**PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES**

**TELANGANA STATE : HYDERABAD**

**Present: Smt. Neetu Prasad, I.A.S.,**

**Procdgs. on TS CCT’s Ref. No.C(DX)/1169/2015, Dated: 16-01-2021**

Sub: Public Services – Commercial Taxes Department – Seniority list of the Assistant Commercial Tax Officers of Warangal Zone V from the Panel year 2005-06 to 2016-17 – Certain communal roster Points / vacancies omitted – Report sent to Government – Government issued permission - Revised show cause notice issued – Objections called for – Objections examined and proposals sent to Government – Government issued permission for approval – Final orders passed - Reg.

Ref: 1. CCTs Ref. No. DX2/394/2012-2, Zone V, dtd.03.10.2012.

 2. DC(CT),Wgl Divn., Rc.No.A1/64/2014,Dt: 18.09.2013.

 3. Representation of Smt P.Jyothi, DCTO, Fort Road,Warangal

 Division, Wgl dt: 22.08.2015.

 4. TS CCT’s Ref.No.C(DX)/1169/2015, Dt: 18.09.2015

 5. DC(CT), Wgl Divn., Rc.No.A1/64/2014,Dt: 14.10.2015.

 6. TS CCT’s Ref.No.C(DX)/1169/2015. Dt: 28.11.2015.

 7. DC(CT),Warangal Division Rc.No.A1/64/2014.Dt: 14.12.2016.

 8. TS CCT’s Ref.No.C(DX)/1169/2015, Dt: 08.02.2016.

 9. DC(CT),Warangal Division, Rc.No.A1/64/2014, Dt: 27.02.2016.

 10. TS CCT’s Ref.No.C(DX)/1169/2015, Dt:09.05.2016.

 11. JC(ST),Warangal Division, Rc.No.A1/64/2014, Dt: 24.05.2018.

 12. Representation of Smt P.Jyothi,DCTO, O/o.CTO Fort Road,

 Warangal Division, Dt: Nil.

 13. Representation of Sri B.Eswar, DSTO, O/o.BCP, Wankidi,

 Dt: 01.05.2018.

 14. Representation of Smt G.Pushpalatha, STO, O/o.AC(ST).

 Ramannapet Circle, Warangal Division, Dt: 01.05.2018.

 15. Representation of Smt Ch.Vasatha, STO, Fort Road Circle,

 Warangal Division, Dt: 04.05.2018.

 16. Representation of TCT SC,ST Empolyees Association,

 Warangal Division,Dt: 17.05.2018.

 17. National Commission for Scheduled Tribes, Bhubaneswar,

 Dt: 21.06.2018.

 18. JC(ST),Warangal Division, Rc.No.A1/64/2014, Dt: 27.06.2018.

 19. TS CCT’s Ref.No. C(DX)/1169/2015, Dt: 27.06.2016.

 20. JC(ST),Warangal Division, Rc.No.A1/64/2014,Dt: 12.07.2018.

 21. Representation of Smt P. Jyothi, DCTO O/o.CTO, Fort Road,

 Warangal Division, Dt: 27.07.2018.

 22. Representation of Smt G.Pushpalatha, DCTO O/o.CTO,

 Ramannapet, Warangal Division, Dt: 27.07.2018.

 23. Representation of Sri B.Eshwar, ACTO. O/o.CTO, Fort Road,

 Warangal Division, Dt: 27.07.2018.

 24. TS CCT’s Ref.No.C(DX)/1169/2015-I, Dt: 27.07.2018.

 25. TS CCT’s Ref.No.C(DX)/1169/2015-II, Dt: 27.07.2018.

 26. JC(ST),Warangal Division, Rc.No.A1/64/2014, Dt: 27.07.2018.

 27. Government Memo No.19745/CT.I/2018-3,Revenue (CT.I)

 Department, dtd. 13-11-2019.

 28. TS CCT’s Ref.No.C(DX)/1169/2015, Dt: 27.11.2019.

 29. Objections received from the individuals.

 30. TS CCT’s Ref.No.C(DX)/1169/2015, Dt: 21.12.2019.

 31. JC(ST),Warangal Division, Rc.No.A1/36/2017, Dt: 27.12.2019 &

 01-01-2020.

 32. TS CCT’s Ref.No.C(DX)/1169/2015-I, Dt: 21.01.2020.

 33. JC(ST) Warangal Division Rc.No. A1/36/2017, dtd. 28-01-2020.

 34. TS CCT’s Ref.No. C(DX)/1169/2015, Dt: 13.02.2020.

 35. Objections received from the individuals.

 36. JC(ST) Warangal Division Rc.No. A1/36/2017, dtd. 18.03.2020.

 37. TS CCT’s Ref.No. C(DX)/1169/2015-I, dt: 13.04.2020, 09.06.2020 &

 28.08.2020.

 38. Government Memo No. 8910/CT.I/2020-2 Revenue (CT-I) Dept.,

 dated: 31.12.2020.

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**O R D E R S:**

The Deputy Commissioner (CT), Warangal Division, Warangal vide reference 2nd cited has revised the seniority list of the Assistant Commercial Tax Officers of Warangal Zone V from the panel years 2005-2006 to 2011-12 duly implementing “Rota-quota” guidelines/instructions issued by the Government vide Memo No.263/CT.I(2)/2011, Revenue (CT-I) Department, Dated 29.06.2011.

 Aggrieved by the orders of the DC(CT), Warangal Division, Smt.P.Jyothi, DCTO, O/o Fort Road, Warangal & others filed representations to the Commissioner(CT), Hyderabad seeking revision of Seniority list of the ACTOs of Warangal V Zone, as certain Communal roster points of R.Ps were omitted while revising the seniority list of ACTOs from the panel years 2005-06 to 2011-12 and requested for revision of said list.

 The JC(ST), Warangal has examined the representations, etc., of the individual & others with their office records and furnished remarks in her report vide reference 20th cited, stating that while revising the seniority list of ACTOs of Zone V from the panel year 2005-06 communal roster point started with 17-OC instead of the roster point 98-OC because of which the (19) Communal roster points i.e., 98-OC to 16-SC were by passed.

 Therefore, to rectify the above omission, the revision of seniority list of ACTOs of Zone-V i.e., Warangal Nodal Division from the panel years 2005-06 to 2016-17 is warranted. Accordingly, detailed reports were sent to Government and the Government vide reference 27th cited gave permission to reopen the seniority list of the ACTOs of Warangal Zone V from the Panel years 2005-06 onwards and also requested to submit proposals.

 As per the reports of Joint Commissioner (ST), Warangal Division and after examination, in the reference 28th cited, a show cause notice was issued to the effected persons for revision of seniority list of ACTO’s of Warangal Nodal Division i.e, Zone-V for the period from 2005-06 to 2016-17. Aggrieved by the above show cause notice dt. 27-11-2019, certain individuals filed their objections stating that certain regular ACTO vacancies were missed in certain panel years in the seniority list of ACTO’s of Zone-V, etc., and requested to correct the same. The JC(ST), Warangal Division has furnished remarks on the objections vide reference 31st cited.

 After examination of matter with report of JC(ST), Warangal Division and as per rules, a revised show cause notice was issued vide reference 34th cited. Agrreived by the same, certain individuals filed objections in the matter. The JC(ST), Warangal Division has furnished remarks vide reference 36th cited in the matter.

 The matter was examined in detail and proposals were submitted to Government vide reference 37th cited, for revision / finalization of seniority list of ACTOs of Zone-V i.e., Warangal Nodal Division for the years 2005-06 to 2016-17.

In the reference 38th cited, the Government permitted the Commissioner of Commercial Taxes, Hyderabad to approve the revised panels from 2005-06 to 2016-17 with seniority list in respect of the ACTOs in Zone-V (i.e., Warangal Nodal Division) under Rule 24(b) Telangana State and Subordinate Service Rules.

The objections received against the revised show cause notice issued vide 34th cited and reply thereon is discussed as under;

**I. Objections of Sri D. Sreenivas, ACTO:**

 The individual raised objection that the placement of the (9) Rank promotes A.C.T.Os in between, the batch of Direct recruit A.C.T.Os is incorrect stating that during the panel year 2012-2013 (26) ACTOs were allotted by the APPSC in Zone V. Out of which (10) ACTOs joined in October 2012 and (16) ACTOs joined in the month of May 2013 and requested to place them at top in the panel year 2012-13.

 The individual pointed out certain anomaly in the revised show cause notice vide reference cited as under.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **S.No** | **Panel year** | **Name of the ACTO** | **Date of arising of regular vacancy** | **Remarks** |
| 1 | 2005-06 | N.Sudhakar | 05-01-2006 | The vacancy arose on retirement of the individual and it cannot be in the middle of the month. |
| 2 | 2005-06 | T.Sampath rao | 05-01-2006 | -- do -- |
| 3 | 2005-06 | P.Laxman Rao | 01-07-2006 | -- do -- |

 Further, he submitted that the revised show cause notice may kindly be dropped taking in to consideration of the following circulars and court orders.

1. B.S Waja and ANR Vs.State of Punjab and Ors dated:11/12/1997.
2. AP Govt. Circular memo.No.57759/Ser.A/2004-1, dated:20-05-2004.
3. CAT OA No.608/2016 Suresh Kumar Azad vs Union of India.

 Further, he stated that the individuals, who are now included in seniority list have not filed any objections earlier panels in finalization of seniority list and are now raising objection after a long gap, which contravening the spirit of Govt., Circular in Memo No: 57759/SER.A/2004-1, Dated: 20.05.2004, which was issued in accordance with judicial pronouncement of Honorable Supreme Court of India Ruling, which was given on seniority. As per the said pronouncement, the government have issued instructions not to reopen the settled seniority more than three years old. In the instant the show cause notice was issued by proposing the revision from 2005-06, which is contrary to the above judgment.

**Reply:**

**1)** The objection of the individual is examined and verified with the office records. It is found that though (26) A.C.T.Os were appointed and joined in the panel year 2012-13, but the recruitment notification of the (10) A.C.T.Os and (16) A.C.T.Os are different. The details are as under:-

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Sl. No.** | **Noitification Number issued by the APPSC** | **No.of ACTOs allotted to the Warangal Zone V** | **Date of appointment** | **Date of joining** |
| 1 | 38/2008 & 11/2009 (Limited & General Recruitment) | (10) Ten A.C.T.Os | 10/12/2012 | December 2012 |
| 2 | 39/2011 | (16) Sixteen A.C.T.Os | 27/05/2013 | May 2013 |

As seen from the above, it is crystal clear that they were not selected and appointed in a single notification issued by the APPSC as contended by the individual.

 Further the Rule 33(b) of TS&SS Rules reads as under:-

33(a) The seniority of a person in a service, class, category or grade shall, unless he has been reduced to a lower rank as a punishment, be determined by the date of his first appointment to such service, class, category or grade.

 (b) The appointing authority may, at the time of passing an order appointing two or more persons simultaneously to a service, fix either for the purpose of satisfying the rule of reservation of appointments or for any other reason, the order of preference among them; and where such order has been fixed, seniority shall be determined in accordance with it:

Provided that the order of merit or order of preference indicated in a list of selected candidates prepared by the Public Service Commission or other selecting authority, shall not be disturbed inter-se with reference to the candidates position in such list or panel while determining the seniority in accordance with this rule and notional dates of commencement of probation to the extent necessary, shall be assigned to the persons concerned, with reference to the order of merit or order of preference assigned to them in the said list.

 It is also to further inform that in between joining of DR appointees sponsored out of two different notifications, (9) RPs are included as the vacancies meant for Rank promotes were arisen during the period and accordingly they were placed though they are working prior to such date, and their regular appointment is considered from the date of vacancy duly considering the arising of vacancy with reference to 10 point cycle and communal roaster, and there could be any reason to disturb such date to place the DR recruiters altogether out of two different or one recruitment, the date of arising of vacancy of RP quota shall not be changed to place together all DRs in seriatim.

 **Accordingly placed the names of the Direct Recruit ACTOs as per their date of appointment/joining as per Rule 33(a) & (b) of T.S Subordinate Service Rules**.

 The objection raised by the individual placing together the DR ACTO’s is not correct as their recruitment notifications and also date of appointment/joining is different, hence the objection raised by the individual is rejected.

**2)** The individual objected that the individuals who are now included in the seniority list have not filed any objections in earlier panels in finalization of seniority. And also as per the circular in Memo No. 57759/SER.A/2004-1, Dated: 20/05/2004 which was issued in accordance with judicial pronouncement of Hon’ble Supreme Court of India Ruling that the Government issued instructions not to re-open the settled seniority more than three years. Hence requested to drop the proposed revision of seniority.

 W*ith regard to contention of the individual that not to reopen settled seniority more than (3) years old, it is submitted that the Govt. Memo. No.19745/CT-I/2018-03, Dated:13-11-2019, have permitted to reopen the panels from 2005-2006 onwards. Further the above contention of (b) was already examined while issuing show cause notice dated 13-02-2020.*

 *The judgment mentioned by the individual are not relating to present revision.*

**3)** The individual objected that date of arising of vacancies arose due to retirement of the following (3) A.C.T.Os was wrongly taken, as the retirements have not occurred in the middle of the month.

1) 2005-06 M.Sudhakar 05/01/2006

2) 2005-06 T.Sampath Rao 05/01/2006

 3) 2005-06 P.Laxman Rao 01/07/2006

The objection of the individual is examined with the office records and rectified the date of arising of vacancies as under:-

1) 2005-06 M.Sudhakar 30/04/2006

2) 2005-06 T.Sampath Rao 30/04/2006

 3) 2005-06 P.Laxman Rao 30/06/2006

Accordingly, the above objections of the individual are hereby disposed off.

**II. The common Objections of Smt. M.Srimathi and Sri K.Ramesh, ACTOs:**

 The above individuals has stated that they will be submitting their effective objection to above show cause notice on perusal of the records only. Further there are 33 references cited in show cause notice.

They requested to provide all references copies as mentioned in show cause notice to file their genuine objections.

In this regard, the above individuals have already attended the office and perused the concerned records on 27-12-2019, but have not filed any written submissions or objections afterwards.

 Accordingly, the above objections of the individuals are hereby disposed off.

**III. Objections of Smt.P.Sridhar, ACTO:**

 The individual stated that he belongs to SC community and that he did not find place in the revised show cause dated: 13.02.2020. Though the vacancies arouse the following they were retired.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Sl.No** | **SI. No. in Sr.Asst. List** | **Name of the individual** | **Date of Joining as ACTO** | **Date of retirement** |
| 1. | 197 | K. Bhaskar | 08.08.2008 | 30.11.2012 |
| 2. | 198 | Ch.Pochu | 05.02.2009 | 30.01.2010 |

 Further he submitted that the name of Sri M. Ananadam, Who worked as ACTO, from 07.02.2012 to 30.06.2013, is also not figured in the show cause notice. The individual requested to give placing to Sri K.Bhaskar & Sri CH.Pochu in the seniority list of ACTO’s for 2005-06 to 2016-17.

**Reply to the objections:-**

 On perusal of the objection of Sri P.Sridhar, ACTO is examined and verified with the office records. On verification, it is found that

 Sri K. Bhaskar, ACTO (Retired) while working as Senior Assistant he has ACB case and thereby the disciplinary action was initiated. After completion of disciplinary case he was promoted as ACTO on 08.08.2008 and made a representation for Notional Seniority from the earlier date i.e., the promotion date of his juniors. But as per the CCT’s Ref.No. DX(4)/644/2009, Dt: 03.06.2011 his request was not considered and the notional seniority was not given.

Hence as per the date of promotion of ACTO his name was placed in the panel year 2009-2010 at 62-SC point and rectified the same.

 Due to inclusion of Sri K.Bhaskar, ACTO(Retired) in the panel year 2009-10 at 62-SC roster point Sri N. Prasad, ACTO at Communal Roster point 62-SC is relegated from the panel year 2015-2016.

 Sri Ch.Pochu, (SC) ACTO (Retired) was promoted as ACTO on 02.05.2009 and retired on superannuation i.e., on 30.04.2010. But the date of arising of vacancy in SC point is 06.08.2011 i.e., after his retirement. As per General Seniority list for all categories the date of arising of vacancy to the individual is on 31.07.2010 which is after his retirement date. Hence he has not found the place in the panel years in the revised show cause notice Dt: 13.02.2020.

 Sri M.Anandam, (SC) ACTO (Retired) was promoted as ACTO on 30.06.2012 and retired on superannuation i.e., on 30.06.2013. But the date of arising of vacancy in SC Point is on 31.01.2014 i.e., after his retirement. As per General Seniority list for all categories the date of arising of vacancy to the individual is on 31.10.2014 which is after his retirement. Hence he has not found the place in the panel years in the revised Show cause notice Dt: 13.02.2020.

 Accordingly, the above objections of the individual are hereby disposed off.

**IV. Objections of Sri L. Chandra Sekhar, ACTO (Retd):**

 The individual stated that he retired from Government service on 30-04-2018. But, as per show casue notice dtd 13-02-2020, the date of retirement was not shown. The individual requested to mention date of retirement as 30-04-2018 against his name while finalizing the seniority list.

 The objection of the individual is examined and rectified accordingly.

 Accordingly, the above objections of the individuals are hereby disposed off.

**V. Objections of M. Jagan Mohan Reddy :**

 The individual stated that there are (8) city list carry forward vacancies as on 31-08-2005 i.e., at the end of panel year 2014-15. But while issuing show cause notice vide reference cited, the city list carry forward vacancies for 2005-06 panel year are taken as (3) instead of (8) as mentioned above. If the carry forward city list vacancies are taken as 8 for the panel year 2005-06, his name will be figured in the panel year 2014-15 instead of 2015-16 panel year.

**Reply:**

 The objection of the individual is examined with reference to available records and the seniority list of ACTOs of Zone-V was revised and finalized for the period from 2000-01 to 2004-05 vide CCTs Ref. No. DX2/394/2012-2, Zone-V, dtd. 03-10-2012 due to rota-quota instructions received from Government Memo No. 263/CT.I(2)/2011, Revenue (CT.I) Department, dtd. 29-6-2011. In the said final orders, there are (3) City List vacancies carry forwarded upto the panel year 2004-05. Hence, (3) City List CF vacancies taken for 2005-06.

 Therefore, the objection of the individual is hereby rejected and disposed off accordingly.

 In view of the above, the revised seniority list of ACTO’s of Zone-V i.e, Warangal Nodal Division for the period from 2005-06 to 2016-17 is here by finalized and enclosed as Annexures to this order.

 The finalisation of above seniority list of ACTO’s of Zone-V i.e, Warangal Nodal Division for the period of 2005-06 to 2016-17 is subject to the outcome of SLPs/W.Ps /O.As/C.As, appeals, revisions etc, pending, if any, before the respective Appellate forums, Hon’ble Courts, authorities, etc., and also final outcome of orders of Hon’ble High Court in W.P.No. 5245 of 2020.

 A copy of this notice is also available on the Commercial Taxes Department portal and can be accessed at the web address [www.tgct.gov.in](http://www.tgct.gov.in).

Encl: (12) Annexures for the panel years from

 2005-06 to 2016-17.

 Sd/- Neetu Prasad

 Commissioner of State Tax

To

All the individuals through the JC’s (ST), concerned.

Copy to the JC’s (ST), Warangal, Karimnagar and Adilabad Divisions with request to

 serve the above orders to all individuals through JCs (ST) concerned (where the

 individuals working) and display the same in all offices under their control.

Copy to the JC’s(ST), concerned for taking necessary action.

Copy to the Special Commissioner (ST), Enft. Wing, O/o CST, TS, Hyderabad

 for taking necessary action.

Copy to the Additional Commissioner (ST), Central Computer Wing, O/o CST, TS,

 Hyderabad with request to place the above order in the portal of C.T. Department.

Copy to the Superintendent Grade-I (Gazetted), D-Section, O/o CST, T.S., Hyderabad

 for taking necessary action

Stock file/Spare.