



2025:DHC:5333-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of decision: 07.07.2025***

+ W.P.(C) 8262/2025 & CM APPL. 36035/2025
SACHIN AMAR KHOLWAD AND ORSPetitioners
Through: Ms.Sriparna Chatterjee,
Mr.Ashwin Romy, Mr.Manish,
Ms.Mansi, Advs.

versus

UNION OF INDIA AND OTHERSRespondents
Through: Mr.R.V.Sinha, Mr.A.S.Singh,
Advs. for R-1 to 4.
Mr.M.K.Bhardwaj, Adv.for R-5
to 27.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the order dated 16.04.2025 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A.1864/2023, titled ***Vikram Niranjana & Ors. v. Secretary, Ministry of Finance, Department of Revenue & Ors.***, allowing the said OA filed by the respondent nos.5 to 27 herein, with the following directions:

"24. In the conspectus of the facts and circumstances brought out above, we dispose of the present OA with the following directions:-



(i) Eligibility Lists dated 28.12.2021 and 02.03.2023 prepared by the respondents as per the redundant instructions are quashed and set aside;

(ii) The respondents are directed to re-issue the Eligibility List based on the inter-se seniority position of eligible candidates including the applicants at the time of their initial appointment and not on the basis of the date of passing the eligibility qualifying Data Entry Skill/typing Test;

(iii) The respondents are further directed to hold a review DPC of the earlier DPC which led to issuance of promotion orders dated 14.09.2022, 15.09.2022 and 02.03.2023 and to consider grant of promotion to the applicants as Tax Assistant as per their inter-se seniority/re-drawn eligibility list, as directed above; and

(iv) In case, the applicants are found otherwise eligible and suitable for the post in question, promote them from the date when their immediate junior(s) had been promoted to the post of Tax Assistant and assign them seniority accordingly. The applicants will be entitled to all consequential benefits, e.g., seniority, fixation of pay on notional basis etc., except back wages."

2. To give a brief background of facts on which the present OA has been filed, in supersession of the Income Tax Department (Group 'C') Recruitment Rules, 2003 (hereinafter referred to as 'the 2003 Rules'), the 'Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, Tax Assistant Group C Posts, Recruitment Rules, 2015' (hereinafter referred to as the 'RR Rules 2015') were published.

3. For the post of Tax Assistant, the method of the recruitment was



provided as 25% by promotion and 75% by direct recruitment. For promotion, the eligibility was prescribed as under:

“Promotion:

Group 'C', viz., Multi-tasking Staff, Lower Division Clerk, Notice Server, Record Keeper, Sr. Gestetner Operator in Pay Band-I with five years regular service in the Grade including in the erstwhile Group 'D' having passed i) matriculation examination or equivalent and ii) having qualified the prescribed departmental examination for data-entry skill for 5000 key depressions per hour.

Note:

- 1. Promotion to the grade of Tax Assistant will be made region wise.*
- 2. For the purpose of reckoning five years regular service in the grade, the service rendered by an inter-region transferee in the old region shall not be counted in the new region which he has joined on such transfer, if the transfer is on the request of the officer concerned.*
- 3. Where juniors who have completed their qualifying or eligibility service are being considered for promotion, their seniors would also be considered, provided they are not short of the requisite qualifying or eligibility service by more than half of such qualifying or eligibility service or two years whichever is less and have successfully completed their probation period for promotion to the next higher grade along with their juniors who have already completed such qualifying or eligibility service.”*

4. Promotions were made by the official respondents in terms of the Instructions/letter dated 13.04.2005, which in fact pertains to the 2003 Rules. The respondent nos.5 to 27 filed the above OA, contending therein that the Instruction dated 13.04.2005 became



redundant with the implementation of the RR Rules 2015. They had also placed reliance on the letter dated 28.06.2019 issued by the Central Board of Direct Taxes Directorate of Income Tax (Human Resource Development) in this regard. It was their contention that the Instruction dated 13.04.2005, which *inter alia* directed recasting of the seniority list based on the date of passing of promotional course, was contrary to the RR Rules 2015.

5. On the other hand, the petitioners contented that even after the enforcement of the RR Rules 2015, the Instruction dated 13.04.2005 were to be followed and accordingly eligibility lists dated 28.12.2021 and 02.03.2023 had been prepared with reference to the dates/years of passing of computer skill test, which was the promotional course.

6. The learned Tribunal, however, by the Impugned Order has opined that the official respondents had withdrawn their earlier Instruction by a Letter dated 31.05.2023, however, making it prospective in nature and stating that the settled seniority list is not to be disturbed. It further held that the Instruction dated 13.04.2005, which were in relation to the 2003 Rules would no longer be applicable, and where there is a conflict between the Instructions and Recruitment Rules, the latter would prevail. They placed reliance on the earlier order dated 28.03.2024 passed by the Mumbai Bench of the Tribunal in OA 715/201 titled ***Vinod Kumar Kanaujiya & Ors. v. UOI & Ors.***

7. As far as the letter dated 31.05.2023 is concerned, it was held that the seniority list between the petitioners and the respondents had not yet been settled, and the seniority list is pending adjudication



before the learned Tribunal.

8. Keeping in view the above quoted Rules, the OA was allowed with the above directions.

9. The learned counsel for the petitioners submits that the Instruction dated 13.04.2005, having been followed by the official respondents for a long period, could not have been interfered with. She further submits that there are large number of vacancies still available with the official respondents, and instead of reverting the petitioners, they should be adjusted against those vacancies.

10. On the other hand, the learned counsel for the respondent nos.5 to 27 submits that the RR Rules 2015 prescribe for different feeder cadres for promotion to the post of Tax Assistant. They further merely prescribe that the candidates must have qualified the prescribed Departmental Examination for Data Entry Skill Test for 5000 key depressions per hour. However, it does not state that the seniority list should be recast based on the date of the passing of the said examination. He further submits that the learned Tribunal has merely directed for conduct of the Review DPC in accordance with the RR Rules, 2015 and therefore, deserves no interference.

11. We have considered the submissions of the learned counsels for the parties.

12. Admittedly, the RR Rules 2015 do not prescribe for re-working of the seniority list based on the date of passing of the prescribed Departmental Examination. The Departmental Examination is merely qualifying in nature and is essential to be cleared to be considered for promotion. The official respondents, therefore, in our view erred in



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recasting the seniority list based on the date on which the candidates qualified the said examination. The same is arbitrary and contrary to the Recruitment Rules. Therefore, we find no error in direction issued by the learned Tribunal.

13. As regards the plea of the learned counsel for the petitioners for a direction to the official respondents to not revert them in case they are not found unsuccessful in the Review DPC, we leave it open to the petitioners to make such representations to the official respondents, which shall be considered by the official respondents in accordance with the law, however, alongwith the result of the Review DPC.

14. The petition, alongwith the pending application(s), is disposed of in the above terms.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

JULY 7, 2025/Arya/VS

Click here to check corrigendum, if any