

**COURT MATTER
MOST IMMEDIATE
BY FAX**

F.No. C-18013/4/2014-Ad VII
Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

489, Samrat Hotel, Chanakyapuri, New Delhi-110021
Dated 6th June, 2014

To
All Principal Chief Commissioners of Income Tax (CCAs)

Sub: Compliance of directions dated 27.11.2012 of Hon'ble Supreme Court passed in Civil Appeal No. 7414-7515 of 2005 in the case of N.R. Parmar & Ors. Vs. Union of India & Ors. - clarification reg.

Sir/Madam,

The undersigned is directed to refer to the Board's letter No. HRD/CM/220/14/2013-14/153/2014-Ad.VII dated 13th March, 2014 on the above mentioned subject and to say that some of Principal CCsIT had sought clarifications on the O.M. No. 20011/1/2012-Estt. (D) dated 4th March, 2014 issued by DoPT regarding inter-se-seniority of direct recruits and promotees for the implementation of the judgement dated 27.11.2012 of Hon'ble Supreme Court passed in Civil Appeal No. 7414-7515 of 2005 in the case of N.R. Parmar & Ors. Vs. Union of India & Ors.

2. Now DoPT has clarified that it would not be feasible / desirable to give generalised opinion in respect of pending court cases, as every case would have to be dealt with, in its own context, while applying the provisions of laid down policy. However, DoPT's general observations on implementation of seniority policy as laid down in their O.M. No. 20011/1/2012-Estt. (D) dated 4th March, 2014 are given as under:-

- a) The DoPT's O.M. No. 20011/1/2006-Estt. (D) dated 3.3.2008 has been treated as non-existent ab initio. It would imply that this OM, for all practical purposes, did not exist. It would therefore imply that any seniority fixation done under the provisions of OM dated 3.3.2008 is liable to be re-visited.
- b) If the OM dated 3.3.2008 does not exist then the provisions of OM dated 7.2.86/3.7.86 remain applicable, un-altered, till the issue of revised instructions applicable from 27.11.2012. This implies that seniority would have to be decided under DoPT OMs dated 7.2.86/3.7.86 till 27.11.2012. It may be noted here that the Supreme Court has upheld the provisions of the DoPT's OM dated 7.2.86/3.7.86 and has struck down the OM dated 3.3.2008.
- c) The cases of seniority which have been settled based on the available/implied interpretation of OM dated 7.2.86/3.7.86, other than the OM dated 3.3.08 need not be suo moto re-visited as it would un-settle the cadre dynamics.

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3. In the specific context of income Tax Department, wherein the inter se seniority of direct recruits and promotees have been under dispute on the grounds of misinterpretation of the provisions of OM dated 7.2.86/3.7.86 and has led to Parmar judgement of Supreme Court, it is unambiguously confirmed that the entire issue of seniority of the officers of Income Tax Department would have to be revisited in compliance of the judgement of the Supreme Court.

4. Any other issue on the scope of applicability of OM dated 4.3.2014 and the Parmar judgement of Supreme Court in the context of pending court cases is to be examined in consultation with the Department of Legal Affairs.

5. All Principal CCsIT (CCAs) are requested to take immediate necessary action for determination and fixation of inter-se-seniority of direct recruits and promotees in terms of the OM dated 4.3.2014 of DoPT and above clarifications to comply with the directions of the Apex Court.

Yours faithfully,

Mohinder Singh

(M.S.Sharma)
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