an organisation representing more than 95% personnel in the department, we cannot brook any more due to such stands being taken by the Department.

Therefore, changing the draft response to item No. 3 in the name of a non-existing advise from DOPT. viz. Is the NR parmar decision applicable only to the post of Inspector, from what was agreed and arrived with consensus by all stake holders is arbitrary and totally unacceptable to us. Therefore, we request you to immediately issue corrigendum to the present advisory to the effect that the response to point No. 3 is ***“No, the provisions of the OM dated 7.2.86 and 3.7.86 are applicable in all cadres where the elements of Direct Recruitment and promotion exists”*** and also to amend para no. 5 as ***“ This advisory is being issued for enabling all Pr. CCsIT(CCA) to carry out the process of refixing of Seniority of all cadres where the elements of Direct Recruitment and promotion exists in their regions.....”***. We are also constrained to inform your goodself that our members will not be in a position to extend cooperation in the matter to the administration in implementing the directions contained in the above letter to CCAs until necessary amendments are carried out and conveyed to the Cadre Controlling Authorities.

Thanking you,

Yours faithfully,



(KP Rajagopal) (Bhaskar Bhattacharya)

Joint Convenors

Copy to All Circle General Secretaries of ITEF and ITGOA with a request not to cooperate with the administration in the task of revisiting the seniority of only one cadre until the above Advisory is amended as required by the JCA.

Joint Convenors.