Office of the

 Commissioner of Commercial Taxes

 Andhra Pradesh : Hyderabad

SHOW CAUSE NOTICE

**CCT’s Ref.No.DX2/ 393/20102 Zone-IV, dated:29-05-2012**

Sub: SUITS – O.A No.8820/2011 filed by Sri C.Vijaya Raghava Reddy, CTO and (4) others before the Hon’ble APAT - Interim orders – guidelines issued by Government – Placement shown those who are not found places in the Revised integrated seniority list of ACTOs for the panel year 1975-76 to 1991-92 of Zone-IV – preparation of subsequent panel years from 1992-93 to 1999-2000 as per available vacancies - Notice issued - Objections called for -Reg.

 Ref:-1. Integrated seniority list published in A.P Extraordinary Gazette No.119, dt.25-03-2004

 2. Govt. Memo. No.39069/CT.I (2)/2011, Rev (CT.I) Dept, dt.04-01-2012.

 3. CCT’s Ref.No.DX2/942/2011Zone-IV, dated 23-04-2012.

 4. Hon’ble High Court orders dt.09-04-2001 in W.P No.24335/1999 and 14538/2000 filed by Sri Y.R Sai Mohan Raj and others read with Govt.Memo No.39367/CT.I(1)/2011, Revenue (CT.I) Department, dated 20-09-2011.

 5. Interim orders dt.15-02-2012 in O.A No.841 of 2012 filed by Sri K.Venkateswara Rao, CTO and (4) others.

 6. CCT’s Ref.No.D1/983/2011, dt.30-09-2011 delegation of subjects to Senior Officers O/o the CCT, A.P, Hyderabad.

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 The Government has informed vide reference second cited that in O.A No.8820/2010 filed by Sri C.Vijaya Raghava Reddy, CTO and (4) others, the Hon’ble APAT, in its interim orders, dt.25.11.2011, has directed the 1st respondent (i.e. Principal Secretary, Revenue Dept.,) to scrutinize all the panels of Assistant Commercial Tax Officer of Zone-IV strictly in line with the directions given in Memo No.263/CT.I(2)/2011, dated.29.06.2011 and also in tune with the judgment of this court rendered in O.A No.6022/2011 and batch dated.22.07.2003 as clarified by the full bench of this tribunal in O.A No.5058/2004 and batch dated.20.08.2009.

 Accordingly, in the reference 3rd cited, since the details regarding the panel year wise numbers of vacancies in substantive/temporary posts are scrutinized the panels of ACTOs of Zone-IV (i.e. Chittoor and Kurnool Nodal Division) prepared and published in the A.P.Gazette No.119,dated 24-3-2004, on the mentioned lines of Government Memo. No.263/CT.I (2)/2011, dated.29.06.2011 read with Govt.Memo No.39069/CT.I (2)/2011, Rev (CT.I) Dept, dt.04-01-2012 and rectified the defects therein duly pushing down the Rank Promotees, who are in excess of the quota allotted to them for the panel years from1975-76 to 1991-92 published in A.P Gazette No.119, dated 25-03-2004 , as per the Rota-quota rule, below the Direct Recruit Candidates (including the applicants) who occupy their own slots. Consequently, certain RPs have not found placements / panel years i.e. those who are relegated earlier panel years, now their names are placed to the subsequent panel years as per available vacancies for the panel years from 1992-93 to 1999-2000 of Zone-IV.

 In the reference 4th cited, the Hon’ble High Court issued the following modified orders as under:-

1. Final seniority list in the posts of DCTOs be made on the basis of final seniority of ACTOs after interspersing them at Zonal Level.
2. By interspersing the seniority of DCTOs at State level, the final seniority list of CTO has to be prepared.
3. At each stage of ACTOs and DCTOs, it is Rule 33 (a) of the APS SS Rules which will govern the aspect of seniority and
4. While considering the final seniority list of CTOs and consequential promotions, it is the seniority based upon Rule 33(a) referred to above which will govern and not the temporary promotions in the said cadre of DCTOs.

In the reference 5th cited, Sri K.Venkateswara Rao, CTO has filed O.A No.841/2012 before the Hon’ble Tribunal and the Hon’ble APAT issued interim order dt.15-02-2012 to the effect that “Pending disposal of the OA, there shall be an interim direction to the respondents 1 and 2 to effect promotions to the post of Assistant Commissioner of Commercial Taxes on regular or incharge or adhoc basis on the basis of revised seniority list of DCTOs prepared subsequent to the revision of seniority list of ACTOs as per Government Memo No.263/CT.I(2)/2011, dated 29-06-2011 if already prepared and if not, to prepare the seniority list and then effect promotions.”

 As per the guidelines mentioned in the reference 2nd  and 3rd cited, the matter is re-examined in the case of Zone-I for the panel years from 1992-93 to 1999-2000 and the vacancies are identified as per the guidelines of the reference 2nd and 3rd cited and in the integrated seniority list of ACTOs of Zone-IV for the panel years 1992-93 to 1999-2000 vide Dist Gazette No.4, dt.04-05-2006 is being revised and this revised notice is being issued duly pushing down the Ranks Promotees who occupied in excess of the quota available to them as per the Rota-Quota Rules guidelines.

In the case of appointment to the post of Asst. Commercial Tax Officer, where recruitment to service is both by direct recruitment and transfer, the cycle meant for direct recruits/transferees is arrived at on the following basis:-

 In the case of direct recruits appointed, they are entitled for appointment against 40% of substantive vacancies in the permanent cadre. After AP Commercial Tax Subordinate Service Rules’1990 came into force they are entitled for 4 vacancies in a cycle 10 vacancies which arises in the services vide G.O Ms No.81 Rev (CT.I) Department, dated 03-02-1990.

Statement showing the vacancies available to DR and RPs of Chittoor and Kurnool of Zone-IV

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Panel year | 1992-93 | 1993-94 | 1994-95 | 1995-96 | 1996-97 | 1997-98 | 1998-99 | 99-2000 | Total |
| Total ACTO Vacancies arosed | 35 | 30 | 41 | 21 | 15 | 27 | 12 | 10 | **191** |
| Converted more than 10 years vacancies) | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | **2** |
| Converted more than 10 years vacancies (DR 40%) | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 |
| Converted more than 10 years vacancies (RP 60%) | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | **1** |
| Total DR vacancies to be filled (40%) | 14 | 13 | 16 | 8 | 6 | 11 | 5 | 4 | **77** |
| Total RP vacancies to be filled (60%) | 21 | 19 | 25 | 13 | 9 | 16 | 7 | 6 | **116** |
|  | **Unfilled DRs Vacancies** |  | **Excess RPs filled** |  |
|  | Upto 1991-92 | 68 | From 92-93 to 99-2000=54 |  | Upto 1991-92 | 29 | **From 92-93 to 99-2000(-) 01** |
|  | Total upto 1999-2000 | 122 |  |  | Total upto 99-2000 | 28 | **To be relegated** |

It is to inform that the total number of vacancies of ACTOs in Chittoor and Kurnool Nodal Division of Zone-IV for the period from 1992-93 to 1999-2000 are (191) out of which (77) are meant to be filled with Direct Recruits, but filled (23 ) and (116) to be filled with Rank Promotees, but filled (115). While filling the vacancies meant for Rank Promotees, for the panel years from 1992-93 to 1999-2000, the vacancies meant for SCs/STs are duly carried forward to the subsequent panel years, where qualified and eligible personnel were not available during the particular panel year and the same were filled as and when qualified personnel found and they are placed as per their date of joining as per provisions under Rule 33 (a) of APS&SS Rules. The Direct Recruits, inter-se, are placed in the year they have joined in the same rank order communicated by the APPSC. While determining inter-se-seniority, between DRs and RPs, date of joining of DRs was taken into consideration duly following Rule 33 (a) mentioned above. The City List candidates are appropriately placed in the respective panel year in which they are appointed by transfer. Accordingly, the excess RP quota candidates, if any, are perforce to be relegated to subsequent panel years.

In view of the legal position this approach is adopted in a uniform manner. Wherever persons promoted in earlier years have been relegated to subsequent panel year for want of vacancies in the earlier years, they are placed in appropriate panel years now.

 Seniority of a member of service has to be fixed in terms of Rule 33 of the APS&SS Rules, i.e. with reference to the date of appointment in accordance with the rules and not with reference to the date of confirmation (full membership) after taking action in terms of rules 25 and 29 of the APS&SS Rules by placing full members as a class above the approved probationers and probationers.

 For counting seniority from the date of appointment, one should be appointed in accordance with the rules, for example – (a) he should have necessary qualifications and experience prescribed under the rules, (b) he should satisfy the rules of reservation if rule of reservation is applicable (c) he should have been appointed within the quota prescribed, if any, under rule and (d) the procedure prescribed, if any, for such appointment. If a person does not satisfy any of the conditions prescribed under the rules at the time of appointment his seniority has to be counted not from the date of such appointment but from the date on which he satisfied the requirement of the rules.

 In case of transferees appointed, they are entitled for 60% of the vacancies in the permanent cadre and also all the vacancies that arise in temporary posts. After the AP Commercial Tax Subordinate Service Rules, 1990 came into force, transferees would be entitled for 5 vacancies in a cycle of 10 (excluding vacancy meant for a city list candidates) which arise in the service.

 The vacancies referred to above for the purpose of calculation of quota do not include stopgap or fortuitous or short time vacancies like leave vacancies etc. The names of individuals, who earlier might hav been promoted as ACTO, but who retired before substantive vacancy arose for them in any particular panel year i.e who were no more in service at the time of arising of vacancy, do not find place n this proposed seniority.

According to the APCT Subordinate Service Rules the method of appointment to the post of ACTO is (i) By Direct Recruitment (DR) and (ii) By appointment by transfer (R.P). The ratio (10 point cycle) between the DRs/RPs is 40:60.

The revised integrated seniority list of ACTOs for the panel year 1992-93 to 1999-2000 of Zone-IV finalized on 23-4-2012 and for the panel years from 1992-93 to 1999-2000 of Zone-IV is also to be finalized respectively. As per the Govt.Memo No.39069/CT.I (2)/2011, Rev (CT.I) Dept, dt.04-01-2012 duly following the Rota-Quota has been revised in CCT’s Ref.No.DX2/942/20110Zone-IV dt.23-04-2012. However, for the Zone-IV the earlier seniority list (which is being now revised) from the panel year 1992-93 to 1999-2000 of ACTOs required revision on the basis of the Government in Govt.Memo No.39069/CT.I (2)/2011, Rev (CT.I) Dept, dt.04-01-2012 issued in case of Zone-IV, read with the interim orders dt.25-11-2011 in O.A No.8820/2010 by the Hon’ble APAT, Hyderabad. Accordingly, the matter is re-examined and the vacancies are calculated duly following the A.P CT SS rules 1990 as prescribed by the govt. in the said memo and prepared a show cause notice for revising integrated seniority list of ACTOs of Zone-IV for the panel years 1992-93 to 1999-2000, as per the guidelines mentioned thereon after verification of records of CCT’s office and as per Dist Gazette No.4 dt 04-05-2006. Accordingly, the vacancies available in the concerned panel years are taken and panels are drawn.

Rule 4(b) of APS & SS Rules’1996:-Direct Recruitment: where the normal method of recruitment to any service, class or category includes direct recruitment, the proportion in which the special rules may require vacancies to be filled by persons recruited direct shall be applicable to all substantive vacancies and direct recruitment shall be made only against the substantive vacancies.

Explanation:-(i) For the purpose of this rule, notwithstanding anything contained in these rules or special or adhoc rules, substantive vacancies shall mean all vacancies in the permanent cadre and all vacancies in the posts which have been in existence for more than 5 years.

In the reference 5th cited, the Commissioner (CT), A.P Hyderabad in his proceedings No.D1/983/2011, dt.30-9-2011 has ordered the allotment of service matter and disciplinary cases of ACTOs to the Addl. Commissioner (CT) Legal for quick and smooth administration of the related work. In view of the CCTs orders and subjects delegated to the undersigned, the Addl. CCT (legal) is issuing this show cause notice for revision of seniority of ACTOs as per the orders of the Commissioner (CT), A.P Hyderabad.

Thus, the persons, shown in the annexure-A and B to this revised notice, may file their written objections if any within fifteen (15) days from the date of publication in the Departmental Web site (www.apct.gov.in), failing which, it will be construed that they have no objections to file and orders as deemed fit under law would be passed without any further notice in the matter.

 The notice of revised Integrated Seniority List shall be subject to outcome of SLP’s/ WP’s/ OA’s/ C.As pending, if any, before the respective Appellate forums.

 A copy of this notice of revised seniority list is also available on the internet and can be accessed at the web address: [www.apct.gov.in](http://www.apct.gov.in) .

Encl: Annexure-A and B Sd/-D.Ramachandra Reddy

 Addl. Commissioner (CT) Legal

To

All the affected candidates as shown in Annexure-A & B above through the Deputy Commissioner (CT), Chittoor and Kurnool Nodal division.

Copy to the Deputy Commissioner (CT), Chittoor and Kurnool Division

Copy to Departmental Web Site O/o the CCT, A.P Hyderabad as noted above.