

**Central Administrative Tribunal
Principal Bench**

OA No.155/2018

New Delhi, this the 24th day of January, 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K. N. Shrivastava, Member (A)**

1. Rajat Saroha, Tax Assistant, Group 'C'
Aged About 30 Years,
S/o Sh. Balwan Singh Saroha,
R/o H. No. 27/ 634, Shantikunj,
West Ram Nagar, Sonapat, Haryana-131001
2. Pawan Kumar, Tax Assistant, Group 'C'
Aged About 30 Years,
S/o Sh. Ved Prakash
R/o H. No. 6/93, Vasts Colony, Near Jeet Dairy,
Line Par, Bahadurgarh, Haryana
3. Preeti, Tax Assistant, Group 'C'
Aged About 28 Years,
D/o Sh. Satyavan Singh
R/o H. No. 134, VPO, Bajana Khurd, Sonapat,
Haryana
4. Robin Mann, Tax Assistant, Group 'C'
Aged About 31 Years,
S/o Sh. V.S. Mann,
R/o H. No. 469/3, Opposite Primary School,
VPO Khera Khurd, Delhi- 110082
5. Kuldeep Prakash Singh, Tax Assistant, Group 'C'
Aged About 27 Years,
S/o Sh. Heera Lal Singh,
R/o H. No. 805, Ghagra Tower,
Income Tax Colony, Sector-4, Vaishali,
Ghaziabad, U.P.
6. Vipin Kumar, Tax Assistant, Group 'C'
Aged About 32 Years,
S/o Sh. Mewaram
R/o A-13, Gali No. 2, Jagatpuri Extension,
Shahdara, Delhi-110093

7. Achal Kumar, Tax Assistant, Group 'C'
Aged About 34 Years,
S/o Sh. Hari Chand,
R/o E- 151, Tagore Garden Extension,
New Delhi- 1100 27
 8. Ramesh Chandra, Tax Assistant, Group 'C'
Aged About 51 Years,
S/o Sh. Premchand
R/o H. No. RZ-37A, Manas Kunj, Uttam Nagar,
Delhi 110059
 9. Sudesh Kumar, tax assistant, group 'C'
Aged about 32 years
S/o Sh. Banwari Prasad
R/o A- 120, Kondli Colony, P.O Vasundhara Enclave,
Delhi 110096
- ...Applicants

(By Advocate, Shri M. K. Bhardwaj)

Versus

1. Union of India
through its Secretary (Revenue)
Ministry of Finance
North Block, New Delhi
 2. Central Board of Direct Taxes
Through its Chairman,
North Block, New Delhi
 3. The Principal Chief Commissioner of Income Tax,
(CCA),
Delhi, CR Building,
I.P. Estate, New Delhi-110002
- ...Respondents

: O R D E R (ORAL)

Justice Permod Kohli, Chairman :

The applicants are aggrieved of the action of the respondents in not counting their past regular service as Tax Assistant in the

previous regions where they were serving and were transferred to Delhi Region on their request.

2. The facts which are relevant for the purpose of present Application are that the applicants were appointed as Tax Assistants in different zones during December, 2012 to June, 2014. The dates of their appointment/joining are indicated in para 4.1 of the OA. On completion of three years of service they became eligible for promotion as Senior Tax Assistant (STA) as well as Inspector, Income Tax subject to passing of ITI Exam. It is stated that the period of three years has been reduced to two years as one time measure on passing the requisite examination. The applicants applied for their transfer to Delhi Region in August, 2016. Their requests were accepted and all of them were transferred to Delhi Region during January, 2017 to August, 2017. On such transfer, the applicants are not entitled to seniority in the transferred region and they were to be placed at the bottom of the seniority list. It is stated that no seniority list for Delhi region has been prepared although the applicants are making representations for this purpose. Some vacancies of STA/Inspector, Income Tax became available due to cadre review. The applicants though eligible were not considered for promotion to the post of STA/Inspector, Income Tax on the ground that they did not complete three years of regular service in Delhi Region. The grievance of the applicants is that their past service in the previous

region is required to be counted for considering their eligibility for promotion to the post of STA/Inspector, Income Tax, notwithstanding their seniority at the bottom of the seniority list on their transfer at their request.

2. This issue was considered by the Tribunal in OA No.2531/2014 **Subodh Kumar and Others vs. Union of India & Ors.**, decided vide judgment dated 23.07.2015. The said OA was decided on the basis of another judgment in case of *Chet Ram Meena & Ors. vs. Union of India & Ors.* The judgment in Chet Ram Meena's case was challenged by the Union of India before Hon'ble High Court of Delhi in W.P.(C) No.6368/2015.

3. A similar W.P. No.5148/2013 was decided by the Rajasthan High Court at Jodhpur on 26.05.2015 in case of *Union of India vs. Ramesh Kumar Panwar and Anr.* The relevant portion of the same reads as under:-

“A reading and perusal of Annex.9 dated 14.05.1990 shows that a person on his transfer would not be entitled to maintain his seniority from the old charge and that he would be placed at the bottom of the list. A further reading of the said circular shows that on a transfer, the transferee will forfeit all claims for promotion/confirmation in the old charge. However, the said circular does not stipulate that on a transfer, the transferee would lose his length of service as well. As in the present case, the respondent herein lost his seniority, he would not lose the length of service and the length of service would be counted from the date of initial appointment. The argument raised by the petitioner that the applicant had not rendered service three years continuous service on the post of Tax Assistant in Rajasthan Region, is wholly fallacious and is hereby rejected. It

has to be kept in mind that there is no discontinuation of service of the respondent as a Tax Assistant. There is only a change in the Division. The recruitment rules do not bar the applicant-respondent from promotion and the regular service of the applicant is to be counted from the date of initial appointment....”

Relying upon the said judgment, Hon’ble High Court of Delhi in Chet Ram Meena’s case (supra) has held as under:-

“ Having regard to the settled position of law, we find that there is no infirmity in the judgment rendered by the Tribunal. The service rendered by the respondents in their earlier zone is to be treated as service rendered for the purpose of promotion. Accordingly, the writ petition is dismissed. No costs.”

4. When this case was taken up, the respondents were directed to seek instructions regarding the applicability of the aforesaid judgment of Hon’ble High Court of Delhi in the present OA. Though, no written reply has been filed, however, the factum of applicability of aforesaid judgment has not been disputed.

5. In view of the above circumstances, this Application is disposed of in terms of judgment of Delhi High Court in **Chet Ram Meena’s case** (supra) with the following directions:-

- (i) Respondents are directed to count the services rendered by the applicants in their previous zones/regions for purposes of their promotion to the post of STA/Inspector, Income Tax.

- (ii) The applicants shall be considered for such promotion on the basis of their seniority in Delhi Region on their turn and subject to availability of vacancies.
- (iii) Let the process of consideration be completed and consequential orders be passed within a period of two months from the date of receipt of certified copy of this order.

(K. N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

/pj/