

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

6

O.A. No. 511/89

~~T.A. No.~~

DATE OF DECISION 14 th May 1993.

Shri G. Thulasinatha Petitioner

Mr. M.S. Shah Advocate for the Petitioner(s)

Versus

The Union of India & Ors. Respondent

Mr. M.R. Bhatt Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt,

Member (J)

The Hon'ble Mr. V. Radhakrishnan

Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

Shri G. Thulasinathan,
Head Clerk in the office
of the Dy. Commissioner of
Income Tax Audit, Aayakar Bhavan
Annexe, Ahmedabad.

Applicant

Advocate Mr. M.S. Shah

Versus

1. Union of India
(Notice to be served through
The Secretary, Ministry of
Finance, Deptt. of Revenue &
Insurance, North Blocks,
New Delhi 110 001)
2. The Chief Commissioner of
Income Tax (Admn.) Gujarat,
Aayakar Bhavan, Ashram Road,
Ahmedabad 380 013.
3. Shri K. Damodharan,
Inspector, Computer Section,
Aayakar Bhavan, Ashram Road
Ahmedabad.
4. Shri O.T.A. Nair
Inspector, A.D.I (Survey),
Navdeep Bldg, Ashram Road,
Ahmedabad.

Respondents

Advocate Shri M.R. Bhatt

J U D G E M E N T

In

O.A. 511 of 1989

Date: 14-5-1993

Per Hon'ble Shri V. Radhakrishnan

Member (A)

The applicant has filed this petition on the ground that he is not given promotion to the post of Inspector of Income Tax, although persons junior to him are promoted vide order dated 21st August 1989.

(8)

2. The applicant was appointed as Steno-Typist in the IncomeTax Department on 27th February 1964. Respondents No. 3 and 4 were appointed on 12-11-1964 and 12-2-1965 respectively. The applicant was promoted on U.D.C on 7-4-1969 and respondents no 3 and 4 were promoted on 21-5-69 and 7-6-1969 respectively. The applicant is shown senior in the cadre of U.D.C. (Annexure -2)
3. The applicant along with the respondents was promoted as Tax Assistants on 29-6-1978.
4. The applicant was promoted as Head Clerk on 1-9-87 Respondent no. 3 was also promoted on 1-9-1987. Respondent no.4 was however, promoted on 7-12-1987. Applicant claims seniority over respondents no. 3 and 4 as Head Clerk.
5. For the next promotion as Inspector, the applicant passed the Departmental Test in 1980. Respondent no.3 passed in the same year. Respondent no.4 passed in the year 1983.
6. The applicant's contention therefore, is that he should have been considered for promotion to the post of Inspector before doing so in respect of respondent no.3 and respondent no.4.
7. The order dated 21-8-1989, respondent no.3 and respondent no.4 were promoted as Inspector and the applicant was not promoted.
8. Hence, the grievance of the applicant is that though he was senior to respondent no. 3 and respondent no. 4 in

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the cadre of UDC and Head Clerk, he passed the examination also along with Respondent no. 3 and before respondent no. 4, he should have been promoted before then and assigned seniority ahead of respondent no. 3 and respondent no. 4. He also states that he has not received any adverse remarks during last 10 years. He has been given good confidential reports for the last about five years and more and hence, no justification was there to supersede him for the post of Inspector.

9. The applicant however states that, he was considered wrongly as Junior to respondent no. 3 and respondent no. 4 because he was shown junior to them in the confirmation order for Tax Assistants, (order dated 15.10.1986). The applicant and respondent no. 3 and respondent no. 4 were confirmed on the seniority list 1.4.1982, out of a list of Tax Asstts. submitted 241. The applicant / - a representation about this on 7.6.1989 but received no reply.

10. The applicant, therefore, claims that the action of respondent no. 2 in superseding him in the grade of Income-tax Inspector is un-constitutional, illegal, and violative of Articles 14 and 16 of the Constitution of India.

11. The applicant has also referred the Department of Personnel and Training O.M. No. 22011/5/86-Estt. D dated 10.3.1989, whole procedure to Group B and D posts are to be

bound on seniority in the grade subject to confirming to a minimum of good report.. The applicant therefore, claiming that as he had got no adverse remarks for the last 10 years and got good/ very good in the grading for more than 10 years he could not be superseded even he had acquired very good or good reports.

12. The applicant has claimed the following reliefs:

- "(A) to declare the applicant's non-promotion to the post of Inspector of Income- Tax as un-constitutional, illegal and arbitrary;
- (B) to direct the respondents Nos. 1 and 2 to consider the Applicant's case for promotion to the post of Inspector of Income- Tax on the basis that the Applicant is senior to respondents no. 3 and 4 in all the cadres lower to the cadre of Inspectors;
- (C) to direct the respondents Nos. 1 and 2 to promote the Applicant as Inspector of Income- Tax with effect from 21st August 1989;
- (D) to direct the respondents Nos. 1 and 2 to give the Applicant all the consequential benefits including arrears of difference of salary, pay fixation, seniority etc. in the cadre of Inspectors of Income-Tax with effect from 21.8.1989.

13. The respondents no. 2 has filed the reply. They have admitted that the applicant was promoted as Tax Assistant along with respondents nos. 3 and 4 on 29.6.1978. But they have contested the contention of the applicant that he should have been placed senior to respondents nos. 3 and 4

(11)

in the cadre of Tax Asstt. because he was so in the cadre of UDCs. They have argued that at the relevant time the post of tax asstt. was considered as selection post. The applicant was graded as good whereas respondents nos. 3 and 4 were graded on very good and therefore, in the select panel prepared by the DFC the respondents no. 3 and 4 were placed at serial no. 152 and 157 whereas the applicant was placed at serial no. 266. The applicant therefore, become senior to respondents nos. 3 and 4 in the cadre of tax assistant on promotion.

14. The respondent no. 2 has also admitted the fact that the applicant was promoted as Head Clerk on 1.9.1987 and was senior to respondents no. 3 and 4 in that cadre. At the relevant time, for promotion to the grade of "Head Clerk" the seniority in the cadre of UDC was only to be taken into account and as the applicant was senior in the UDC's cadre he was shown as senior to respondents nos. 3 and 4 in the cadre of Head Clerk.

15. The contention of the applicant ^{is} that, because he had passed the departmental examination in 1980, which respondent no. 3 passed it in 1980 and respondent no. 4 in 1983 and hence, he should have been promoted earlier as Inspector has been refuted by the respondent no. 2. It is their contention that the applicant along with respondent nos. 3 and 4 was considered for promotion to Inspectors' post in the seniority quota. The applicant's contention is that



because he was senior to respondents no.3 and 4 in the Head Clerk's cadre, he should have also been placed senior in the cadre of Inspector, has also been refuted. According to the respondent no.2, for promotion to the grade of Inspector, 3 years service in a particular cadre of either Supervisor Head Clerk, Tax Assistant, U.D.C or Stenographer, was required. Those candidates who had not completed three years in the higher grade were considered as per their seniority in the immediate lower grade. As the applicant as well as the respondents no. 3 and 4 had not completed three years service as Head Clerk, they were considered in the next lower grade of Tax Assistant. The respondents no.3 and 4 being senior in the grade of tax Assistant, fell within the consideration zone in the category of "Ministerial Seniority" for promotion to the post of Inspectors, whereas the applicant being very junior in the Tax Assistant cadre could not come up within the consideration zone and therefore not considered at all for promotion.

16. The applicant has filed his rejoinder. He has refuted the contention of respondents no. 2 that tax Assistant is a selection post and that it is not supported by any relevant rule. He has also stated that no seniority list of Tax Asstt. showing the relevant position of the applicant and respondents no.3 and 4 have been supported. He has also stated that relevant extracts of character rolls showing the respondents no. 3 and 4 graded as "very good" and applicant as 'good' have not been furnished. Hence, he has controverted the stand taken by the respondent no.2. He has controverted the method followed by respondents for promotion to the

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post of Tax Assistant. It is his contention that, as per decision no. 3 under item no.2 selection method in Section VI entitled "Procedure to be observed by DPC (Page 8) of Swamy's Book Of Seniority and Promotion" the applicant's name should have been placed above that of respondents no.3 and 4 by seniority following the principle of Seniority subject to rejecting of unfit. In his view because the procedure as laid down in MP O.M. No. of 7 (21) E III A/74 dated 10-1-77 was not followed the placement of respondent no.3 and 4 above the applicant was illegal and against the declared policy of the Government regarding promotion to selection post. According to him the applicant's name would have been placed above thereof the respondents nos. 3 and 4 and he would have been eligible and within consideration zone for the post of Inspector. He has also cited M.H.A.O. MNI No. I-11/55 RPS dated 22-12-1959, according to which when promotion are made on the basis of seniority subject to the respect of unfit, seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted.

17. Heard learned advocate Shri K.K. Shah for the applicant and learned advocate Shri Raval for the respondent no.2.

18. The applicant was appointed as Steno-Typist

in the Income-Tax Department on 27.2.1964. Respondents Nos. 3 and 4 were appointed in the similar category on 12.11.1964 and 12.2.1965 respectively. The applicant was therefore, promoted as UDC on 7.4.1969 and Respondents no. 3 and 4 were promoted as such on 21.5.1969 and 7.6.1969 respectively. As per extract from Establishment list (Annexure A/2) the applicant is shown as senior to respondent nos. 3 and 4.

19. The applicant was promoted as tax Asstt. on 29.6.1978. Similarly respondents nos. 3 and 4 were promoted on the same date. The applicant was promoted as Head Clerk on 1.9.1987 and respondent no. 4 on 7.12.1987. Here also the applicant was promoted earlier to Respondents no. 3 and 4. The applicant also passed the departmental examination for Inspector of Income- tax in 1980. Respondent no. 3 passed it in 1980 and Respondent no. 4 in 1983.

20. Respondents no. 3 and 4 were promoted as Inspector of Income-Tax by order dated 21.8.1989 (Annexure A/5). The grievance of the applicant is that he was not even considered for the post of Inspector of Income Tax even though he was senior to Respondent no.3 and 4 as UDC and was promoted as Head Clerk on the same date as Respondent no. 3, and/4 Respondent No. was infact promoted to Head Clerk at a latter date.

21. On a perusal of the pleadings it is seen that even though the applicant was senior to Respondents Nos. 3 and 4 ^{in the cadre} UDCs, the situation changed when the cadre of Tax

Asstt. was created in 1978 by converting selection post of U.D.C. as tax asstts. The applicant as well as Respondents Nos. 3 and 4 were promoted to the cadre of tax asstts. on 29.6.1978. But the seniority between the applicant and respondents Nos. 3 and 4 under went change in the cadre of tax asstts. As per Government of India M & P (Department of Personnel and Training) letter No. F No. A 11013/29/75-Ad VII, dated 31.3.1978, the promotion from the cadre of UDCs to tax asstts. was to be done on the basis of "selection". The respondent no. 2 ^{has defended} ~~have made out~~ ^{it} in ~~their~~ reply that the applicant was graded "good" which Respondents Nos. 3 and 4 were graded "very good", as promotees very good category rank below those with very good category, the applicant was placed at serial No. 266 and Respondents Nos. 3 and 4 were placed at serial no. 152 and 157 respectively. Thus, the applicant became junior to Respondents Nos. 3 and 4. When the confirmation order of tax asstts. was issued the applicant's name was shown below, Respondents Nos. 3 and 4. The applicant thought that this was a clerical mistake, but he avers that he had submitted representation now to compare the serial number in the date of confidential order with the seniority in the cadre of tax asstts. The applicant has drawn reference to his last representation dated 7.6.'89.

22. In so far as promotion to the grade of Inspector of Income tax was concerned, it has been stated by respondent No.2 that 50% of the vacancies were filled through Examination and 50 % from seniority quota. Even though the applicant

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had passed the examination in 1980, he could not claim
^{over}
priority Respondents no. 3 and 4 as they had been promoted
on the basis of seniority as tax asstts. The applicant's
contention that he was eligible for the said promotion
as Inspector as he was senior to Respondents nos. 3 and 4
in the immediate lower cadre of Head Clerk and also in the
cadre of UDC has not been accepted. For promotion to the
grade of Inspector 3 years service in the particular grade
of either Supervisor, Head clerk, Tax Asstts., UDC or
Stenographer was required. Those candidates who had not
completed 3 years in the higher grade were considered as per
their seniority in the immediate lower grade. As Respondents
Nos. 3 and 4 had not completed 3 years of service as Head
Clerk, they were considered in the next lower grade of the
tax asstts. The respondents 3 and 4 ^{who were} senior in the grade
of tax asstts. were within the consideration zone in the
category of "Ministerial Seniority" for promotion to the post
of Inspector, where-as the applicant being very junior in the
Tax Assistant cadre could not come up within the consideration
zone and was therefore, not considered at all for promotion.

23. The applicant has in his rejoinder contended that,
respondent Nos. 2's assertion that the post of tax asstts. is
a selection post is not supported by any relevant rule of CBDT.
This cannot be accepted as the Respondent no. 2 had produced
Government of India's d.o. letter, dated 31.3.1978. ~~This~~

which

clearly states that promotion to the cadre of tax asstts. will be on the basis of Selection. The applicant had also stated that, as relevant confidential cell extracts in respect of applicant and Respondent Nos. 3 and 4 have not been forwarded, the averments that the applicant had been graded as "good" and Respondent Nos. 3 and 4 as "very good" cannot be accepted. The contention of the applicant is bound to fail as there is no provision in the rules that confidential report gradings are to be intimated to concerned candidates.

24. In so far as promotion to the grade of tax asstts. is concerned, the applicant has admitted that the posts were selection posts. But he has not accepted the method of selection to be followed by DPC. According to him as per DP and AR OM No. 22011/5177-Estt. (D) dated 30.12.1977, Principle of seniority subject to regarding of unfit should be applied for the appointment to selection grade in all group C and D cadres. He has argued that, this method should have been accepted by the DPC for promotion of the cadre of tax asstts. at which time he lost his seniority. It will be seen from the extract quoted by the applicant that it only applies to promotion to "Selection Grade" posts in Group C and D and not to Selection posts thereof. Moreover, he cannot question the validity of method of promotion to the cadre of tax asstts. after a lapse of about 11 years and therefore, he cannot get the relief which is barred by limitation, ~~laches~~

(18)


^{In short}
and delay. ~~Therefore~~, the applicant has no case and the submission of learned advocate for the applicant cannot be accepted. In so far as further promotion to the grade of Income-tax Inspector is concerned, the applicant feels that, he would have got his promotion if the post had been filled on the basis of seniority only and not filled by the Selection. The applicant has also quoted Department of Personnel and Training OM No. 22011/5786- Estt. (D), dated 10.3.1989 on the subject of promotion relating for group C and D. According to this letter, seniority is to be the criteria for promotion once a person acquires the bench mark grading of "good". He has not produced any copy of this letter. However, this will not help the applicant even if it is taken in to account, as the applicant was not falling at all with ⁱⁿ the zone of consideration for promotion to Income-tax Inspector from the cadre of Tax Asstts. Therefore, the above ground taken by the applicant has no merit.

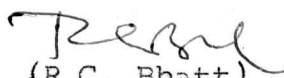
25. Hence, we find no merit in the application. In the result we pass the following order:

26.

ORDER

Application is dismissed. No order as to costs.


(V. Radhakrishnan)
Member (A)


(R.C. Bhatt)
Member (J)

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6/11/89

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD.
BENCH, AT AHMEDABAD.

ORIGINAL APPLICATION NO. 511 OF 1989.

(Under Section 19 of the Central Administrative
Tribunal Act, 1985).

Shri G. Thulasinathan.

... Applicant .

V/S

Union of India and ors.

... Respondents .

I N D E X

Sr. No.	Ann.	P a r t i c u l a r s .	: Page : Nos.
1.	--	Memo of Original Appln.	: 1-14
2.	'A/1'	Statement showing the service: particulars of the Applicant : and respondents Nos.3 & 4. :	: 15
3.	'A/2'	Relevant extract of Establish- ment List of Upper Division : Clerks as of 1.9.1986. :	: 16-17
4.	'A/3'	Copy of order dtd. 1.9.1987 : promoting the Applicant as : Head Clerk. :	: 18
5.	'A/4'	Copy of order dated : promoting respondent No.4 as : Head Clerk. :	: 19-20
6.	'A/5'	Copy of impugned order dated : 21st August 1989. :	: 21
7.	'A/6'	Copy of Govt. Instructions : (i.e. Office Memorandum) dtd.: 10th March, 1989. :	: 22-33
8.	'A/7'	Copy of representation of the: Applicant dated 17th June '89. :	: 34-37

Advocate for Applicant.

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Copy sent
Mrs. R.P. Bhutani
Ahmedabad
SB
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, AHMEDABAD
BENCH, AT AHMEDABAD.

ORIGINAL APPLICATION NO. 511 OF 1989.

(Under Section 19 of the Central Administrative
Tribunal Act, 1985).

Shri G. Thulasinathan,
Head Clerk in the office of the
Dy. Commissioner of Income-Tax (Audit),
Aayakar Bhavan Annexe,
Ahmedabad.

... Applicant .

Versus

1. Union of India -
(Notice to be served through:
The Secretary, Ministry of
Finance, Deptt. of Revenue &
Insurance, North Blocks,
New Delhi. 110 001).
2. The Chief Commissioner of
Income Tax (Administration),
Gujarat, Aayakar Bhavan,
Ashram Road,
Ahmedabad. 380 013.
3. Shri K. Damodharan,
Inspector, Computer Section,
Aayakar Bhavan, Ashram Road,
Ahmedabad.
4. Shri O.T.A. Nair, Inspector,
A.D.I. (Survey), Navdeep Bldg,
Ashram Road,
Ahmedabad. 380 014.

... Respondents.

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1. Particulars of the order against which the application is made :

The Applicant is not given promotion to the post of Inspector of Income-Tax , although persons junior to the Applicant are promoted vide order dated 21st August 1989.

2. Jurisdiction of the Tribunal :

The Applicant declares that the subject-matter of the present Application for which he wants redressal is within the jurisdiction of this Tribunal.

3. Limitation :

The Applicant further submits that the Application is within the limitation period prescribed in Section 21 of the Central Administrative Tribunal Act, 1985. The order promoting the Applicant's junior in supersession of the Applicant's claim for promotion was issued on 21st August 1989. Hence, the present Application is within the period of limitation.

4. Facts of the Case :

(i) The Applicant was appointed as a Steno-Typist in the Income-Tax Department on 27th February 1964. Respondents Nos.3 and 4 were

Ann. 'A/1'

appointed as Steno-Typists in the Income-Tax Department on 12.11.1964 and 12.2.1965 respectively. Annexed hereto and marked Annexure 'A/1' is a statement showing the service particulars of the Applicant and respondents Nos.3 & 4.

Ann. 'A/2'

(ii) The Applicant was thereafter promoted as Upper Division Clerk ('UDC' for brevity) on 7.4.1969 and respondents Nos.3 & 4 were promoted on 21.5.1969 and 7.6.1969 respectively. The Applicant is, therefore, rightly shown as senior in the cadre of confirmed Upper Division Clerks as will be clear from the Establishment List as of 1.9.1986. Annexed hereto and marked Annexure 'A/2' is a relevant extract of the said Establishment List.

(iii) The Applicant states that in the year 1978, the Income-Tax Department created ~~a posts in~~ the new cadre of Tax Assistants in the payscale of Rs.380-640 by converting the posts of Upper Division Clerks into Tax Assistants subject to certain conditions. As the Applicant fulfilled the said conditions, the Applicant was promoted as Tax Assistant on 29.6.1978. Similarly, respondents Nos.3 & 4 were also promoted as Tax Assistants on 29.6.1978. As per the Departmental practice and the General Service Law, when two or more employees

are promoted to a higher post on the same day, ^{fixed} their seniority in the higher cadre is/according to their seniority in the lower cadre.

(iv) Thereafter, the Applicant was promoted as Head Clerk on 1.9.1987. Respondent No.3 was also promoted as Head Clerk on 1.9.1987. However, respondent No.4 was promoted as Head Clerk on 7-12- 1987. Annexed hereto and marked Annexure 'A/3' is a copy of the order dated 1.9.1987 promoting the Applicant and respondent No.3 as Head Clerk. Annexed hereto and marked Annexure 'A/4' is a copy of the order dated 7- 12 -1987 promoting respondent No.4 as Head Clerk. Thus, the Applicant is senior to respondents Nos.3 & 4 in the cadre of Head Clerks also.

Ann.' A/3'

Ann.' A/4'

(v) The Applicant states that the next promotion is to the higher post of Inspector of Income-Tax and there is a Departmental Examination for becoming eligible for promotion to the said post. The Applicant passed the said examination as far back as in 1980. Respondent No.3 also passed the said Examination in 1980, but respondent No.4 passed the said examination subsequently in 1983.

(vi) In view of the above, the Applicant ought to have been considered for promotion to the post

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Ann.'A/5'

of Inspector of Income-Tax before considering respondents No.3 and 4. The Applicant is, therefore, shocked and surprised to learn that respondent No.2 has recently issued Order dated 21st August 1989 (Annexure 'A/5') promoting respondents Nos.3 & 4 as Inspectors of Income-Tax without even considering the Applicant for promotion to the said post, although the Applicant is fully eligible for the said promotion and the Applicant is senior to respondents Nos.3 & 4 in the immediate lower cadre of Head Clerks. In fact, the Applicant is shown as senior to respondents Nos.3 & 4 also in the cadre of Upper Division Clerks.

(vii) In view of the above, the Applicant is constrained to approach this Hon'ble Tribunal for challenging the non-consideration of the Applicant's case for promotion to the higher cadre of Insepctors and in the alternative for challenging the decision of the respondent No.2 in not promoting the Applicant to the post of Inspector of Income-Tax, although the Applicant has not been served with any adverse remarks or memo in the last 10 years. The Applicant states that the respondent No.1 - Union of India has recently issued Instructions laying down the principles for promotion. Annexed hereto and marked Ann.'A/6' is a copy of the said Government Instructions. To

Ann.'A/6'

the best of the Applicant's information, the Applicant has been given good confidential reports for the last about 5 years and more. Hence, there is no ground or justification for supersession of the Applicant in the matter of promotion to the cadre of Inspectors.

(viii) The Applicant, however, suspects that respondent No.2 has wrongly considered the Applicant as junior to respondents Nos.3 and 4 on the ground that in the confirmation order for Tax Assistants, the name of the Applicant is shown below respondents Nos.3 and 4. The Applicant states that by order dated 15.10.1986, he was confirmed as Tax Assistant with effect from 1.4.1982. Respondents Nos.3 & 4 were also confirmed with effect from 1.4.1982. Since about 241 Tax Assistants were confirmed with effect from 1.4.1982, the names for all the said Tax Assistants were shown in the said order. The Applicant had no grievance to make against the date of confirmation as the Applicant's seniors as juniors were confirmed with effect from the same date. The fact remains that the Applicant was promoted as Tax Assistant on the basis of his seniority in the cadre of Upper Division Clerks where the Applicant was admittedly shown senior to respondents Nos.3 and 4. The Applicant

thought that the above was a clerical mistake. Out of abundant caution, however, the Applicant had submitted representations requesting respdt. No.2 not to confuse the serial number in the date of confirmation order with seniority in the cadre of Tax Assistants. As the Applicant had always been senior in the cadre of Steno-Typists and Upper Division Clerks and also in the cadre of Head Clerks. Annexed hereto and marked Ann. 'A/7' is a copy of the last representation dated 7th June 1939. The Applicant submitted that in case the order of confirmation was treated as a seniority list, then the Applicant may be given correct seniority in the cadre of Tax Assistants by showing him at Sr.No.41 instead of showing him at Sr.No.139. The Applicant has not received any reply to any such representation.

Ann. 'A/7'

(ix) The Applicant, therefore, begs to approach this Hon'ble Tribunal on the following main amongst other grounds which are without prejudice to one another : -

5. Grounds for relief with legal provisions :

(a) The Applicant respectfully submits that the action on the part of the respondent No.2 in superseding the Applicant in the matter of promotion to the cadre of Income-Tax Inspectors is unconstitutional

illegal, arbitrary and violative of the Applicant's fundamental rights under Articles 14 and 16 of the Constitution of India.

(b) The Applicant respectfully submits that there are no adverse remarks in the Applicant's service record for the last 10 years and on the contrary, there are 'Good' / 'Very Good' remarks and gradings in the Applicant's service record for the last more than 10 years. The Applicant was also permitted to cross the EB (Efficiency Bar at the stage of Rs. 560/-) in the grade of TA w.e.f. 1.6.84 vide IAC's order No. Aud.23/84 dtd. 13.8.84. The Applicant states that the Applicant has learnt that the Government in the Personnel & Training Department has issued Office Memorandum No. 22011/5/86-Est.(D) dtd. 10th March 1989 on the promotion policy for Groups 'B' and 'C'. The Applicant has learnt that as per the said Office Memorandum in respect of promotions of Group 'B' and Group 'C' services, 'Good' is the benchmark and, therefore, once the list of persons who are at the bench mark level or above that level is finalised by the Departmental Promotion Committee, seniority in the feeder grade becomes the sole deciding factor for assigning the rank in the panel. In other words, a person who secures 'Outstanding' or 'Very Good' gradings cannot get a higher place in the panel by virtue of such gradings, in so far as Group 'B' & Group 'C' services are concerned. The Applicant states that the

cadre of Income-Tax Inspectors is in Group 'C' and, therefore, the aforesaid Office Memorandum is clearly applicable. The Applicant, therefore, states that even if his juniors had secured 'Very Good' or 'Outstanding' remarks or gradings in their confidential reports or in the DPC gradings, the Applicant could not have been superseded by his juniors

(c) The Applicant submits that the Applicant had joined the cadre of Steno-Typists before respondents Nos.3 and 4 as will be clear from the statement at Annexure 'A/1'. Similarly, the Applicant was promoted to the cadre of Upper Division Clerks before respondents Nos.3 & 4. Since the posts of Upper Division Clerks were converted into the posts of Tax Assistants. All the concerned incumbents including the Applicant and respondents Nos.3 & 4 became Tax Assistants on the same day. The Applicant was promoted as Head Clerk before respondent No.4 and on the same day on which respondent No.3 was promoted as Head Clerk as will be clear from the promotion order for the post of Head Clerk. In view of the above, it is respectfully submitted that the Applicant is senior to respondents Nos.3 and 4 in all the cadres and is also entitled to be considered as senior to respdts. Nos.3 and 4 for the purpose of promotion to the cadre of Income-Tax Inspectors.

The Applicant craves leave to add to, amend, alter any of the above grounds as and when necessary to do so.

6.Details of the remedies exhausted :

The Applicant declares that he has availed of all the remedies available to him. The Applicant has already pointed out hereinabove that he has made representations including the representation dated 7.6.1989 to which the Applicant has not received any reply.

7.Matters not previously filed or pending with any other court :

The Applicant further declares that he has not previously filed any application, writ petition or suit regarding the matter in respect of which this Application has been made before any Court or any authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them. The Applicant begs to point out that earlier the Applicant alongwith four other employees had filed Transfer Application No.1399/86 before this Hon'ble Tribunal challenging the advantage which was being given to the Stenographers (Selection Grade) vis-a-vis Head Clerks in the matter of promotion to the cadre of Income-Tax Inspectors. The said

Application was rejected by this Hon'ble Tribunal's judgment dated 9.8.1988. However, the present Application is not in respect of the said subject-matter, because in the present Application, the Applicant has challenged his non-promotion when two persons junior to him in the cadre of Head Clerks and lower cadres are promoted as Inspectors, on 21.8.1989.

8. Reliefs sought :

In view of the facts and the grounds mentioned above, the Applicant most respectfully prays that the Hon'ble Tribunal may be pleased -

- (A) to declare the Applicant's non-promotion to the post of Inspector of Income-Tax as unconstitutional, illegal and arbitrary;
- (B) to direct the respondents Nos.1 and 2 to consider the Applicant's case for promotion to the post of Inspector of Income Tax on the basis that the Applicant is senior to respondents Nos.3 and 4 in all the cadres lower to the cadre of Inspectors;
- (C) to direct the respondents Nos.1 & 2 to promote the Applicant as Inspector of Income-Tax with effect from 21st August, 1989 ;

(D) to direct the respondents Nos.1 & 2 to give the Applicant all the consequential benefits including arrears of difference of salary, pay fixation, seniority etc, in the cadre of Inspectors of Income-Tax with effect from 21.8.1989 ;

(E) to award costs of this Application ;

(F) to grant such other and further final and/or interim/ad-interim relief to the Applicant, as the Hon'ble Tribunal may deem fit and proper in the interest of justice ;

9. Interim order, if any prayed for :

Pending the admission, hearing and final disposal of this Application, the Hon'ble Tribunal may be pleased -

(A) to restrain the respondents Nos.1 & 2 from making any further promotions to the cadre of Inspectors of Income-Tax;

(B) in the alternative, to direct the respondents Nos.1 & 2 to keep one post of Inspector of Income-Tax vacant;

(C) to direct the respondents Nos.1 & 2 to produce the Minutes of the Meeting of the Departmental Promotion Committee and all the material relied upon by the D.P.C. for preparing the select list pursuant to which the promotion order dated 21st August 1989 has been issued by respondent No.2 :

10. The Applicant seeks to submit herewith postal order for an amount of Rs.50/- being the amount of application fee.

11. Particulars of Bank Draft/Postal Order filed in respect of the application fee.

Post Order No. for Rs.50/-.

Date :

DD 4/3/89

Name of the post Office : C/He 16

12. List of enclosures:

The list of annexures annexed to this is produced herewith.

Verification

I, G. Thulasinathan, aged about 48 years working as Head Clerk, in the Office of the Dy. Commissioner of Income-Tax-(Audit) , Ahmedabad

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: 14 :

6 do hereby verify that the contents of paras Nos.
1 to 6 are true to my personal
6 knowledge and Paras Nos. 7 to 11
are believed to be true on legal advice and that
I have not suppressed any material fact.

Place : Ahmedabad.

Date : -10-89 .

M. Madhavi
Signature of the Applicant.

Filed by Mr. Mohit Shah
Learned Advocate for Petitioners
with second set & spares
copies copy served/~~not~~ served to
other side

C. S. Rao
Dt. 6/11/15 Dy. Registrar C.A.T (J)
A'bad Bench

Annex A/1

15

STATEMENT SHOWING THE SERVICE PARTICULARS OF THE APPLICANT AND
RESPONDENTS NOS. 3 AND 4.

Sr. No.	Name	Date of joining to the Deptt. as steno-typist.	Promotion to the cadre of U.D.C.	Promotion to the cadre of T.A.	Promotion to the cadre of H.C.	Date of passing Dept. Exam. for Inspectors	Date of promotion as Inspector.
1.	Shri G. Thulasinathan	27-2-1964	7-4-1969	29.6.1978	1-9-1987	1980	-
2.	Shri K. Damodhanaran	12-11-1964	21.5.1969	29.6.1978	1-9-1987	1980	21.8.1989.
3.	Shri O.T.A. Nair	12.2.1965	7-6-1969	29.6.1978	7-12-1987	1983	21.8.1989.

Trace Copy

Admn

1.
ESTABLISHED LIST AS ON 1.9.86

UPPER DIVISION CLERKS

SANCTIONED STRENGTH : (Permanent

Temporary)

Sr. No.	Name in full	Offg. or perm. if held at. of conf-irmation in sub post.	If Offg. post held if any dt. of conf-irmation in sub post.	S.C. S.T.	Qualification Educa-tional matral	Date of birth	Date of commence-ment continous service in the Govt. I.T. Pres-Dept. ent Grade	Postings office in which the pre-Pay working sent at pre-station	Dt. of joining the pre-Dist. ment	Pre- dt. of Home Town	Remarks
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1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
	Pranlal Sub	-	-	-	SSE DE(INS) 74	1.3.34	5.9.57	5.8.57	17.9.63	H.C. on 15.2.79					
	Bakarchand Mehta(DP) 27-6-69	-	-	-	SSE DE(INS) 74	4.4.37	3.11.58	3.11.58	25.1.64	Offg. Insp. on 10-9-82					
	Champaklal Sub	-	-	-	SSE DE(INS) 74	4.4.37	3.11.58	3.11.58	25.1.64	Offg. Insp. on 10-9-82					
	Johnlal 29.8.68	-	-	-	SSE DE(INS) 74	4.4.37	3.11.58	3.11.58	25.1.64	Offg. Insp. on 10-9-82					
	Jagdish Chandra Jethalal Bhavsar(DP)	-	-	-	B.Com DE/INS 76	14.1.37	30.9.61	30.9.61	17.1.64	Offg. H.C. on 8.5.79					
	Saddiqueali Sub	-	-	-	M. DE/INS 71	25.8.39	1.1.62	1.1.62	4.3.64	Offg. H.C. 1.9.77					
	Azamali Salyed(DR) 1.8.65	-	-	-	M. DE/INS 71	25.8.39	1.1.62	1.1.62	4.3.64	Offg. H.C. 1.9.77					
	Yeshwant Hanlal Pandya(DR)	-	-	-	B.Sc. DE/INS 71	4.11.41	12.5.64	12.5.64	12.5.64	Offg H.C. w.e.f. 30.8.79					

K.P. Bhaskaran (DP)	-	Sub. TA 1.4.82	-	B.Com DE/Ins 77	19.10.41	14.1.64	14.1.64	5.2.69	Offg. T.A. on 29.6.78
G. Pulsinathan (DP)	Sub. 1.3.71	1.4.82	-	SSLC DE/Ins 30	19.4.41	27.2.64	27.2.64	7.4.69 ✓	Offg. T.A. on 29.6.78
K. Damodaran (DP)	-	Sub. TA 1-4-82	-	SSLC DE/Ins 80	3.3.43	12.11.64	12.11.64	21.5.69 ✓	Offg. T.A. on 29.6.78
Jesukh Lalchand Doshi (DP)	-	-do-	-	B.A. DE/Ins 78	24.5.43	12.1.65	12.1.65	27.5.69	Offg. T.A. on 30.6.78
Mahesh Shantilal Desai (DP)	-	-do-	-	SSC DE/Ins	22.12.37	15.1.65	15.1.65	16.6.69	Offg. T.A. on 29.6.78
Ram Lal Ishverlal Randeria (DP)	-	-do-	-	E.A. DE/Ins 77	16.12.38	11.2.65	11.2.65	16.6.69	Offg. T.A. on 29.6.78
Ganbhirsingh Rajm singh Chauhan (DP)	-	-do-	-	SSC DE/Ins 79	25.7.39	12.2.65	12.2.65	12.6.69	Offg. T.A. on 29.6.78
O.M.A. Nair (DP)	-	-do-	-	SSLC DE/UDC 68	29.5.45	12.2.65	12.2.65	7.6.69 ✓	Offg. T.A. on 29.6.78
Dhirejlal Tapubhai-Padia (DP)	-	-do-	-	B.Com DE/Ins 72	17.9.45	15.2.65	15.2.65	16.5.69	Offg. Insp. on
C.R. Somanathan Nair (DP)	-	-do-	-	PH B.A. DE/Ins 76	22.12.45	10.2.65	10.2.65	10.2.65	Offg. T.A. on 30.4.79
Promodchandra Banchothas Mehta (DP)	-	-do-	-	SSC DE/Ins 76	10.3.44	6.4.65	6.4.65	17.7.69	Offg. T.A. on 42.7.78

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No. Est. 63-1/37

Office of the
Chief Commissioner (Adm) & C.I.T.,
Gujarat-I, P.B.No. 211, Ahmedabad.

Date: 1st September, 1937
10th Bhadra 1909.

:-: ORDER :-

The following promotions, transfers and postings are hereby ordered:-

I. PROMOTION:-

The following officials are promoted to officiate as Head Clerks in the pay scale of Rs. 1400-40-1300-EB-50-2300 with effect from the date of taking over charge and until further orders:-

Sr.No.	Name S/Shri
1.	V.C. Chauhan
2.	P.K. Padmalayan
3.	V.A. Abraham
4.	R.A. Darji
5.	R.G. Gohel
6.	V.M. Pathan
7.	Bhagwandas G. Parekh
8.	Cherian Mathew
9.	K.P. Bhaskaren
10.	G. Tulsinathan
11.	K. Damodaran
12.	J.L. Doshi
13.	M.S. Desai

2. The inter-se seniority of the above officials will remain as above, subject to modification, if necessary under the Rules.

II. TRANSFERS & POSTINGS.

Sr. No.	Name S/Shri	From	To	Remarks
1	2	3	4	5
1.	H.M. Waghers	Circle-I Rajkot	IT Office Jamnagar.	Vice Shri H.M. Waghers promoted.
2.	N.K. Joshi	Circle-VI Ahmedabad	IT Office Bhavnagar	Against post transferred from IT Office Modasa
3.	S.G. Oza	U.O.P. IT Office Navsari	Circle-I Rajkot	Vice Shri H.M. Waghers
<u>PROMOTIONS</u>				
4.	V.C. Chauhan	IAC (Audit) Ahmedabad	Circle-VI Ahmedabad	Vice Shri N.K. Joshi
5.	P.K. Padmalayan	I.A.P., Jamnagar	CIT Office Surat	Against a vacant post.

TRAC (C.I.T.)
Adm

No. Est.63-1/87.

Annex A/4 19
Office of the Chief Commissioner
of Income Tax (Administration)
Ahmedabad.

Date:- 7th December, 1987.

ORDER.

The following promotions, transfers and postings are hereby ordered :-

I. PROMOTIONS :

1. The following officials are promoted to officiate as Head Clerks in the pay scale of Rs. 1400-40-1800-EB-50-2300 with effect from the date of taking over charge and until further orders :-

1. O.T.A. Nair
2. C.R.S. Nair
3. N.M. Rathod
4. Miss D.D. Patel
5. H.D. Vaghara
6. A.M. Solanki
7. A.U. Waghela
8. D.M. Tadvi
9. N.M. Patel
10. S.C. Chaudhari
11. F.D. Katara.

2. The inter-se seniority of the above officials will remain as above, subject to modification, if necessary under the rules.

II. TRANSFERS & POSTINGS :

Sr. No.	Name S/Shri	From	To	Remarks.
1.	R.L. Vyas	I.T. Office Himatnagar	I.T. Office Palanpur.	Against a vacant post.
2.	H.V. Sukhadia.	Circle-II Ahmedabad.	I.T. Office Bhavnagar.	Vice Shri N.H. Rajyaguru Promoted.
3.	N.J. Zinjuwadia.	T.R.O-IV Ahmedabad.	I.T. Office Surendranagar	Vice Shri V.J. Vania, promoted.
4.	Cherian Mathew	U.O.R. to Cir-II, Surat.	I.T. Office Rajkot.	Vice Shri H.M. Oza, promoted.
5.	V.A. Abraham	D.D.I. (Inv.) Ahmedabad.	Circle-II Rajkot.	Vice Shri M.S. Sheth, promoted.

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PROMOTIONS:

Sr. No.	Name S/Shri	From	To	Remarks
6 .	O.T.A.Nair, T.A.	I.A.C. (Audit) Ahmedabad.	Circle-II Ahmedabad	Vice Shri B.K.Patel, promoted.
7 .	C.R.S. Nair, T.A.	I.A.C. (Audit) Ahmedabad.	TRO-I Ahmedabad.	Vice Shri A.A. Tirmizi, promoted
8 .	M.M. Rathod "	Circle-VIII Ahmedabad	Circle-IV Ahmedabad.	Vice Shri N.S. Hathimare, promoted.
9 .	Miss D.D.Patel U.D.C.	Circle-II Surat.	Circle-II, Surat.	Vice Shri Cherian Mathew's order modified.
10.	H.D.Vaghera, T.A.	I.T. Office Jamnagar.	I.T. Office Himatnagar..	Shri R.L.Vyas transferred.
11.	A.M. Solanki, UDC.	I.A.C. (Audit) Ahmedabad.	Circle-II Ahmedabad.	Vice Shri H.V. Sukha, transferred.
12.	A.U.Waghela, UDC	Circle-II Baroda.	C.I.T. (Appeals) Baroda.	Vice Shri C.M.Parmar, promoted.
13.	D.M. Tadvi, UDC.	Circle-I Baroda.	Circle-II Surat.	Against a vacant post.
14.	N.M.Patel "	I.T. Office Bulsar.	I.T. Office Vapi.	Vice Shri C.M. Tarte, promoted.
15.	S.C. Chaudhari, UDC.	Circle-II Surat.	C.I.T. Office Surat.	Against a vacant post.
16.	F.D. Katara, UDC	I.T. Office Godhra.	I.T. Office Godhra.	Vice Shri G.C. Majmudar, promoted.

3. S/Shri Cherian Mathew/R.L.Vyas and V.A. Abraham, will not be entitled to transfer T.A., joining time etc., as the transfers are made at their own request.
4. The Officials should be relieved by 16-12-1987.

Sd/-

(P.C. HALAKHANDI)

Chief Commissioner of Income Tax
(Administration), Guj., Ahmedabad.

No. Est. 63-1/87.

Ahmedabad. Date: 7-12-1987.

Copy to:-

1. All Cs. I.T., Gujarat charge/D.I. (inv.) Ahmedabad.
2. All I.A.Cs., Gujarat charge/D.D.I., Ahmedabad.
3. All ITOs. (GS/Adm.) Gujarat charge.
4. The Account Officer (F.P.U), Ahmedabad/Rajkot/Surat/Jamnagar/Baroda/Bhavnagar.
5. The Z.A.O. (C.B.D.T.) Ahmedabad.
6. All sections of this office.

(C.V. MENON) ITO (HQ. Adm.) I
for Chief Commissioner of Income Tax (Adminis-
tration), Guj., Ahmedabad.

TRAC COPY
JPH
Adm

630-A

NO.DI.I-A/4/89-90.

Office of the Director of
Income-tax (Investigation),
1st floor, Aayakar Bhavan,
Navrangpura, Ahmedabad-380009.

Dated: 21st August, 1989.

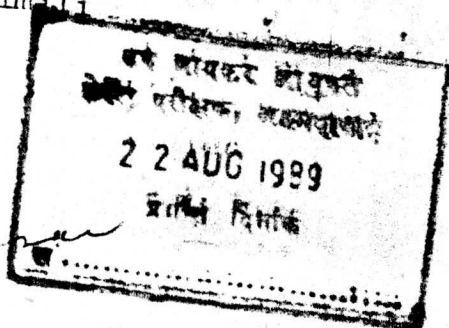
-: ORDER :-

The following officials are promoted to officiate
as Inspectors of Income-tax in the pay scale of Rs.1640-60-
2600-EB-75-2900 with immediate effect:-

S/Shri

1. V.V. Chatalia
2. A.A. Waghela
3. H.S. Jambudawala
4. J.H. Goswami
5. M.S.M. Shaikh
6. V.F. Ahuja
7. H.R. Dabhi
8. M.P. Parekh
9. N.D. Vora
10. J.R. Joshi
11. G.C. Prajapati
12. H.M. Vaghara
13. N.M. Tailor
14. K.D. Makodia
15. Mrs. S.E. Manjure
16. K.B. Gohel
17. Mrs. K.D. Tahiliani
18. J.R. Patel
19. N.K. Joshi
20. V.R. Bhayani
21. A.H. Shaikh
22. P.M. Gohel
23. S.N. Goswami
24. R.M. Khetalia
25. I.M. Patel
26. N.M. Suthar
27. H.D. Parmar
28. V.C. Chauhan
29. R.A. Darji
30. V.M. Pathan
31. B.G. Parekh
32. G.S. Parmar
33. K. Damodaran
34. J.L. Doshi
35. M.S. Desai
36. K.Z.A. Zaleel
37. R.I. Randeria
38. S.J. Parmar
39. G.B. Chauhan
40. C.T.A. Nair
41. N.K. Singhal
42. H.D. Vaghara
43. M.N. Nayaran
44. G.M. Parmar
45. G.M. Solanki
46. N.M. Vansia
47. Dalabhai R. Shrimali
48. G.B. Lad

cc - (Audit)



(Cont'd.....2.)

Handwritten signatures and initials, including 'T.R. G. Goy' and 'Adhar'.

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Annexure A/12

GOVERNMENT OF INDIA
DEPTT. OF PERSONNEL & TRAINING
OFFICE MEMORANDUM NO. F 22011-5/ 86
Est. (D).

Dated 10th March, 1989.

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Procedure to be observed by Departmental Promotion Committee.

The undersigned is directed to say that in modification of existing instructions issued in regard to the subject mentioned above the following procedure shall be observed by the Departmental Promotion Committees :-

Each Departmental Committee should decide its own method and procedure for objective assessment of the suitability of the candidates. No interview should be held unless it has been specifically provided for in the recruitment rules for the post/service. Whenever promotions are to be made by the method of 'selection' by DPC and the Administrative Ministry desires that an interview should form part of the selection process, necessary provision should be made in the recruitment rules.

2.1.1 Selection Method

Where promotions are to be made by selection method as prescribed in the recruitment rules, the DPC shall, for the purpose of determining the number of officers, who will be considered from out of those

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eligible officers in the feeder grade (s), restrict the field of choice as under with reference to the number of clear regular vacancies proposed to be filled in the year :

No. of vacancies	No. of officers to be considered
1	5
2	8
3	10
4	3 times the number of vacancies

Guidelines for DPCs

2.1.2 At present DPCs enjoy full discretion to devise their own methods and procedures for objective assessment of the suitability of candidates who are to be considered by them. In order to ensure greater selectivity in matters of promotions and for having uniform procedures for assessment by DPCs fresh guidelines are being prescribed. The matter has been examined and the following broad guidelines are laid down to regulate the assessment of suitability of candidates by DPCs.

2.1.3 While merit has to be recognised and rewarded, advancement in an officer's career should not be regarded as a matter of course but should be earned by dint of hard work, good conduct and result oriented performance as reflected in the annual confidential reports and based on strict and rigorous selection process.

2.1.4 Government also desires to clear the misconception about "Average" performance. While "Average" may not be taken as an adverse remark in respect of an officer, at the same time, it cannot be regarded as complimentary to the officer, as "Average" performance should be regarded as routine and undistinguished, it is only performance that is above average and performance that is really noteworthy which should entitle an officer to recognition and suitable rewards in the matter of promotion.

Confidential Reports

2.2.1 Confidential Rolls are the basic inputs on the basis of which assessment is to be made by each DPC. The evaluation of CRs should be fair, just and non discriminatory. Hence -

- (a) The DPC should consider CRs for equal number of years in respect of all officers considered for promotion subject to (c) below.
- (b) The DPC should assess the suitability of the officers for promotion on the basis of their service record and with particular reference to the CRs for 5 preceding years. However, in cases where the required qualifying service is more than 5 years, the DPC should see the record with particular reference to the CRs for the years equal to the required qualifying service. (If more than one CR has been written for a particular year, all the CRs for the relevant year shall be considered together as the CR for one year).

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- (c) Where one or more CRs have not been written for any reason during the relevant period, the DPC should consider the CRs of the years pre-
-ceding the period in question and if in any case even these are not available the DPC should take the CRs of the lower grade into account to complete the number of CRs required considered as per (b) above. If this is also not possible, all the available CRs should be taken into account.
- (d) Where an officer is officiating in the next higher grade and has earned CRs in that grade, his CRs in that grade may be considered by the DPC in order to assess his work, conduct and performance, but no extra weightage may be given merely on the ground that he has been officiating in the higher grade.
- (e) The DPC should not be guided merely by the overall grading, if any, that may be recorded in the CRs, but should make its own assessment on the basis of the entries in the CRs, because it has been noticed that some times the overall grading in a CR may be inconsistent with the grading under various parameters or attributes.
- (f) If the Reviewing Authority or the Accepting Authority as the case may be has overruled the Reporting officer or the Reviewing Authority as the case may be, the remarks of the latter authority should be taken as the final remarks for the purposes of assessment provided it is apparent from the relevant entries that the

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higher authority has come to a different assessment consciously after due application of mind. If the remarks of the Reporting Officer, Reviewing Authority and Accepting Authority are complementary to each other and one does not have the effect of overruling the other, then the remarks should be read together and the final assessment made by the DPC.

2.2.2 In the case of each officer, an overall grading should be given. The grading shall be one among (i) Outstanding, (ii) Very Good, (iii) Good, (iv) Average, (v) Unfit.

2.2.3 Before making the overall grading after considering the CRs for the relevant years, the DPC should take into account whether the officer has been awarded any major or minor penalty or whether any displeasure of any superior officer or authority has been conveyed to him as reflected in the ACRs. The DPC should also have regard to the remarks against the column on integrity.

✓ 2.3.1 The list of candidates considered by the DPC and the overall grading assigned to each candidate would form the basis for preparation of the panel for promotion by the DPC. The following principles should be observed in the preparation of the panel :-

- (i) Having regard to the levels of the posts to which promotions are to be made, the nature

and importance of duties attached to the posts a bench mark grade would be determined for each category of posts for which promotions are to be made by selection method. For all Group 'C', Group 'B' and Group 'A' posts upto (and excluding) the level of Rs. 3,700 5,000 excepting promotions for induction to Group 'A' posts or Services from lower groups, the bench mark would be 'Good'. All officers whose overall grading is equal to or better than the bench mark should be included in the panel for promotion to the extent of the number of vacancies. They will be arranged in the order of their inter se seniority in the lower category without reference to the overall grading obtained by each of them provided that each one of them has an overall grading equal to or better than the bench mark of 'good'.

Whereever promotions are made for induction to Group 'A' posts or Services from lower groups, the bench mark would continue to be 'good'. However, officers graded as 'outstanding' would rank en bloc senior to those who are graded as 'Very Good' and officers graded as 'Very Good' would rank en bloc senior to those who are graded as 'Good' and placed in the select panel accordingly up to the number of vacancies officers with same grading maintaining their inter se seniority in the feeder post.

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- (ii) In respect of all posts which are in the level of Rs. 3,700-5,000 and above the bench mark grade should be 'Very Good'. However, officers who are graded as 'Outstanding' would rank en bloc senior to the who are graded as 'Very Good' and placed in the select panel accordingly upto the number of vacancies, officers with same grading maintaining their inter se seniority in the feeder post.
- (iii) Appointments from the panel shall be made in the order of names appearing in the panel for promotion.
- (iv) Where sufficient number of officers with the required bench mark grade are not available within the zone of consideration, officers with the required bench mark will be placed on the panel and for the unfilled vacancies, the appointing authority should hold a fresh DPC by considering the required number of officers beyond the original zone of consideration.
- 2.3.2 (i) In promotions by selections to posts/ services within Group 'A' which carry an ultimate salary of Rs. 5,700 p.m. in the revised scale, the S.Cs/ S.Ts. officers, who are senior enough in the zone of consideration for promotion so as to be within the number of vacancies for which the select list has to be drawn up, would notwithstanding the prescription of 'bench-mark' be included in that list provided they are not considered unfit for promotion.

(ii) In promotion by selection to posts/services from Group 'C' to Group 'B' within Group 'B' and from Group 'B' to the lowest rung in Group 'A', selection against vacancies reserved for S.Cs. and S.Ts. will be made only from those S.Cs/S.Ts. officers, who are within the normal zone of consideration prescribed vide the Department of Personnel and A.R., O.M. No. 22011/3/75-Est.(D), dated the 24th December, 1980, Where adequate number of S.Cs/S.Ts. candidates are not available within the normal field of choice, it may be extended to five times the number of vacancies and the SCs/STs candidates (and not any other) coming within the extended field of choice, should also be considered against the vacancies reserved for them. If candidates from SCs/STs obtain on the basis of merit with due regard to seniority, on the same basis as others, less number of vacancies than the number reserved for them, the difference should be made up by selecting candidates of these communities, who are in the zone of consideration, irrespective ~~and~~ of merit and 'bench mark ' but who are considered fit for promotion. Officers belonging to SC/ST selected for promotion against vacancies reserved for them from within the extended field of choice would however be placed an bloc below all the other officers selected from within the normal field of choice.

(iii) As regards promotions made by selection in Group 'C' and Group 'D' posts/services, Select Lists of SC/STs officers should be drawn up separately in addition to the general select list, to fill up the x reserved vacancies. SCs/STs officers who are within

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the normal zone of consideration, should be considered for promotion alongwith and adjudged on the same basis as others and those S.Cs. and S.Ts. amongst them, who are selected on that basis may be included in the general select list in addition to their being considered for inclusion in the separate Select Lists for S.Cs. and S.Ts. respectively. In the separate Select Lists drawn up respectively for S.Cs and S.Ts., officers belonging to the SCs and STs will be adjudged separately among themselves and not alongwith others and, if selected, they should be included in the concerned separate list, irrespective of their merit as compared to other officers and the bench mark. If candidates from S.Cs/ S.Ts. obtain on the basis of their position in the aforesaid general list, lesser number of vacancies than are reserved for them, the difference should be made up by selected candidates of these communities in the separate Select Lists for S.Cs and S.Ts. respectively.

~~Pre~~paration of year-wise panels by DPC where they have not met for a number of years.

2.4.1 Where for reasons beyond control, the DPC could not be held in an year(s), even though the vacancies arose during that year (or years), the first DPC that meets thereafter should follow the following procedure :-

- (i) Determine the actual number of regular vacancies that arose in each of the previous year(s) immediately preceding and the actual number of regular vacancies proposed to be filled in the current year separately.

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- (ii) Consider in respect of each of the years those officers only who would be within the field of choice with reference to the vacancies of each year starting with the earliest year onwards.
- (iii) Prepare a 'Select List' by placing the select list of the earlier year above the one for the next year and so on.

2.4.2 Where a DPC has already been held in a year, and further vacancies arise during the same year due to death, resignation, voluntary retirement, etc., or because the vacancies were not intimated to the DPC due to error or omission on the part of the Department concerned, the following procedure should be followed :

- (i) Vacancies due to death, voluntary retirement, new creations, etc., clearly belong to the category which could not be foreseen at the time of placing facts and material before the DPC. In such cases, another meeting of the DPC should be held for drawing up a panel for these vacancies as these vacancies could not be anticipated at the time of holding the earlier DPC. If for any reason, the DPC cannot meet for the second time, the procedure of drawing up of year-wise panels may be followed when it meets next for preparing panels in respect of vacancies that arise in subsequent year(s).

(ii) In the second type of cases of non reporting of vacancies due to error or ~~om~~ omission (i.e. though the vacancies were there at the time of holding of DPC meeting they were not reported to it) it results in injustice to the officers concerned by ~~ar~~artificially restricting the zone of consideration. The wrong done cannot be rectified by holding a second DPC or preparing an year-wise panel. In all such cases, a review DPC should be held keeping in mind the total vacancies of the year.

2.4.3 For the purpose of evaluating the merit of the officers while preparing year-wise panels, the scrutiny of the record of service of the officers should be limited to the records that would have been available had the DPC met at the appropriate time. For instance for preparing a panel relating to the vacancies of 1978 the latest available records of service of the officers either upto December, 1977, or the period ending March 1978, as the case may be, should be taken into account and not the subsequent ones. However, if on the date of the meeting of the DPC, departmental proceedings are in progress and under the existing instructions sealed cover procedure is to be followed, such procedure should be observed even if departmental proceedings were not in existence in the year to which the vacancy related. The officer's name should be kept in the sealed cover till the proceedings are finalised.

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2.4.4 While promotions will be made in the order of the consolidated select list, such promotions will have only prospective effect even in cases where the vacancies relate to earlier year(s).

3. Non Selection Method

Where the promotions are to be made on 'non selection' basis according to Recruitment Rules, the DPC need not make a comparative assessment of the records of officers and it should categorise the officers as 'fit' or 'not yet fit' for promotion on the basis of assessment of their record of service. While considering an officer 'fit', guidelines in para. 2.1.4 should be borne in mind. The officers categorised as 'fit' should be placed in the panel in the order of their seniority in the grade from which promotions are to be made.

4. These instructions will take effect from 1st April 1989.

5. Ministries/Departments are requested to bring these instructions to the notice of all concerned, including their attached and subordinate offices, for guidance and also to ensure their compliance.

(G.I. Dept. of Per & Trg., O.M. No. F.22011/5/86-
Est(D), dated the 10th March, 1989).

True Copy
[Signature]
Admin

From

G. Thulasinathan,
Head Clerk,
O/o the Dy.C.I.T. (Audit),
Ahmedabad.
Date: June 14, 1989.

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The Chief Commissioner of
Income-tax, Gujarat,
Ahmedabad.

Respected Sir,

Sub: Wrong fixation of seniority in
the cadre of Tax Assistant -
Request for correction and
consideration for promotion to
the cadre of Inspector -

Ref: My representation dt. 25.5.1987
and subsequent reminder letter
dated 28-12-1988 -

The applicant is at present working in the
Income-tax Department as Head Clerk from 3-9-1987 in the
pay scale of Rs. 1400-40-1800-EB-50-2300, who started his
career as L.D.C. with Special Pay (Steno-typist) in the
department from 27-2-1964. The applicant has passed the UDC
Examination (Deptl.) in the year 1968 and was promoted as
U.D.C. on the basis of seniority-cum-merit in the year 1969
(April). The applicant firmly hoped that having regard to the
fact that he joined the Department in 1964 and have passed the
UDC Exam. in the year 1968, he would naturally be getting the
benefit of promotion to the post of Inspector after passing
the Inspectors' Examination and accordingly tried and passed
the Departmental Examination in the year 1980. In the meantime,
the Central Board of Direct Taxes created a new cadre of 'Tax
Assistants' in the Income-tax Department above the cadre of
UDC and below the cadre of Head Clerk from the pool of UDCs
who have already completed three years of service in that cadre
and who have secured atleast 40% marks in the four subjects of
Deptl. Exam. for Inspectors i.e. Law-I, Law-II, Office Procedure

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and Book Keeping. This new cadre was created by abolishing that much number of posts of existing UDCs in the year 1978. With the creation of this new cadre, those UDCs who are in the general category and promoted as Tax Assistants had got the benefit of one more stepping up in their pay and placed in the pay scale of Rs. 1350-30-1440-40-1800-EB-50-2200.

2. In the Establishment List of TAs as on 1-9-1986 published by the Chief Commissioner of Income-tax (Admn.), Gujarat, Ahmedabad, the applicant's name has been placed wrongly at Sl.No.139 at page 32. The first batch in the TAs cadre was confirmed vide order No.Est.64-1/86 dt. 15-10-1986 by the Chief C.I.T.(Admn.) with the date of confirmation as 1-4-1982 including the applicant. In the said confirmation list the applicant's name is kept at 240, i.e. 110 junior persons are shown as senior to me, wrongly. This mistake was pointed out to the Chief C.I.T. (Admn.), Gujarat, Ahmedabad vide my application dt. 25.5.1987. In spite of pointing out the above mistake and requesting for its correction vide my above stated application dt. 25.5.87, the same mistake is repeated in the Establishment List as on 1-9-1986. The officials shown at Sl.Nos. 41 and onwards on page 17 had joined the department as LDCs with special pay (stenotypist) only on 12-11-1964 or afterwards i.e. much later than the applicant's date of joining in that cadre i.e. on 27-2-1964. In the promotion cadre of H.C. (a higher cadre than TA) also, their names are shown below the applicant's name. But in the Establishment List as on 1-9-1986 of TAs, the applicant's name is placed at Sl.No.139 on page No.32 instead of Sl.No.41, which is the correct seniority No. considering the date of joining the basic cadre of LDC with Spl.pay and subsequent confirmation date in that post and promotion to the post of UDC. Likewise, it appears that all the officials shown from Sl.Nos.41 to 138 are junior to me. It is a matter of grave concern that the

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applicant's representation for rectification of the said mistake committed by the department itself, has remained undisposed of till today even after a reminder for the same vide my letter dated 28-2-1988 addressed to the then Chief C.I.T. (Admn.), A'bad.

3. It is submitted that while earning the promotion of Head Clerk in the year 1987 on the basis of seniority-cum-merit in time also, neither I had superceded anybody nor anybody had superceded me. It is further submitted that so far as the promotion to the cadre of I.T. Inspectors is concerned, it is essential that the incumbents to be considered for promotion should have completed 3 years continuous service in their feeder cadres and should have passed the Departmental Examination for Income-tax Inspectors. For preparing a panel for DPC purposes, such candidates are being arranged in two separate lists. In the first list, the names of all the qualified persons are being arranged in order of seniority in the department. In the second list, the names of all the qualified persons are being listed according to the date/year of passing the departmental examination. Since the applicant has not completed three years in the present cadre of Head Clerk, he will be considered for promotion to the cadre of I.T. Inspector from the pool of TAs only. The Establishment List of TAs as on 1.9.1986 and onwards in which my seniority is wrongly stated will come under consideration for calling the CCRs for DPC purposes to be held shortly for promotion to the cadre of I.T. Inspectors. If my representation dat. 25/5/87 (reminder dt. 28.12.88) is not disposed of immediately and my actual and correct seniority, i.e. seniority No. 41, in TAs cadre, is not restored, there are every possibility of a large number of persons, who are junior to me, being promoted to the cadre of I.T. Inspectors in the ensuing DPC which will put the applicant into innumerable hardships vis-a-vis. loosing the promotion and its consequential mental agony and financial loss.

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4. In view of the above narrated facts and circumstances, the applicant prays to your goodself to dispose of the applicant's representation dt. 25.5.87 & 28.12.1988 immediately and restore the correct and actual seniority i.e. Sl.No.41 instead of the Sl.No. of 139 in the TAs cadre. It is also requested that such corrected seniority of mine may be taken into consideration for the ensuing D.P.C. purpose for promotion to the cadre of Inspector so that justice may be done to me by not denying the right for promotion for which I shall ever remain grateful.

Yours faithfully,

(G.Thulasinathan)
Head Clerk.

Submitted through: The Dy.C.I.T.(Audit), Ahmedabad.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD

O.A. No. 511 of 1989

Shri G. Thulasinathan
v/s

... Applicant

Union of India and ors.

... Respondents

Written Reply

I, SUNIL VERMA, Dy. Commissioner of Income-tax(HQ.I),
do hereby state as under:-

1. I submit that I am conversant with the facts
of the case and am able to depose to the averments
made herein.

2. At the outset I submit that the application
of the applicant is misconceived and the applicant
seems to be suffering from some mis-conception/
wrong notions. It is a fact that the applicant
along with respondent Nos. 3 & 4 was promoted as Tax
Assistant on 29/6/1978. However, the applicant's
assertion that when two or more employees are promoted

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Adm. Officer
20-3-90

A to a higher post on the same day, their seniority in the higher post is fixed according to their seniority in the lower cadre, is not correct. At the relevant time the post of Tax Assistant was considered as a selection post. The applicant was graded as "Good" whereas the respondent Nos. 3 & 4 were graded as "Very good" and therefore in the select panel prepared by the Departmental Promotion Committee respondent Nos. 3 & 4 were placed at serial No. 152 and 157 respectively whereas the applicant was placed at serial No. 266. Similarly other officials who were graded Good in the Departmental Promotion Committee were also placed below the panel. The applicant therefore became junior to the respondent Nos. 3 & 4 in the cadre of "Tax Assistant", on promotion. This fact is not mentioned by the applicant intentionally. As this is a suppression of material fact the applicant ^{is} deserves to be rejected on this ground alone.

3. Without prejudice to the aforesaid, I shall now deal with the application parawise:-

(A) Regarding para-4(iv) of the application it is submitted that ~~the~~ it is a fact that the applicant was promoted as Head Clerk on 1/9/1987 and was senior to Respondent Nos. 3 and 4 in that Cadre. At the relevant time, for promotion to the grade

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of 'Head Clerk', the seniority in the Cadre of "Upper Division Clerk" only was to be taken into consideration and as the applicant was senior in U.D.C. cadre, on promotion as Head Clerk he was shown senior to Respondent Nos. 3 and 4.

(B) Regarding para-4(v) of the application, it is submitted that the facts stated are substantially correct.

(C) Regarding para-4(vi) of the application, it is submitted that the assertion of the applicant that since he had passed the Departmental Exam. for Inspectors in 1980 and the Respondent Nos. 3 and 4 had passed the said exam. in the year 1980 and 1983 respectively, he should have been considered for promotion to the post of Inspector before the Respondent Nos. 3 and 4, is not correct. The Respondent Nos. 3 and 4 have not been promoted as Inspectors on the basis of "Date of passing" but on the basis of "Seniority".

In this connection it may be mentioned here that 50% of the promotions to the posts of Inspectors is made on the basis of 'Date of passing' of the Departmental Exam. and the remaining 50% is made on the basis of seniority

of the candidate. The applicant's contention that he was eligible for the said promotion as Inspector as he was senior to the Respondent Nos. 3 and 4 in the immediate lower cadre of Head Clerk and also in the cadre of U.D.C. is also not correct. For promotions to the Grade of Inspectors, 3 years Service in a particular grade of either Supervisor, Head Clerk, Tax Assistant U.D.C. or Stenographer, was required. Those candidates who had not completed 3 years in the higher grade were considered as per the seniority in the immediate lower grade. As the applicant as well as the Respondent Nos. 3 and 4 had not completed 3 years of service as Head Clerk, they were considered in the next lower grade of Tax Assistant. The Respondent Nos. 3 and 4 being senior in the grade of Tax Assistant, were within the consideration zone in the category "Ministerial Seniority" for promotion to the post of Inspectors, whereas the applicant being very junior in the Tax Assistant cadre could not come up within the consideration zone and was therefore not considered at all for promotion. The contentions of the applicant made in this para therefore do not survive.

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(D) Regarding para-4(vii) of the application, it is submitted that as has been stated in the aforesaid para, since the applicant was not within the consideration zone for the promotion to the cadre of Inspector, the contentions made in this para are out of place.

(E) Regarding para-4(viii) and 4(ix) of the application, it is submitted that as has been admitted by the applicant, in the confirmation order of Tax Assistants, his name was placed before the Respondent Nos. 3 and 4 though all of them were confirmed from the same date i.e. 1/4/1982. The contention of the applicant, that he had no grievance against the date of his confirmation as the applicant's seniors & juniors were confirmed with effect from the same date, is not correct. Because, he should have noticed that the seniority follows the confirmation and since he was confirmed at serial No. 240 as against the confirmation of the Respondent Nos. 3 and 4 at Serial Nos. 130 and 135 respectively, his seniority was disturbed. The contentions that the applicant was promoted as Tax Assistant on the basis of the seniority in the cadre of U.D.C. where he was admittedly shown senior to the

Respondent Nos. 3 and 4 is also not correct, for, in the select panel for promotion to the cadre of Tax Assistant, he was categorised as "Good" and placed below the Respondent Nos. 3 and 4 who were categorised as "Very Good".

(E) Regarding para-5(a) of ~~an~~ the application, it is submitted that from the replies in the aforesaid paras, it will be seen that there is nothing illegal, arbitrary in not considering the name of the applicant for promotion to the cadre of Inspector. Violation of applicant's fundamental right in this regard is also denied.

(F) Regarding para-5(b) of the application, it is submitted that the contents of this para as far as they form matter of record are admitted. However, it may be stated here that the instructions/ guidelines contained in Government of India, Department of Personnel & Training's Memorandum No.22011/5/86-Est.(D) dated 10/3/1989 are not applicable in the case of applicant as his name was not within the consideration zone for promotion to the cadre of Inspector.

(G) Regarding para-5(c) of the application, it

is submitted that the contents of this para are more or less repetition of the assertion made in the earlier paras which have already been replied. As far as the contents relate to facts on record they are admitted.

4. In view of the reply given above, the respondents humbly submit that the application is misconceived and the applicant is not entitled for any reliefs.

5. In view of the aforesaid, this Hon'ble Tribunal may be pleased to dismiss the application with costs.

Dated this 16th day of ~~January~~^{March}, 1990.

R.P. Bhatt

(R.P. Bhatt)
Advocate for the respondents.

Verification

I, SUNIL VERMA, age 37 years,
age.... working as Dy.C.I.T.(HQ-I), Ahmedabad in the
office of Income Tax, resident of Ahmedabad do hereby
verify that the contents of paras..1 to 3(G) are
believed to be true on legal advice and that I have
not suppressed any material fact.

Dt: 16th March, 1990.

Sunil Verma
(SUNIL VERMA)

Dy. Commissioner of Income-tax (HQ I)
for Chief Commissioner of Income-tax
(Admn.), Ahmedabad.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A.NO. 511 OF 1989

Shri G. Thulasinathan

..... Applicant.

V/s.

Union of India & Others.

..... Respondents.

I N D E X

S.No.	Ann. No.	Particulars	Page Nos.
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- | | | | |
|----|---|---|--|
| 1. | - | Memo of Rejoinder
to Written Statement
of the respondent. | |
|----|---|---|--|

Place: Ahmedabad

Date : 14/9/92

(Kiran K. Shah)
Advocate.

19/11/92
PM

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19/11/92

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

O.A. NO. OF 1989

Shri G. Thulasinathan Applicant.

V/s.

Union of India & Others. Respondents.

REJOINDER TO WRITTEN STATEMENT OF THE RESPONDENT.

I, the applicant, submit the replies, by way of the rejoinder to the averments of the respondents as contained in his Written Statement where the points of the applicant's original application are not admitted by the respondent. The applicant however reserves to himself the right of putting forward such arguments as may be necessary at the time of hearing.

1. Contents of para 1 of the Written Statement need no comment.

2. Respondent's assertion, contained in para 2 of the Written Statement, regarding the nature of the post of Tax Assistant as being that 'a selection post' is not supported by any relevant rule issued by the CBDT. Further no seniority list of Tax Assistants as alleged, to have been in existence showing the relevant position of respondent 3 and 4 and that of the applicant has been furnished and neither the extracts from the character rolls of the respondents No.3 and 4 as alleged by the respondent to be "very good" as against that of "good" only of the applicant has been furnished. Since the respondent has come out with the nature of remarks of CCRs., of all three (Respondent No.3 & 4 and the applicant) these do not remain secret and the assertion of the respondent must be supported by making available the copies of the CCRS of all, i.e. respondents No.3 & 4

and the applicant, for the period having relevancy to the selection of Tax Assistants. Thus the assertion of the respondent should be supported by documents also for proper justice. Hence in the absence of such evidence the contention of the respondent is not admitted.

- 3.(A) Contents of para 3(A) of the Written Statement need no comments.
- (B) Contents of para 3(B) of the Written statement need no comment.
- (C) For various assertion made by the respondent the applicant depends on the records when they are produced in the Hon'ble Tribunal.

Further the respondents has admitted that 50% promotion to the post of Inspectors are made on the date of passing of the Deptt. examination, but the principle of determining the inter-se Seniority of candidates promoted as Inspector of Income Tax on the basis of 'Seniority' vis-a-vis, basis of 'passing the departmental examination' is not given out in the written reply. The respondent should have come out with the clear picture on that point. As such the averments of the respondent, as contained in para 3(c) is not admitted.

- (D) Respondents' assertions not admitted even assuming that the applicant's case was not within the consideration zone of 'basis of Seniority', his case should have been

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considered on the basis of 'passing of Departmental examination' for Inspector while the applicant has passed the same as early as in 1980. As such his case should have been taken in this category for promotion as Inspector.

- (E) Respondents' averment as contained in para 3(E) of the Written Statement is not admitted. It is pointed out that posts can be classified in two categories: (1) Selection Posts i.e. posts, promotion to which are to be made by selection based on merit, with due regard to seniority and (2) "Non Selection posts" i.e. posts, promotion to which are to be made by seniority subject to rejection of the unfit. But decision No.(3) under item No.2 Selection Method in Section VI entitled "Procedure to be observed by DPC (page 87 of Swamy's Book Seniority & Promotion') runs as under :

Decision (3) Appointment on Selection grade posts on Seniority basis.

"In supersession of para 1 (IX) and 1(X) of M.F.O.M. No.7 (21)-E III (A)/74 dated 10th January 1977 (appointment to be made on the basis of merit-cum-seniority basis) it has been decided that the principle of seniority subject to the rejection of the unfit should be strictly applied for the appointment to Selection grade in all Group 'C' and 'D' cadres". (D.P. & A.R.O.M.No.22011/5/77-Estt.(D), dated 30th December, 1977).

The respondent has himself stated in para 2 of his written statement that the post ~~of Tax Assistant~~ of Tax Assistant was considered as a Selection Post. Accordingly in view of the above quoted decision applicant's name should have been placed above that of respondent No.3 and 4 as by strictly following the principle of seniority subject to the rejection of the unfit and the applicant's case did not fall under the category of rejectable cases. Since the principle as laid down in the OM dated 30.12.77 was not followed, the placement of respondent No.3 and 4 above the applicant is illegal and against the declared policy of the Government regarding promotion on selection post. Accordingly the applicant's name would have been placed above those of the respondents no.3 and 4 and he would have been eligible and within consideration zone for the post of Inspector.

4. Respondent's contention regarding para 5(a) of the original application of the applicant is not admitted. In view of the decision quoted in the last para, the promotion list of Inspectors is illegal, arbitrary and violation of Article 14 of the constitution of India.

5. Respondent's contention that the applicants name was not within the consideration zone for promotion to the cadre of Inspector is not correct. Since the creteria of OM dated 30.12.77 was not adopted while making promotion to the post of Tax Assistants where

the applicant was placed at a very low position arbitrarily, this situation has developed. Had the principle as laid down in OM dt. 30.12.1977 would have been followed the applicant's name could not have been out of consideration zone for promotion to the cadre of Inspector. As such grave injustice has been done to the applicant.

General principle 5(1) to Annexure to M.H.A.O. M.N.I-11/55-RPS dt. 22.12.59, on seniority lays down that when promotions are made the basis of seniority subject to the rejection of the unfit, the seniority of persons considered fit for promotion at the same time shall be the same as the relative seniority in the lower grade from which they are promoted.

6. Contents of para 3(G) of written statement of the respondent does not call for any comments.

In view of the above rejoinder, the applicant humbly submits that the averments of denials made by the respondent in his written statement as not admitted and, therefore, prays that the Hon'ble Tribunal be pleased to allow the application of the applicant with costs by quashing and setting aside the impugned order dt. 21.8.69.

VERIFICATION

I, G. Thulasinathan, aged adult working as in the office of the Dy. Commissioner of Income Tax (Audit) Ahmedabad do hereby verify that the contents of para 1 to 6 including such paras therein are true to my personal knowledge and nothing material has been suppressed.

Date : 14/9/72
Place: Ahmedabad

(Signature of the Applicant)

No.Est.64-1/86

Office of the Chief Commissioner
(Adm)&C.I.T.Gujarat.I.P.B.No.214
Ahmedabad, Dated 15th October 1986
23rd Ashvina, 1988

ORDER

The following officials are confirmed as Tax Assistant with effect from the date shown against each.

Sr. Nr.	Name S/Shri	Date from which confirmed
1.	2	3.
1.	P.H.Mehta	1.4.1982
2.	C.M.Modi	1.4.1982
3.	J.J.Bhavsar	1.4.1982
4.	V.C.Purohit	1.4.1982
5.	B.U.Purushvani	1.4.1982
6.	V.B.Shah	1.4.1982
7.	S.D.Rangrez	1.4.1982
8.	J.C.Gandhi	1.4.1982
9.	J.R.Vyas	1.4.1982
10.	M.A.Shukla	1.4.1982
11.	M.L.Khavadia	1.4.1982
12.	K.M.Kothari	1.4.1982
13.	H.V.Gandhi	1.4.1982
14.	R.Vellappen	1.4.1982
15.	I.A.Patel	1.4.1982
16.	R.D.Khatri	1.4.1982
17.	N.M.Glasswala	1-4-1982
18.	P.G.Shah	1.4.1982
19.	K.F. Ghaniwala	1.4.1982
20.	V.V.Ghatalia	1.4.1982
21.	H.S.Jambudawala	1.4.1982
22.	R.M.Rajpura	1.4.1982
23.	N.L.Trivedi	1.4.1982
24.	C.J.Francis	1.4.1982
25.	T.L.Prabhakaran	1.4.1982
26.	Miss I.C.Patel	1.4.1982
27.	M.M.Glasswala	1.4.1982
28.	I.N.Parekh	1.4.1982
29.	V.M.Trivedi	1.4.1982
30.	G.S.Mehta	1.4.1982
31.	N.R.Manger	1.4.1982
32.	R.A.Rana	1.4.1982

1.	2.	3.
	S/hri	
33.	N.J. Zinzuwadia	1.4.1982
34.	P.A. Vora	1.4.1982
35.	L.K. Joshi	1.4.1982
36.	H.K. Nathani	1.4.1982
37.	G.C. Majmudar	1.4.1982
38.	M.S. Seth	1.4.1982
39.	H.M. Oza	1.4.1982
40.	A.U. Vora	1.4.1982
41.	V.P. Ahuja	1.4.1982
42.	Miss M.R. Shah	1.4.1982
43.	Mrs. U.B. Shah	1.4.1982
44.	S.J. Rajpuria	1.4.1982
45.	B.S. Pandya	1.4.1982
46.	Y.V. Avashia	1.4.1982
47.	P.V. Shah	1.4.1982
48.	A.A. Tirmizi	1.4.1982
49.	R.L. Vyas	1.4.1982
50.	R.C. Pillai	1.4.1982
51.	R.A. Vavwala	1.4.1982
52.	M.N. Vyas	1.4.1982
53.	N.H. Rajyaguru	1.4.1982
54.	M.K.K. Nambiar	1.4.1982
55.	N.K.C. Nair	1.4.1982
56.	M.C. Radha Krishnan	1.4.1982
57.	B.B. Ghatge	1.4.1982
58.	B.R. Bhatt	1.4.1982
59.	A.V. Modi	1.4.1982
60.	D.C. Patel	1.4.1982
61.	J.G. Trivedi	1.4.1982
62.	K.V. Prabhakaran	1.4.1982
63.	T.L. Gangwani	1.4.1982
64.	N.N. Krishnan	1.4.1982
65.	S.D. Carpenter	1.4.1982
66.	Mathai Johny	1.4.1982
67.	Mathai T.J.	1.4.1982
68.	B.D. Acharya	1.4.1982
69.	B.B. Velani	1.4.1982
70.	D.R. Adhia	1.4.1982
71.	J.M. Trivedi	1.4.1982
72.	A.A. Shukla	1.4.1982

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1.	2.	3.
	S/Shri	
73.	D.G.Nandola	1.4.1982
74.	M.L.Parmar	1.4.1982
75.	P.M.Somani	1.4.1982
76.	E. Shanker	1.4.1982
77.	N.B.Shah	1.4.1982
78.	J.R.Joshi	1.4.1982
79.	B.G.Dhrumalkar	1.4.1982
80.	N.M.Darji	1.4.1982
81.	K.M.Thakkar	1.4.1982
82.	Mrs. P.D.Jetly	1.4.1982
83.	G.N.Bhatt	1.4.1982
84.	K.B.Thakker	1.4.1982
85.	S.G.Oza.	1.4.1982
86.	P.G.Pillai	1.4.1982
87.	Mohmad Siddiq M. Shaikh	1.4.1982
88.	C.B. Nair	1.4.1982
89.	Mrs. Kuriakose Ramani	1.4.1982
90.	U.M.Mehta	1.4.1982
91.	N.K.Patel	1.4.1982
92.	C.N.Gurjar	1.4.1982
93.	N.P.Davda	1.4.1982
94.	K.M.Pinjani	1.4.1982
95.	G.A.Karia	1.4.1982
96.	H.A.Sanghani	1.4.1982
97.	M.P.Seta	1.4.1982
98.	H.V.Sukhadia	1.4.1982
99.	I.H.Adhvaryu	1.4.1982
100.	D.U.V.Patel	1.4.1982
101.	J.N.Vora	1.4.1982
102.	M.P.Pandya	1.4.1982
103.	Y.V.Joshi	1.4.1982
104.	F.S.Sadikot	1.4.1982
105.	H.A.Mulani	1.4.1982
106.	Mrs. S.S.Gole	1.4.1982
107.	B.R.Modi	1.4.1982
108.	A.S.Shah	1.4.1982
109.	Miss H.B.Kalwani	1.4.1982
110.	H.D.Parmar	1.4.1982
111.	M.R.Desai	1.4.1982
112.	S.R.Bhatt	1.4.1982

1.	2.	3.
	S/Shri	
113	Mrs. B.G.Valera	1.4.1982
114	J.N.Patel	1.4.1982
115	K.L.Anni	1.4.1982
116.	Y.R.Thakar	1.4.1982
117.	A.N.Patel	1.4.1982
118.	C.M.Varde	1.4.1982
119:	C.M.Tarte	1.4.1982
120.	M.H.Rathod	1.4.1982
121.	V.C.Chauhan	1.4.1982
122.	V.A.Abraham	1.4.1982
123.	R.A. Darji	1.4.1982
124.	R.G.Gohil	1.4.1982
125.	H.N.Saiyed	1.4.1982
126.	V.M.Pathan	1.4.1982
127.	B.G.Parekh	1.4.1982
128.	Mathew Cheriyan	1.4.1982
129.	Bhaskaran K.P.	1.4.1982
<u>130.</u>	Damodaran K. =	1.4.1982
131.	J.L.Doshi	1.4.1982
132.	M.S.Desai	1.4.1982
133.	R.I.Randeria	1.4.1982
134.	Gambirsingh B. Chauhan	1.4.1982
<u>135.</u>	O.T.A.Nair =	1.4.1982
136.	D.T.Padia	1.4.1982
137.	P.R.Mehta	1.4.1982
138.	V.V.Jain	1.4.1982
139.	M.C.Solanki	1.4.1982
140.	B.C.Patel	1.4.1982
141.	B.P.Patel	1.4.1982
142.	N.H.Gohel	1.4.1982
143.	S.S.Thakar	1.4.1982
144.	J.S.Shah	1.4.1982
145.	V.T.Bhutwala	1.4.1982
146.	R.H.Pandya	1.4.1982
147.	M.J.Upadhyay	1.4.1982
148.	K.R.Somani	1.4.1982
149.	O.H.Raval	1.4.1982

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2.	3.
S/Shri	
150.	Miss Sirin D.Madan 1-4-1982
151.	H.T.Thakkar 1.4.1982
152.	Mrs. S.N.Bhavasara 1.4.1982
153.	(Miss S.S.Soni) 1.4.1982
154.	Mrs. I.V.Shah 1.4.1982
155.	M.P.Parekh 1.4.1982
156.	S.G.Shah 1.4.1982
157.	N.D.Vora 1.4.1982
158.	M.H.Hirani 1.4.1982
159.	S.M.Gandhi 1.4.1982
160.	B.D.Raval 1.4.1982
161.	James Paulose 1.4.1982
162.	B.L.Joshi 1.4.1982
163.	P.S.Babu 1.4.1982
164.	K. Ravindran Nair 1.4.1982
165.	K.V.M.Kutty 1.4.1982
166.	H.R.Bhatt 1.4.1982
167.	M.N.Parmar 1.4.1982
168.	J.K.Pathak 1.4.1982
169.	B.D.Dubal 1.4.1982
170.	H.N.Parekh 1.4.1982
171.	K.V.Joshi 1.4.1982
172.	Muniruddin Ahmed S.Malik 1.4.1982
173.	Miss M.A.Katdare 1.4.1982
174.	R.J.Chavda 1.4.1982
175.	D.R.Shrimali 1.4.1982
176.	K.J.Bachani 1.4.1982
177.	B.A.shah 1.4.1982
178.	J.H.Patel 1.4.1982
179.	Paul Thomas 1.4.1982
180.	H.H.Gandhi 1.4.1982
181.	J.A.Panchal 1.4.1982
182.	Mrs. Mallika V.Mehta 1.4.1982
183.	K.M.Doshi 1.4.1982
184.	B.H.Aghera 1.4.1982
185.	M.A.Parmar 1.4.1982
186.	G.G.Prajapati 1.4.1982
187.	N.M.Tailor 1.4.1982
188.	U.A.Santani 1.4.1982
189.	I.Chandran 1.4.1982
190.	D.K.Patel 1.4.1982

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1.	2.	3.
190.	S/Shri Smt. S.M.Jajal	1.4.1982
191.	K.M.Viradia	1.4.1982
192.	P.H.Shah	1.4.1982
193.	M.A.Trivedi	1.4.1982
194.	M.A.Vora	1.4.1982
195.	K.D.Makodia	1.4.1982
196.	A.S.Gandhi	1.4.1982
197.	K.B.Gohel	1.4.1982
198.	J.R.Patel	1.4.1982
199.	M.A.Patel	1.4.1982
200.	A.R.Desai	1.4.1982
201.	C.N.Parmar	1.4.1982
202.	A.N.Chokshi	1.4.1982
203.	Smt. Ranjanben D.Dani	1.4.1982
204.	V.S.Shah	1.4.1982
205.	Mrs. Rekhaben K. Thakar (Miss R.B.Thakkar)	1.4.1982
206.	D.V.Soni	1.4.1982
207.	S.R.Jani	1.4.1982
208.	S.M.Kalola	1.4.1982
209.	P.K.Brahmbhatt	1.4.1982
210.	V.R.Bhayani	1.4.1982
211.	P.M.Gohel	1.4.1982
212.	J.K.Chopra	1.4.1982
213.	V.I.Mistry	1.4.1982
214.	F.J.Akhunji	1.4.1982
215.	A.C.Majmudar	1.4.1982
216.	N.B.Datania	1.4.1982
217.	G.C.Chauhan	1.4.1982
218.	G.M.Shah	1.4.1982
219.	S.A.Mehta	1.4.1982
220.	B.K.Shrimali	1.4.1982
221.	H.M.Patel	1.4.1982
222.	H.M.Vaghera	1.4.1982
223.	S.N.Coswami	1.4.1982
224.	Mrs. Sulekha P.Sale	1.4.1982
225.	P.R.Punjara	1.4.1982
226.	I.M.Dave	1.4.1982
227.	M.S. Chauhan	1.4.1982
228.	R.K.Shah	1.4.1982
229.	H.T.Pandya	1.4.1982

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230.	D.A.Tapodhan	1.4.1982
231.	J.K.Panchal	1.4.1982
232.	Mrs. Malini G. Bhatt	1.4.1982
233.	R.F.Vadadia	1.4.1982
234.	G.G.Mehta	1.4.1982
235.	S.R.Kedia	1.4.1982
236.	Smt. S.R.Shah	1.4.1982
237.	J.I.Bhatt	1.4.1982
238.	Mathai Y	1.4.1982
239.	K.B.Shah	1.4.1982
✓ 240.	Tulasinathan G.	1.4.1982
241.	Mathew A.T.	1.4.1982 ✓
242.	N.B.Verma	1.4.1984
243.	V.J.Vania	1.4.1984
244.	V.H.Sutaria	1.4.1984
245.	I.R.Gohel	1.4.1984
246.	Miss K.J.Shah	1.4.1984
247.	H.A.Saiyed	1.4.1984
248.	A.G. Trivedi	1.4.1984
249.	S.M.Desai	1.4.1984
250.	G.D.Chavda	1.4.1984
251.	K.K.Acharya	1.4.1984
252.	Mrs. V.J.Amrathia	1.4.1984
253.	K.P.Patel	1.4.1984
254.	Mrs. Saramma Joseph	1.4.1984
255.	A.H.Shaikh	1.4.1984
256.	P.C.Patel	1.4.1984

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2. The date of confirmation is liable to change if found necessary on a future date.

Sd/- (G.R.PATWARDHAN)
Chief Commissioner (Adm) & C.I.T.,
Gujarat.I., Ahmedabad.

No. Adm-I/CAT/116-8/89 Office of the Chief Commissioner of
Income-tax, Kayaker dhaven, Ahmedabad.

Date : 22nd March, 1993.

M/S. R.P. Bhatt & Co.,
304, Samrudhi,
Opp: High Court,
Ahmedabad.

Sub : Before the CAT, Ahmedabad - U.A.
No. 511/89 - Shri G. Inlunathan
V/s. Union of India and others.

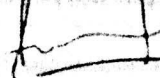
Sir,

Please refer to your letter No. 4089/92-93
dated 12-3-93 on the above subject.

2. As desired by you, I am forwarding herewith
copies of the following :-

- 1) Copy of Recruitment Rules of I.T. Inspectors
published in the Gazette of India dated
27-12-1969 and subsequent notification number
G.S.R. 768 dated 8th Sept., 86.
- 2) Copy of Recruitment Rules for Head-clerks
published in the Gazette of India dated
27-12-1969.
- 3) Copy of Board's letter No. F.No. A.11013/
29/75-Ad.VII dated 31-3-1978 regarding
creation of the cadre of Tax Assistants
in the Income-tax Department. Para 2
clearly states that the promotion to the
cadre of Tax Assistant shall be made on
selection basis.

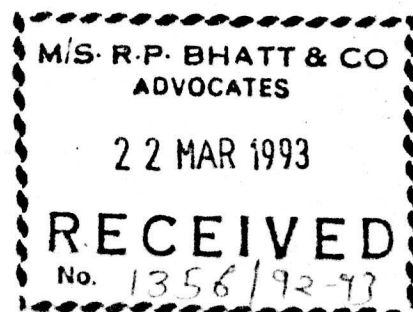
Yours faithfully,



(SUNIL VERMA) DC (IT) (HQ. I)
For Chief Commissioner of Income-tax
Ahmedabad.

Encl : As above.

Documents filed
by ms. Dipak Raval,
for ms. R.P. Bhatt.
in duplicate
H.P. Inlunathan
cot 2913



1

As PUBLISHED IN PART II SECTION 3(1) OF THE GAZETTE OF INDIA.

Dated, 20th Sept., 1986.

GOVERNMENT OF INDIA
MINISTRY OF FINANCE
(DEPARTMENT OF REVENUE)

601

NEW DELHI, THE 8TH SEPT., '86.

NOTIFICATION

S.R. 768 In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Income-tax Department (Inspector) Recruitment Rules, 1969, namely:-

1. (1) These rules may be called the Income-tax Department (Inspector) Recruitment (Amendment) Rules, 1986.
- (2) They shall be deemed to have come into force on the 1st day of October, 1985.
2. In the Schedule to the Income-tax Department (Inspector) Recruitment Rules, 1969:-
 - (a) in column 3, for the word and figures "Class III", the word and letter "Group 'C'" shall be substituted;
 - (b) in column 11, for the existing entries and the Note thereunder, the following entries shall be substituted, namely:-

✓ / "Supervisors Grade-I and Grade-II, Head Clerks, Tax Assistants and Upper Division Clerks (hereafter referred to as the Ministerial Cadre), and Stenographers Grade-I, Grade-II and Grade-III (hereafter referred to as Stenographers' Cadre), with 3 years' service in the respective grade, who have qualified in the Departmental Examination for Income-tax Inspectors. / The names of all such qualified candidates shall be arranged Cadre-wise, in two separate lists for each Cadre. In the first list, the names of all the qualified candidates falling in a Cadre shall be arranged in order of seniority in the Department. In the second list, the names of all the qualified persons falling in a Cadre shall be arranged according to the date or, as the case may be, the year of passing the Departmental Examination, provided that the persons who pass

2
*according
to their
seniority
in the
Department.

the examination on the same date shall be arranged*,
O. the approval of persons in the said lists, relating
to each Cadre, by the Departmental Promotion Comm.
the names of all the selected candidates shall be
arranged in two select lists in the ratio of 2:2,
One containing the names of the persons from both
the Cadres on the basis of seniority, and the other
containing the names of the persons from both the
Cadres on the basis of the date on, as the case may
be, the year of passing the Departmental Examination.
Vacancies in the promotion quota shall be filled
from the said two select lists in such a manner that
the ratio of 3:1 is maintained between the Ministerial
Cadre and the Stenographers' Cadre."

EXPLANATORY MEMORANDUM

Following representations from the staff side, the
Government had issued instructions on the 1st October
1985 prescribing a quota for the ministerial cadre
and stenographer cadre in the ratio of 3:1 for filling
up vacancies in the grade of Income-tax Inspector
 earmarked for promotion. Since these instructions
are already being followed and the amendments of
the rules is to regularise the said position formally,
no one will be adversely affected as a result of
the retrospective effect being given to this notification.

F.No.A.12018/8/85-Ad. VII

[Signature]
(R.R. Bharati)

Under Secretary to the Government of India

Principal Rules, Published in Part-II, Section 3(1)
of the Gazette of India vide G.S.R. No. 2800 dated
the 20th December 1969, and subsequently amended vide
G.S.R. No. 1372 dated the 19th December, 1974 and G.S.R.
No. 1099 dated the 19th August, 1977.

[Signature]
(R.R. Bharati)

Under Secretary to the Government of India

Recruitment Rules for Inspectors

3

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3946 THE GAZETTE OF INDIA: DECEMBER 27, 1969/PAUSA 6, 1891 [PART II—

ANNE-

Recruitment Rules for Non-Gazetted

In Ministry of Finance (Department of Revenue

Name of Post	No. of posts	Classification	Scale of pay	Whether Selection post or non-selection posts	Age for direct recruits	Educational and other qualification required for direct recruits
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1 2 3 4 5 6 7

Inspector of Income tax

1974

General
Central
Service,
Class III,
Non-gazet-
ted Non-
Ministerial.

Rs.
210—10—290—
15—320—EB—
15—425—EB—
15—485.

Selection

35 years and below for departmental candidates, provided they have put in a minimum service of 2 years in the Department and 23 years and below for others.

A Degree from a recognised University or equivalent qualification.

Sample

URE

Ministerial Class III Staff of the Income-Tax Department.

and Insurance) Income-Tax Wing

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees.	Period of probation if any	Method of rectt. whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods.	In case of rectt. by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made	If a DPC exists, what is its composition	Circumstances in which U.P.S.C. is to be consulted in making recruitment
--	----------------------------	---	---	--	--

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Age: Upper age limit for promotees will be 45 years relaxable upto 50 years in accordance with such orders as may be issued by the Central Board of Direct Taxes.

Two Yrs. 33 1/3 % of the vacancies by direct recruitment and 66 2/3 % by promotion.

Promotion :
Upper Division Clerks and Class III higher ministerial grades, D.P.C. Stenographers (ordinary grade) and Stenographers (Selection grade), with three years service in the respective grade, who have qualified in the Departmental Examination for Income Tax Inspectors. The names of all such qualified candidates will be arranged in two separate lists. In the first list, the names of all the qualified persons will be arranged in order of seniority in the department. In the second list, the names of all the qualified persons will be arranged according to the date/year of passing the Departmental Examination, provided that the persons who pass the examination on the same date will be arranged according to their seniority in the Department. After the approval of the persons in

Does not arise.

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11

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the two lists by the Departmental Promotion Committee, the names of all the selected candidates will be embodied in two separate select lists. Vacancies in the promotion quota will be filled alternately from the two lists.

NOTE : For the purpose of these rules, persons confirmed in a higher grade will rank senior to persons officiating in that grade and to persons working in a lower grade.

[No. F. 4/33/68-Ad. VII]

M. D. AHOOJA, Dy. Secy.

Recruitment Rules for Head Clerk

6

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3924 THE GAZETTE OF INDIA: DECEMBER 27, 1969/PAUSA 6, 1891 [PART II-

ANNEX

Recruitment Rules for Non-Gazetted Ministerial Class I.

Name of post	No. of posts	Classification	Scale of pay	Whether Selection post or non-selection post	Age for direct recruits	Educational and other qualifications required for direct recruit
1	2	3	4	5	6	7
1. Supervisor Grade I.	86	General Central service—Class III non-gazetted—Ministerial.	Rs. 350—20—450—25—475.	Non-Selection.	Not applicable	Not applicable
2. Supervisor Grade II.	367	Do.	335—15—425.	Selection	Do.	Do.
3. Head Clerk	1294	Do.	210—10—290—15—320—EB—15—380.	Do.	Do.	Do.
4. Cashier	1	Do.	Do.	Do.	Do.	Do.
5. Stenographer Senior Grade.	29	Do.	210—10—290—15—320—EB—15—425.	Do.	Do.	Do.
6. Upper Division Clerks.	9214	Do.	130—5—100—8—220—EB—8—256—EB—8—280—10—300.	Non-selection.	35 years and below for departmental candidates provided they have put in a minimum service of 2 years in the Department; and 19—23 years for others.	Degree of a recognised University or equivalent

Staff of the Income-Tax Departments.

Pl. See p. 79 & 72

Whether age and educational qualifications prescribed for direct recruits will apply in the case of promotees

Period of probation, if any.

Method of rectt. whether by direct rectt. or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods

In case of rectt. by promotion/deputation/transfer grades from which promotion/deputation/transfer to be made

If a DPC exists, what is its composition

Circumstances in which U.P. S.C. is to be consulted in making recruitment.

8	9	10	11	12	13
Not applicable	2 years	100% by promotion.	Promotion from the grade of supervisors Grade II, who have put in three years service in the grade.	Class III D.P.C.	Does not arise.
Do.	Do.	Do.	Promotion from the grade of Head Clerks who have put in two years service in the grade.	Do.	Do.
Do.	Do.	Do.	Promotion from among U.D.C.s. who have put in 5 years service in the grade and who have passed the ministerial staff examination.	Do.	Do.
Do.	Do.	Do.	Do.	Do.	Do.
Do.	Do.	Do.	Promotion from among stenographers (ordinary grade) who have put in 15 years service as such and who are below 40 years.	Do.	Do.
Do.	Do.	50% by promotion and 50% by direct recruitment.	Promotion from amongst LDCs (including stenotypists) who have put in 3 years service in the grade and who have passed the ministerial examination.	Do.	Do.

Supervisor
Grade - I

Supervisor
Grade II

Head Clerk

Stenographer
(Grade)

Divisional
clerks

Promotion from amongst LDCs who have put in 5 years regular service in the grade

Correction 1968

Examined in 1968



Recruitment Rules for TAs

F.No.A.11013/29/75-Ad.VII
Government of India
Ministry of Finance
(Department of Revenue)

....
New Delhi, the 31st March, 1978.

To

All Commissioners of Income-tax.

Subject:- Creation of the cadre of Tax Assistants in the
Income-tax Department.

--:oOo:--

Sir,

I am directed to say that the Direct Taxes Enquiry Committee had recommended in para 6.45 of their report that a new cadre of Tax Assistants should be created in the Income-tax Department by upgrading 1/3rd of the cadre strength of Upper Division Clerks with a view to provide more experienced and competent ministerial staff to deal with important aspects of clerical work, particularly in the companies and investigation circles. The staff side had also raised this matter in the Departmental Council of the Ministry of Finance. After careful consideration, it has now been decided to create 4,148 posts of Tax Assistants in lieu of equal number of posts of Upper Division Clerks which would stand abolished as and when the posts of Tax Assistants are filled up in the respective Charges.

2. The cadre of Tax Assistants will be an intermediary cadre between those of UDCs and Head Clerks. The post of Tax Assistants would carry higher duties and responsibilities as compared to those entrusted to UDCs. There may be no objection to the work of Tax Assistants being supervised by Head Clerks wherever necessary. The scale of pay of the post of Tax Assistant will be Rs.380-12-440-EB-15-560-EB-20-640 and will be classified as Group 'C' (ministerial). The posts shall be filled entirely by promotion from the cadre of Upper Division Clerks, on 'selection' basis, on the recommendations of a duly constituted D.P.C. Only those U.D.Cs. who have rendered a minimum service of 3 years in that grade in the Department and who have secured at least 40% marks in the following subjects in the Income-tax Inspectors' Departmental Examination will be eligible for consideration for promotion to the post of Tax Assistants:-

1. Income-tax Law-I
2. Income-tax Law-II
3. Other Direct Taxes
4. Office Procedure

For purpose of reckoning 40% marks, the marks obtained in Income-tax Law-I and Income-tax Law-II in the same examination will be taken together and it is not necessary to have secured 40% in each of the two paper. Candidates

...2....

who have secured atleast 80 marks (out of 200) in both the papers taken together in the same examination shall be eligible for consideration for promotion to the grade of Tax Assistants.)

The Commissioners of Income-tax shall prepare a list of UDCs eligible for consideration for promotion by the standard mentioned above, on the basis of the records available with them and put it up on the notice board(s) for general information of all concerned well before the DPC meeting. Candidates who consider themselves eligible but whose names may not have been included in the list of eligible officials should submit their claims for consideration, alongwith documentary proof in support of their claim, to the Commissioners of Income-tax within 15 days from the list of eligible candidates has been displayed on the notice board. The Commissioners of Income-tax shall consider such representations expeditiously, in consultation with the Director of Inspection (IT&A), New Delhi, if necessary, before drawing up the final list of eligible candidates to be placed before the DPC.

3. The instention behind the creation of the new cadre of Tax Assistants, as already indicated in para 1 above, is to provide more experienced and more competent ministerial staff to deal with important aspects of clerical work in the Income-tax Department. The question of the actual deployment of Tax Assistants has been considered and it has been decided that, as far as possible, they should be posted not only in the companies and investigation circles, but also in other Income-tax circles such as Central, Special, Estate Duty, Chief Auditor, Intelligence Units, Internal Audit Parties, Special Audit Parties, Judicial Branches and other important revenue circles. The remaining areas of work would continue to be manned by the cadre of Upper Division Clerks.

4. The sanction of the President is, accordingly, conveyed:-

- (i) to the creation of 4,148 posts of Tax Assistants in the scale of pay of M. 980-12-440-EB-15-560-20-640 plus allowances in the Charges mentioned in the Annexure to this letter with effect from the date(s) these posts are filled and upto the 28th February, 1979 in the first instance; and
- (ii) to the abolition of 4,148 posts of Upper Division Clerks mentioned in the Annexure from the date(s) the posts of Tax Assistants are filled.

5. The additional expenditure involved should be met from the sanctioned budget grant of the respective Charges for the financial year 1978-79 and the grants to be sanctioned for the subsequent years.

6. This is issued with the concurrence of the Integrated Finance vide their U.O.No.363/FA/78 dated 17.3.78 and the Department of Personnel & A.R. vide their U.O.No.1292/78-Estt(B) dated 23-3-1978.

7. Please acknowledge receipt of this letter. Hindi version will follow.

Yours faithfully,

(T. Jacob)

Deputy Secretary to the Govt. of India.

...3...

Copy forwarded to:

1. All Accountants General.
2. The Chief Controller of Accounts, CBDT, New Delhi.
3. Zonal Accounts Offices/CIT Field Pay Units in various Income-tax Charges.
4. DI(IT&A)/(Inv)/(RS&P), New Delhi.
5. The Director, O&MS, New Delhi.
6. Director, IRS(DT) Staff College, Nagpur.
7. IF-III
8. Department of Expenditure (cadre Admn.Sec) with 30 spare copies, with reference to item No.1(ii) of the agenda of the 36th meeting of the Departmental Council of the Ministry of Finance.
9. Department of Per. & A.R.(Estt.D) Section
10. Shri K.N. Nayagam, General Secretary, Income-tax Employees Federation, A-2/95, Rajouri Garden, New Delhi-110027.
11. PS to Chairman/Sr.PAs to members, CBDT.
12. Director Ad.VI
13. Ad.IX Section.
14. Sanction folder.

(T. Jacob)

Deputy Secretary to the Govt. of India.

(11)
(1) 52

ANNEXURE

[Enclosure to the Ministry of Finance (Department of Revenue) letter-F.No.A.11013/29/75-Ad.VII dated 31st March, 1978]

S.No.	Name of Charge	No. of posts of Tax Assistants created.	No. of posts of UDCs abolished
1.	Andhra Pradesh	196	196
2.	Calcutta (Central)	46	46
3.	V & M. Nagpur	88	88
4.	Shillong	78	78
5.	Patiala/Amritsar/Jullundur/Rohtak	253	253
6.	Karnataka	142	142
7.	West Bengal including Asansol	729	729
8.	Tamilnadu (including Coimbatore)	318	318
9.	Orissa	56	56
10.	Bombay (Central)	29	29
11.	Lucknow/Allahabad	131	131
12.	Pune	152	152
13.	Madhya Pradesh	146	146
14.	Jaipur/Jodhpur	120	120
15.	Kanpur/Meerut/Agra	178	178
16.	Bombay City	670	670
17.	Bihar	118	118
18.	Kerala	86	86
19.	Gujarat	320	320
20.	Delhi	292	292
TOTAL:		4148	4148

NOTE: The posts of UDCs sanctioned vide Department of Revenue and Banking letter F.No.A.11013/17/77-Ad.VII dated 23.3.77 for departmentalisation of accounts of receipts/refunds have not been taken into account while creating the posts of Tax Assistants.