

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO. 060/01482/2017

Chandigarh, this the 28th day of May, 2018

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

1. Mohit S/o Sh. Krishan Khanna, Aged 25 years, stenographer Gr.II (erstwhile Stenographer Gr.III), Office of the Commissioner of Income Tax, TDS-2, Chandigarh. (Group-C)
2. Deepa Kataria D/o Sh. Jagpal Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 30 years, Office of Principal Commissioner of Income Tax, Gurugram. (Group-C)
3. Kuldeep Kumar S/o Sh. Ishwar Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 35 years, Office of Deputy Commissioner of Income Tax, Circle1(1), Chandigarh. (Group-C)
4. Praven Singh S/o Sh. Ramdas Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 26 years, o/o of Deputy Commissioner of Income Tax, Circle 4 Jalandhar. (Group-C)
5. Kanwaljeet Singh S/o Sh. Gurdial Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 30 years, Office of Deputy Commissioner of Income Tax, Circle2(1), Chandigarh. (Group-C)
6. Jitender Singh S/o Sh. Ranbir Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 32 years, Office of Assistant Commissioner of Income Tax, Circle Sonepat. (Group-C)
7. Narender Saini S/o Sh. Kailash Chand, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 32 years, Office of Additional Commissioner of Income Tax, TDS Range, Gurugram. (Group-C)
8. Sweety w/o Sh. Nem Chand, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 27 years, Office of Principal Commissioner of Income Tax, Faridabad. (Group-C)

9. Anuradha D/o Sh. Narinder Kumar Sharma, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 27 years, Office of Joint Commissioner of Income Tax, Range Central, Chandigarh. (Group-C)
10. Ankush Kumari w/o Sh. Amit Kumar, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 27 years, Office of Principal Commissioner of Income Tax, Karnal. (Group-C)
11. Ms. Arveen Kaur D/o Sh. Karnail Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 30 years, Office of Commissioner of Income Tax, Appeals, Panchkula. (Group-C)
12. Ms. Tajinder Kaur D/o Sh. Balbir Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 26 years, Office of Commissioner of Income Tax, Appeals, Patiala. (Group-C)
13. Sahil Kathuia S/o Sh. Ram Kishan, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 24 years, Office of Additional Commissioner of Income Tax, HQ-Tech, Chandigarh. (Group-C)
14. Rahul Khurana S/o Sh. Harvinder Khurana, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 27 years, Office of Principal Chief Commissioner of Income Tax, NWR Chandigarh. (Group-C)
15. Sushma Rani w/o Sh. Tara Saini, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 29 years, Office of Joint Commissioner of Income Tax, Range-4, Gurugram. (Group-C)
16. Amit S/o Sh. Anand Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 30 years, Office of Deputy Commissioner of Income Tax, Circle Panipat . (Group-C)
17. Rahul Kumar S/o Sh. Jagdish Singh, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 26 years, Office of Income Tax Officer, W-4 (2), Chandigarh. (Group-C)
18. Monu Singh S/o Sh. Shankar Lal, Stenographer Gr.II (erstwhile stenographer Gr.III), Aged 24 years, Office of Income Tax Officer, W-5(5), Chandigarh. (Group-C)

....APPLICANTs

(Argued by: Shri Sanjay Kaushal, Sr. Advocate with Mr. A.P. Setia, Advocate)

VERSUS

1. Union of India Through Chairman Central Board of Direct Taxes, North Block, New Delhi.
2. Department of Personnel and Training through its Secretary, Shahjhan Road, New Delhi. 110003.
3. Department of Revenue through its Secretary, North Block, New Delhi.
4. Principal CCIT, North West Region, Aayakar Bhawan, Sector-17 E Chandigarh.

....RESPONDENTS

(By Advocate: Shri K.K. Thakur)

ORDER (Oral)

SANJEEV KAUSHIK, MEMBER (J)

Present Original Application (O.A.) has been filed where the applicants seek following reliefs:-

- i) a) For fixing the seniority of Applicant no. 1 and 2 at the appropriate place and including their names in the eligibility List of Inspectors for recruitment year 2017-2018 in the grade pay of Rs. 4600/- for considering and promoting them to the post of Inspectors.

b) applicant no. 3 to 18 at the appropriate place and including their names in the eligibly List of Stenographer Grade I (erstwhile Stenographer II) for recruitment year 2017-20-18 in the grade pay of Rs. 4200/- for considering and promoting them to the post of Stenographer Grade I (erstwhile stenographer II)

in the NWR by considering the actual date of joining of these officials in the Income Tax Department thus giving them the benefit of past service of their erstwhile charge/regions in view of the instructions O.M. No. 20011/1/2000-Estt. (D) dated 27.3.2001 (Annexure A-9) and O.M. No. 20011/1/2008-Estt. (D) dated 11.11.2010 (Annexure A-10) issued by respondent themselves.

- ii) a) For review of the DPC held in RY-2017-2018 for the purpose of promotion to the post of Inspector whereby 5 Stenographers Grade II (erstwhile Stenographers Grade III) of 2011 batch were promoted as Inspectors who had passed their examination in the year 2016 whereas

applicant no. 2 who passed examination in the year 2015 and applicant no. 1 who passed his examination in the year 2016, were not included/considered neither in the eligibility list nor in the promotion order issued on 3.3.2017 and 30.3.2017 respectively (Annexure A-12 & Annexure A-14) despite the fact that they were fully eligible as per promotion Rule for the Income Tax Inspectors Recruitment Rules, 1969 (Annexure A-3).

b) For review of the DPC held in the RY (2017-2018) for the purpose of promotion to the post of Stenographer Grade I (erstwhile Stenographer II) whereby 16 Stenographer Grade II (erstwhile Stenographer III) of 2011 batch were promoted as Stenographer Grade I (erstwhile Stenographer II), without including and considering the names of applicant no. 3 to 11 in the eligibility list and promotion orders (Annexure A-13) & Annexure A-15) despite the fact that they were fully eligible as per office memorandum dated 10.3.2017 regarding relaxation of recruitment rules of promotion. (Annexure A-2).

c) Further for direction to the respondents to consider the applicant no. 3 to 11 (who are similarly situated being the batch mates of those already promoted on 3.4.2017 vide order 31 of 2017) (Annexure A-15) and promote them from the same date i.e. 3.4.2017 with all consequential benefits.

d) to consider the applicant no. 12 to 18 to the post of Stenographer Gr-I (erstwhile Stenographer Gr-II) by giving them the benefit of past service in their erstwhile regions and consider them for promotion in the RY 2017-2018 as all the applicants have already completed the eligibility criteria of 4 years of regular service in the department as on date as per office memorandum dated 10.3.2017 (Annexure A-2).

iii) To declare para 2(f) of CBDT circular dated 14.5.1990 illegal and ultravires in the light of new instructions vide O.M. no. 20011/1/2000-

Estt (d) dated 27.3.2001 and O.M. NO. 20011/1/2008 Estt. (D) dated 11.11.2010 where by all the applicants are entitled to count past service for purpose of seniority and promotion.

iv) For issuance of directions to the respondents to place all the applicants at par with their batchmates of SSC Stenographer Grade C & D in the same recruitment year in terms of Para 3.4.3 and Para 3.5 of DOPT O.M. No. 20011/1/2008/Estt. (D) dated 11.11.2010 (Annexure A-10).

v) Further promotions to the posts of Stenographers Grade-I (erstwhile Stenographer Gr-II) in the grade pay of Rs. 4200 and Inspectors, without including and considering the applicants, may please be stayed during the pendency of the present OA.”

2. At the commencement of hearing, the learned senior counsel appearing on behalf of applicants very fairly submitted that except prayer made in relief clause i(a), i(b), ii (a), ii(b), ii(c) & ii(d) have already been considered and rejected by this Tribunal in O.A. No. 060/00887/2017- (Guneet Singh Sodhi & Ors. Vs. Union of India & Ors.) decided on 4.4.2018, therefore, this O.A. also deserves the same fate and be dismissed. For the left out prayers he submitted that those have also been considered and decided by this Tribunal in favour of applicants in O.A. No. 060/00438/2017- (Sonam & Another Vs. Union of India & Ors.) decided on 7.3.2018. Therefore, learned senior counsel argues that those prayers be decided in terms of decision in Sonam and Ors. case (supra).

3. Mr. Thakur, learned counsel for respondents did not object to the prayer for disposal of the O.A. in the above terms.

4. In the light of the above narrated facts and ad-idem between the parties, the present case is partly dismissed qua the relief as noted in para no. 2 aforesaid in terms of the decision in Guneet Singh Sodhi case (supra). However, the prayer which does not fall therein, the present case is disposed of in terms of the decision rendered in Sonam case (supra). Relevant paras thereof read as under:-

“4. Mr. Rohit Seth, learned counsel for the applicants submitted that the applicants are simply seeking

consideration of their past service for promotion to the post of Inspector rendered by them in the earlier Commissionerate.

5. Mr. K.K. Thakur, learned counsel appearing on behalf of respondents made a statement that the respondents have already considered the case of similarly situated persons in terms of various judicial pronouncements, where the benefit has been extended and the case of the applicants will also be considered in terms of law and rules on the subject by taking into consideration their past service.

6. Considering the statement made by the learned counsel for respondents that the respondents have taken a decision to consider the case of the applicants for promotion to the post of Inspector by taking into consideration their past service rendered in earlier Commissionerate, if they are otherwise found eligible, and come within the zone of consideration, this O.A. stands disposed of accordingly. M.A. Nos. 60/438/2017 & 060/319/2018 also stand disposed of. No costs."

5. Learned counsel for the applicants submits that the applicants eligibility is to be seen from the date when they became eligible for promotion.

6. In view of the above, let the case of the applicants be considered as expeditiously as possible, but not later than 3 months from the date of receipt of certified copy of this order. No costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 28.05.2018

'SK'

