



कार्यालय

OFFICE OF THE

प्रधान मुख्य आयकर आयुक्त, दिल्ली

PRINCIPAL CHIEF COMMISSIONER OF INCOME TAX, DELHI

केन्द्रीय राजस्व भवन, आई० पी० एस्टेट, नई दिल्ली-११०००२

C. R. BUILDING, I. P. ESTATE, NEW DELHI-110002

F.No. Pr. CCIT/Representations/MTS(Sportspersons)/2021-22/3193 Dated: 27.12.2021

OFFICE ORDER

Sub: Disposal of representations/Legal Notice in case of MTS who joined the department on Sports Quota for promotion to the cadre of Tax Assistant- reg.

A legal notice dated 17.12.2021 was received in this office from Sh. M. K. Bhardwaj, Advocate on behalf of 19 Multi-tasking Staff (MTS)/applicants who joined the department on Sports Quota against the Vacancy Year 2017-18 in the year 2018. Details of these 19 MTS/applicants are as under:

Sl. No.	Name	Cat	D.O.B.	Posting/Charge
1	AJAY SINGH	GN	28/03/1989	PCIT (ReAC) (AU) 01
2	GAURAV TOMAR	GN	01/09/1991	PCIT (ReAC) (AU) 04
3	GURJINDER KUMAR	SC	10/10/1990	PCIT (ReAC) (AU) 04
4	HARDEEP KAUR	SC	03/02/1996	PCIT (ReAC) (AU) 05
5	KARISHMA SINGH	GN	17/07/1998	PCIT (ReAC) (AU) 06
6	MALAVATH RAVINDAR	ST	08/03/1992	PCIT (ReAC) (AU) 02
7	MAYANK VERMA	GN	25/11/1998	PCIT (ReAC) (AU) 09
8	MONIKA	GN	30/01/1995	PCIT (ReAC) (AU) 10
9	NAVEEN	GN	22/12/1994	PCIT (ReAC) (AU) 06
10	RACHIT	GN	16/09/1998	PCIT (ReAC) (VU) 01
11	RAHUL VISHNU TALEKAR	GN	12/10/1993	PCIT (ReAC) (RU) 02
12	RITU	GN	27/03/1994	PCIT (ReAC) (AU) 08
13	RUDRAKSH KAUSTUBH PANDEY	GN	12/02/1996	PCIT (ReAC) (RU) 01
14	SHEKHAR DHIMAN	OBC	01/05/1990	PCIT (ReAC) (AU) 05
15	SONIKA	GN	20/03/1997	PCIT (ReAC) (AU) 09
16	VIKAS CHAUHAN	GN	28/01/1992	PCIT (ReAC) (VU) 03
17	VIKAS GULIA	GN	31/03/1991	PCIT (ReAC) (AU) 01
18	VIKAS RAWAT	OBC	13/07/1988	PCIT (ReAC) (AU) 02
19	VISHAL KUMAR GUPTA	GN	04/01/1998	PCIT (ReAC) (AU) 04

1.1 In the said notice, Sh. M. K. Bharadwaj has submitted that the draft seniority list dated 15.02.2021 in the cadre of MTS was not served upon to the applicants. He further referred to the recent judgement of Hon'ble Supreme Court in the case of K. Meghachandra Singh and Ors. and submitted that since Hon'ble Supreme Court has overruled the judgement in the case of N. R. Parmar & Ors. Vs. UoI & Ors., the Seniority list of MTS cadre may be reviewed and the applicant who joined in the year 2018 may be placed above the direct recruit MTS who joined much later i.e. in the year 2019.

2. Various identical representations were also received in this office from MTS who joined the department on Sports Quota against the Vacancy Year 2017-18 in the year 2018 on the subject "*Promotion in the cadre of Tax Assistant- Regarding*". Details of these MTS who filed the representations are as under:

Sl. No.	Name	Cat	D.O.B.	Posting/Charge
1	Vishal Kumar Gupta	GN	04/01/1998	PCIT (ReAC) (AU) 04
2	Yogesh Nagar	GN	06/01/1990	PCIT (ReAC) (AU) 07
3	Gaurav Tomar	GN	01/09/1991	PCIT (ReAC) (AU) 04
4	Ajay Singh	GN	28/03/1989	PCIT (ReAC) (AU) 01
5	Karishma Singh	GN	17/07/1998	PCIT (ReAC) (AU) 06
6	Hardeep Kaur	SC	03/02/1996	PCIT (ReAC) (AU) 05
7	Rudraksh K Pandey	GN	12/02/1996	PCIT (ReAC) (RU) 01

2.1 In their representation, they have requested to consider them for promotion to the cadre of Tax Assistants since they joined the department and qualified the computer Skill test much before some of the officials whose vigilance clearances is called by this office vide letter F. No. Pr. CCIT/Vigilance Clearance/Promotion/2021-22/12382 dated 08.12.2021.

3 In this regard, I am directed the submit that the draft Seniority List dated 15.02.2021 was widely circulated amongst all MTS through their controlling officers/on notice board/on official website of the department seeking objections, if any, from the concerned MTS.

3.1 Further reference is invited to the DOP&T's O.M. No. 2011/2/2019-Estt.(D) dated 13.08.2021 on the subject '*Judgement of Hon'ble Supreme Court of India in Civil Appeal No. 8833-8835 of 2019 of K. Meghachandra Singh & Ord. Vs. Ningam Siro & Ors.*'. Relevant part of the OM is reproduced as under:-

“.....
7(ii) *As the Order dated 19.11.2019 is prospective, cases of inter se seniority of direct recruits and promotees, already decided in terms of O.M. No. 20011/1/2012- Estt.(D) dated 04.03.2014, shall not be disturbed, i.e. old cases are not to be reopened.*

7(iii) *In case of direct recruits and promotees appointed/joined during the period between 27.11.2012 and 18.11.2019 and in which case inter se seniority could not be finalised by 18.11.2019, shall also be governed by the provisions of O.M.s dated 07.02.1986/03.07.1986 read with OM dated 04.03.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court.*

7(iv) *For cases where the recruitment process has been initiated by the administrative Department/Cadre Authority before 19.11.2019 and where some appointments have been made before 19.11.2019 and remaining on or after 19.11.2019, the inter se seniority of direct recruits and promotees, shall also be governed by the provisions of O.Ms. dated 07.02.1986/03.07.1986 read with OM dated 04.03.2014 to ensure equal treatment of such appointees.*

“.....”

3.2 Reference is also invited to the CBDT letter F. No. A-35015/26/2018- Ad. VI dated 26.10.2021 on the subject '*Implementation of instructions relating to fixation of seniority of direct recruits and promotes and inter-se seniority thereof*'. Relevant part of the letter is reproduced as under:-

“.....

5. (i) Seniority of direct recruits and promotes already decided in terms of DOP&T's OM dated 04.03.2014 shall not be disturbed. [Para 7 (ii) of DOP&T's OM dated 13.08.2021].

5. (ii) Fixation of seniority of direct recruits and promotes in the respective grade/post between 27.11.2012 and 18.11.2019, where inter-se seniority could not be finalised by 18.11.2019, is strictly to be fixed in accordance with the provisions of DOP&T's OM dated 07.02.1986/03.07.1986, read with OM dated 04.03.2014, unless where a different formulation/manner of determination of seniority has been decided by any Tribunal or Court of Law. [Para 7 (iii) of DOP&T's OM dated 13.08.2021].

5. (iii) Where the recruitment process has been initiated before 19.11.2019 and continued after 19.11.2019, the inter-se seniority of direct recruits and promotes shall be governed in accordance with the provisions of DOP&T's OM dated 07.02.1986/03.07.1986, read with OM dated 04.03.2014. [Para 7(iv) of DOP&T's OM dated 13.08.2021].

.....”

3.3 As directed by the DOP&T and CBDT vide above mentioned OM/letter, draft seniority of above MTS, whose recruitment process has been initiated before 19.11.2019, has been fixed in accordance with the provisions of DOP&T's OM dated 07.02.1986/03.07.1986, read with OM dated 04.03.2014.

3.4 Since the recruitment process of the direct recruit MTS selected through SSC (joined in the year 2019), was initiated before the joining of these 19 MTS/applicants (joined in the year 2018) appointed through Sports Quota (applicants), the seniority of these MTS/applicants has been correctly fixed below MTS selected through SSC whose recruitment process has been initiated before 19.11.2019.

4. Reference is also invited to the Recruitment Rules dated 18.12.2015 of Tax Assistant the "Group 'C', viz., Multi-tasking staff, Lower Division Clerks, Notice Server, Record Keeper, Sr. Gestetner Operator in Pay Band-I with five years' regular service in the Grade including in the erstwhile Group 'D' having passed i) matriculation examination or equivalent and ii) having qualified the prescribed departmental examination for data entry skill for 5000 key depressions per hour" are eligible for promotion to the cadre of Tax Assistant.

4.1 Reference is also invited to the Directorate of Income Tax (Human Resource Development), CBDT, New Delhi clarification letter F. No HRD/CM/122/12/2011-12/1160 dated 23.05.2016 which clarified the manner to which eligibility list is to prepare for promotion in the cadre of Tax Assistant. Relevant portion of the letter is reproduced as under:-


“Subsequent to the Notification of the Recruitment Rules of Tax Assistant dated 18.12.2015 superseding the previous RRs, clarification has been sought by the field regarding the manner of preparation of eligibility list for promotion to Tax Assistant in light of the new RRs. In this regard, I am directed to convey that the directions laid down in Board Instruction dated 13.04.2005 issued vide F. No. A-12018/1/2016-Ad-VII regarding preparation of single eligible list of candidates with reference to the date/year of passing of the computer skill examination may be followed.”

4.2 On perusal of the record, it is found that all the above applicants joined the department in the year 2018 and none of them qualifies the eligibility condition of five years

of regular service in the Grade as on 01.01.2022. Since they are not eligible for promotion, the claim regarding inclusion in vigilance clearance for promotion only on the fact of mere passing the Computer Skill test without qualifying the eligibility condition of five years' regular service in the Grade is untenable.


5 In view of the above, it is clear that non-inclusion of their name in the vigilance clearance letter 08.12.2021 is correct and all these MTS/applicants appointed against Sports Quota in the year 2018 are correctly placed in the Draft Seniority list circulated vide letter dated 15.02.2021. Thus claims of the officials are unacceptable and their representations stands disposed of.

6 The controlling officers are requested to inform the concerned officials accordingly.


(VIVEK NAGRATH)
DY. COMMISSIONER OF INCOME TAX OFFICER
(HQ-PERS)(NG), NEW DELHI

Copy to:

- 1 Controlling officers of the concerned officials with the request to inform the official concerned immediately.
- 2 Notice Board
- 3 On our website www.incometaxdelhi.org


INCOME TAX OFFICER
(HQ-PERS)(NG), NEW DELHI