**GOVERNMENT OF TELANGANA**

**DEPARTMENT OF STATE TAX**

**Proceedings of The Joint Commissioner(ST), Hyderabad Rural Division, Hyderabad**

Present: Sri V.Srinivasa Reddy, B.SC., LLB., PGDIRPM.,

**SCN No.E1/166/ 2012-I, Dated:30 -07-2018.**

Sub: - PS - CT Department - Nodal Hyderabad Rural Division - Seniority List of

ACTOs for the panel year 2009-10 to 2012-13 - Finalized - Sri K. Bhikshamaiah, ACTO Appeal filed - Remarks called for - Submitted - Permitted to revise the seniority - Show Cause Notice for Revision of Seniority List for the panel year 2011-12 to 2012-13 - Objection called for - Objections filed – Orders Passed - Regarding.

Ref:- 1. DC(CT) Hyd. Rural Div. Proc. No.E1/166/2012, dt:01-04-2015.

2. CCT AP Hyd. Proc.No.DZ(3)/465/2011, dt:29-06-2011.

3. CCT AP Hyd. Proc.No.DX2/1046/2011, dt:17-04-2012.

4. CCT AP Hyd. Proc.No.DZ (3)/925/2011, dt: 10-05-2012.

5. TS CCT's Ref. No.C (DX)/434/2015, dt:10-02-2017.

6. Copy of Appeal Petition dt: 24-08-2015 filed by K. Bhikshamaiah,

 ACTO.

7. Judgment in OA No. 3507/2015, dt: 20-07-2015.

8. DC (CT) Hyd. Rural Divn. Lr.Rc. No.E1/166/2012, dt: 08-05-2017.

9. CCT TG, Hyd. Ref. No. C (DX)/434/2015, dt: 21-07-2017.

10. CCT, AP Hyd. Ref. No.DX4/1026/2008, dt:21-11-2012

11. DC (CT) Hyd. (R) Divn. Proc. No.E1/J70/2012, dated:15-12-

 2012(13)

12.DC(CT) Hyd. (R) Divn. Proc. No.E1/170/2012-2, dated:18-12-

 2012(1)

13. CCT, AP Hyd. Ref. No.DX4/777/2009, dt:14-05-2013.

14. DC(CT) Hyd. Rural Divn. Proc. No.E 1/88/2013, dated:24-06-2013.

15. Revised show cause notice of DC(CT) Hyd. Rural Div. Proc..

 No.E1/166/2012-I, dt:12-03-2018.

16. Objection filed by through JC (CT) Sarrornagar Rc.No. A1/46/2014,

 dated. 17.04.2018.

17. Representation of Y. Surrender Lincoln, DSTO, 0/o. the AC(ST),

 Siddipet Circle, Nizamabad Division, dated. 06.04.2018.

18. Objection filed by through AC(CT) IDA, Gandhi Nagar Circle,Hyd ®

 Divn., Rc. No. A2/03/2017, dated. 06.04.2018.

19. Objection filed by through AC(CT), Hydernagar Circle,Hyd Divn.,

 Rc.No. A1/25/2017, dated. 06.04.2018.

20. Representation of M.A.Mannan , DSTO, 0/o. the AC(ST),

 Rajendranagar, Sarrornagar Division, dated. .10.04.2018.

21. Representation of Smt. K. Prasanna Kurnari, DSTO, 0/o. the AC(ST),

 Mahabubnagar Circle, Nalgonda Division, dated. 09.04.2018.

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1. Seniority List of ACTOs of Nodal Hyderabad Rural Division for the panel year 2009-10 to 2012-13 has been finalized by the Deputy Commissioner (CT) Hyderabad Rural Division, Hyderabad Proceedings 1st cited.

2. The Commissioner of Commercial Taxes T.G., Hyderabad in the reference 5th cited while enclosing the copies of ref. 6th and 7th cited, have instructed the DC(CT) Hyderabad Rural Division, Hyderabad to furnish the remarks on the appeal petition filed by Sri K. Bhikshamaiah, ACTO.

 1. Copy of Appeal petition dated:24-08-2015 filed by Sri K. Bhikshamaiah, ACTO vide

 ref. 6th cited.

 2. Copy of Judgement in OA No.3507/2015, dt:20-07-2015 vide ref. 7th cited.

In the appeal petition, Sri K. Bhikshamaiah while enclosing a copy of judgement in OA No.3507/2015, dt:20-07-2015 represented that;

1. "His name was included at SI. No.93 below the name of Smt. N. Shailaja and above

the name of Sri A. Lakshmi Narasimham against the roster point no.27 in the Show Cause notice issued vide DC(CT) Hyd.Rural Divn. Dated:13-01-2015" and satisfying this placement not made any objections to the provisional Seniority List dated:13-01- 2015".

1. But reasons not known, while drawing final seniority list vide proceedings dated:01-

04-2015, his name was completely omitted from the said final seniority list even without putting any notice no opportunity was given to him" and requested that his original placement as shown in this show cause notice dt:13-01-2015 be restored.

1. In this regard, it is submitted that a Show cause notice was issued earlier in this

office Ref. No. E1/166/2012, dated:20-12-2012 calling objections for finalization of seniority of ACTOs of Nodal Hyderabad Rural Division for the panel year **2009-10 to 2011-12**. In this proposed list the name of Sri K. Bhikshamaiah was not included.

1. It is also to be noted that, due to the following changes occurred, the list published in this office Ref. No. E1/166/2012, dated:20-12-2012 was **superseded** in order to have a comprehensive picture and **issued** a fresh Show Cause Notice in this office Ref. No. E1/166/2012, dated:14-04-2014 for the panel years from **2009-10 to 2012-13.**
2. During the panel year 2009-10 some of the vacancies were not taken into

consideration by oversight through they are required to be taken in terms of Rule 6 of A.P.S.&S.S. Rules.

1. The Seniority list of Senior Assistants was revised for the period from 18-10-

1975 to 31-08-1991.

1. The Seniority list of Senior Assistants was revised for the period from 24-09-

2003 to 31-12-2006 and for the period from 01-01-2007 to 31-10-2008 was revised.

1. The Integrated Seniority list of ACTOs of Zone-VI was finalized by the CCT in their Proc. NO. DX2/76/2013-ZoneVI, dt:26-12-2013 and relegated the name of Sri A. Narendra Kumar, ACTO from the panel year 2008-09 to the subsequent panel year.
2. The Show Cause notice issued in this office Ref. No. E1/166/2012, dated:20-12- 2012 for the panel year from **2009-10 to 2011-12** was superseded and issued a fresh Show Cause notice for the panel year from **2009-10 to 2012-13** for finalization of seniority list of ACTOs of Nodal Hyderabad Rural Division for the reasons as said above.
3. In the above said both the Show Cause notices issued in this office Ref. No. E1/166/2012, dated:**20-12-2012** (for the panel year2009-10 to 2011-12) and Ref. No. E1/166/2012, dated:**14-04-2014** (for the panel year2009-10 to 2012-13), the "Communal Roster point No."**95**" was filled with **"SC"** candidate by **oversight**, instead of to be filled by the candidate from the feeder category of Senior Assistants as per seniority list as the communal roster point **"95"** is not reserved for **SC** as per the rule of reservation.
4. In this regard it is noted that in the Show Cause notice issued in this office Ref. No. E1/166/2012, dated:**14-04-2014**, the name of Sri K. Bhikshamaiah was positioned at Sl. No. 93 as against the Communal Roster Point No.27 below the name of Smt. N. Shailaja and above the name of Sri A. Laxminarasimham without rectifying the Communal Roster point No.**95** from **SC** to **OC.**
5. Further it is also to be seen that the Show Cause Notice issued in this office reference Ref. No. E1/166/2012, dated:**20-12-2012** (for the panel year 2009-10 to 2011-12) and Ref. No. E1/166/2012, dated:**14-04-2014** (for the panel year2009-10 to 2012-13) were superseded and issued **a fresh Revised Show Cause Notice** for the panel year 2009-10 to 2012-13 vide this office Ref. No.E1/166/2012, dt:13-01-2015 to have a comprehensive picture due to the following objections received.
6. That "the provisional seniority list was communicated not according to Merit/Rank assigned by APPSC and also not according to Rule 33(b) of the A.P.S. & S. S. Rules and the Merit/Ranking assigned by the APPSC among the DR ACTOs selected vide Notification 32/2007 was not implemented.
7. In the revised Show Cause notice dated:13-01-2015 the name of Sri M. Narayana was positioned at Sl. No. 93. Sri. K. Bhikshamaiah could not be filled at the said Sl. No.93 as Sri M. Narayana is senior.
8. Thus the claim of Sri K. Bhikshamaiah for his inclusion at SI. No.93 in the Revised Show Cause Notice in Rc.No.E1/166/2012,dt:13-01-2015 is not correct.

1. In the revised Show Cause Notice issued vide this office Ref. No.E1/166/2012, dt:13-01-2015 the **defect** of assigning of Communal Roster Point No. 95 to **SC** was thus rectified and filled with (**OC**) as under.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Sl No | Sl No. In the Prov.List:13-01-2015 | Panel Year | Roster Point No | Meant for | Assigned to | Name of the individual proposed in Ref. No. E1/166/2012, dated:14-04-2014 | Name of the individual included Ref. No. E1/166/2012, dated:13-01-2015 and finalized | Remarks |
| 1 | 61 | 2011-12 | 95 | OC | OC | M. Deva Das (SC) | G. Jagannath Goud | By relegating the name M. Deva Das (SC) to Roster Point 97 |
| 2 | 63 | 2011-12 | 97 | SC | SC | M. Srinivas (SC) | M. Deva Das (SC) | By relegating the name M. Srinivas (SC) to Roster Point 16 |
| 3 | 68 | 2011-12 | 2 | SC(W) | SC(W) | K. Sudhakar Rao (OC) | R. Jayanthi (SC-W) | Moving up from lower in the SA Seniority List. |
| 4 | 73 | 2011-12 | 7 | SC | SC | K. Gopala Krishna | K. Gopala Krishna | Due to reaching of adequancy filled as per SA Seniority List |
| 5 | 82 | 2011-12 | 16 | SC | SC | M. Narayana (SC) | M. Srinivas | By relegating the name M. Narayana (SC) to Roster Point 27 |
| **6** | 88 | 2011-12 | 22 | SC(W) | SC(W) | R. Jayanthi (SC-W) | P. Jayalaxmi (SC-W) | Moving up from lower in the SA Seniority List. |
| 7 | 93 | 2011-12 | 27 | SC | SC | K. Bhikshamaiah(SC) | M. Narayana (SC) | By relating the name K.Bhikshamaiah(SC) to the subsequent panel year. |
| 8 | 107 | 2012-13 | 41 | SC | SC | R. Sarala (SC-W) | R. Sarala (SC-W) |   |

1. As seen from the above table, the name of Smt. P. Jayalaxmi (SC-W) was included at Communal Roster Point No.22 (SC-W) and the name of R. Sarala (SC-W) was included at Communal Roster point No.41. Smt. R. Sarala (SCW) is senior to Smt. P. Jayalaxmi (SCW) as per the seniority list of Senior Assistants of Nodal Hyderabad Rural Division. At Roster Point No.22, the name of Smt. R. Sarala has to figure. Hence by doing so, the name of Sri K. Bhikshamaiah has to figure at Roster Point No.41 of 2012-13 panel year subject to adequacy.
2. As per the nomination rolls, Smt. P. Jayalaxmi (SC-W) was qualified on 16-06-2005 by passing last departmental test held on 15-06-2005 and she became eligible for promotion to the post of ACTO as on 01-09-2011.
3. The vacancy at Communal Roster Point No.22 meant for **SC-W** arose on 31-12-2011 (Panel Year 2011-12) and just before the arise of vacancy, Smt. R. Sarala was qualified by passing the last Departmental test held on 21-12-2011.
4. As per the nomination rolls, Smt. R. Sarala (SC-W) was qualified on 22-12-2011 by passing last departmental tst held on 21-12-2011 and became eligible for promotion to the post of ACTO as on 01-09-2012. Therefore, the name of Smt. R. Sarala is to be fit in Roster Point No.22 and the name of Smt. P. Jayalaxmi is to be deleted, by following 3rd provision to rule 6 of A.P.S & S. S. Rules (as adopted).
5. Further it is to be noted that (14) Direct Recruit ACTOs (Allotted 17-2 not reported-1 re allotted to Sec Divn.=14) were reported on **17-12-2012** and subsequent dates allotted by APPSC vide LR.RC.No.943/RS-23A/2010, dt:07-11-2012 read with CCT’s Ref.No.DX4/1026/2008, dt:21-11-2012.
6. Further also seen that (14) Direct Recruit ACTOs (Alloted 15- 1 not reported = 14) were reported on **25-06-2013** and subsequent dates allotted by APPSC vide Lr. Rc.No.896/RS-23-B/2011, dt:30-04-2013 read with CCT's Ref. No.DX4/777/2009, dt:14-05- 2013.
7. These 28 Direct Recruit ACTOs names (14+14) were not included in the seniority list of ACTOs for the panel year 2012-13 by oversight.
8. It could be seen that the name of Sri K. Bhikshamaiah (SC) had to be relegated from SC Poster Point No. 27 (2011-12) to the next panel year as per Rule 22 of the General Rules. His name is to be considered against Roster Point NO.41 (SC) of the panel year 2012-13 by deleting the name of Smt. R. Sarala who is to be pushed up to Roster Point No.22 (SEW) of 2011-12 panel year as the name of Smt. P. Jayalaxmi had to be deleted from the said panel year 2011-12.
9. Further in the year 2011 (12) promotions from the cadre of ACTO to the cadre of DCTO were issued vide CCT's proc. No.DZ(3)/465/2011, dated:29-06-2011 and out of them the following were from Nodal Hyderabad Rural Division.

1. S.Rama Krishan Reddy.

2.G.Damodar

3.M.Vikram.

4. K.Gopal Rao.

5. B.Anjaneyulu.

6. G.Narasimha.

7. B.Vidya Sagar.

1. The Commissioner (CT) , A.P., Hyd. Has revised and finalized the Integrated Seniority list of ACTOs of Zone — VI from the panel year 2000-01 to 2006-07 for non inclusion of SC & ST Communal Roster Points in the Integrated Seniority List on receipt of the applications for revision from the SC & ST candidates vide CCT, AP., Hyderabad Proc.No.DX2/1046/2011,dated.17-04-2012.
2. After the revision of seniority of ACTOs the following ACTOs from Nodal Hyderabad Rural Division were promoted to the next higher post of DCTO vide CCT AP Hyd. Proc.No.DZ(3)/925/2011, dated.10-05-2012.

1. G.Ramulu(SC) ACTO Rank in the Seniority list is 87

2. B.Venkataiah (SC) ACTO Rank in the Seniority list is 93

3. M.Govindu(ST) ACTO Rank in the Seniority list is 127

4. K.Nageshwar Rao (SC) ACTO rank in the Seniority list is 137

5. K.Anjaiah(SC) ACTO rank in the Seniority list is 146

6. K.Ramchandar (ST) rank in the Seniority list is 152

1. A table is drawn here under indicating the rank in the seniority list revised

No. DX2/1046/2011,dated.17-04-2012, date of promotion to the Juniors and date of promotion to the seniors to the post of next higher post of DCTO issued in CCT AP Hyd, Proc.No.DZ(3)/465/2011,dt.29-06-2011 and DZ(3)/925/2011, dt.10-05-2012 respectively.

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| --- | --- | --- | --- | --- | --- | --- |
| Sl No | Ranks vide CCT AP Hyd.Proc.No.DX2/1046/2011,dt:17-04-2012 | Name of the ACTO | Division | Proc.No,& Date of promotion to the senior vide CCT Proc.No.DZ(3)/925/2011,dated:10-05-2012 | Proc.No,& Date of promotion to the junior vide CCT Proc.No.DZ(3)/465/2011,dated:29-06-2011 | Date on which he would have to be promoted as DCTO |
| 1 | 85 | S.Ramakrishna Reddy | HYD(R) |  --- | 29-06-2011 | NA |
| 2 | 87 | G.Ramulu(SC) | HYD(R) | 10-05-2012 |  --- | 29-06-2011 |
| 3 | 91 | G.Damodhar | HYD(R) |  --- | 29-06-2011 |   |
| 4 | 93 | B.Venkataish(SC) | HYD(R) | 10-05-2012 |  --- | 29-06-2011 |
| 5 | 100 | M.Vikram | HYD(R) |  --- | 29-06-2011 |   |
| 6 | 127 | M.Govindu(ST) | HYD(R) | 10-05-2012 |  --- | 29-06-2011 |
| 7 | 128 | K.Gopal Rao | HYD(R) |  --- | 29-06-2011 |   |
| 8 | 129 | B.Anjaneyulu |   |   | 29-06-2011 |   |
| 9 | 134 | G.Narasimha |   |  --- | 29-06-2011  |  |
| 10 | 137 | K.Nageshwar Rao(SC) |   | 10-05-2012 | --- | 29-06-2011  |
| 11 | 138 | B.Vidya Sagar |   |  --- | 29-06-2011  |  |
| 12 | 146 | K.Anjaiah(SC) |   | 10-05-2012 | --- | 30-09-2011 |
| 13 | 148 | K.Purna Chandar Rao |   |  --- | 30-09-2011  | ---  |

1. Sri G.Ramulu (SC) ACTO at rank no.87 in the revised seniority list got promotion notionally on 29-06-2011 on par with his junior namely Sri.G.Damodar Rank No.91 was promoted on 29-06-2011.
2. Sri B.Venkataiah (SC) ACTO at rank no. 93 in the revised seniority list got promotion notionally on 29-06-2011 on par with his junior as his junior namely Sri.M.Vikram Rank No.100 was promoted on 29-06-2011.
3. Sri M.Govindu (ST) ACTO at rank no. 127 in the revised seniority list got promotion notionally on 29-06-2011 on par with his junior as his junior namely Sri.K.Gopal Rao, Rank No.128, B.Anjaneyulu, Rank No.129 & G.Narasimha Rank No.134 were promoted on 29-06-2011.
4. Sri K.Nageshwar Rao (SC) ACTO at rank no. 137 in the revised seniority list got promotion notionally on 29-06-2011 on par with his junior as his junior namely Sri.B.Vidyasagar Rank No.138 was promoted on 29-06-2011.
5. Sri K.Anjaiah (SC) ACTO at rank no. 146 in the revised seniority list got promotion notionally on 30-09-2011 on par with his junior as his junior namely. Sri.K.Puma Chandar Rao Rank No.148 was promoted on 30-09-2011.
6. As seen from the above the (3) ACTOs namely Sri G.Ramulu (SC) (87), B.Venkataiah (SC) (93) and Sri K.Nagaeshwar Rao (SC) (137) under SC category and (1) ACTO namely M.Govindu (SC) (127) under ST category got promotion notionally to the next higher post of DCTO on par with their juniors on 29-06-2011.
7. And (1) ACTO namely Sri K.Anjaiah (SC) (146) under SC category got promotion notionally to the next higher post of DCTO on par with their junior on 30-09-2011 with in the same panel year i.e., 2011-12 (01-09-2011 to 31-08-2012) hence no makes any difference.
8. While drawing the panels for the panel year 2011-12 the above said (3) ACTOs under SC category were taken in to consideration of working strength of SC ACTOs as on 01-09-2011 to watch adequacy i.e., reaching of required percentage as they were actually promoted to the next higher post of DCTO on 10-05-2012 vide CCT AP Hyd.Proc.No.DZ(3)/925/2011, dt.10-05-2012 not on 29-06-2011. They are G.Ramulu (SC) (87), B.Venkataiah (SC)(93) and K.Nageshwar Rao (SC) (137).

1. In the same panel year 2011-12, the Communal Roster Point No.7 (SC) were filled by the candidate namely K.Gopala Krishna (0C) as per seniority list in the feeder category of the post of Senior Assistant as the required percentage of (SC) candidates reached treating the above said (3) ACTOs G.Ramulu (SC) (87), B.Venkataiah(SC) (93) and K.Nageshwar Rao (SC) (137) are working at the time of vacancy for C.R.P. No.7 for SC i.e., on 11-10-2011 and promoted as DCTO on 10-05-2012.
2. Two (2) Communal Roster Points arose for ST in the panel year 2011-12 at R.P.N. 9 (ST) and R.P.N. 25 (ST) and these points were filled with ST candidates namely Smt. G. Vijaya Laxmi(ST) and B.Krishna Naik (ST) as the adequacy was not reached as on the date of arose of vacancy for ST (RP).
3. In the above said (3) SC ACTOs are to deleted, the working strength of SC ACTOs as on 01-09-2011 will be (20) Nos. and as on the date of arose of Communal RosterPoint No.7 (SC) on 11-10-2011 there shall be (23) SC ACTOs working and the said roster point no.7(SC) has to be filled by SC candidate only. The SC working ACTOs is worked out as under. The adequacy as on 11-11-2011 should be (26) on the cadre strength of 175 ACTOs @15%. Thus 6 SC candidates is deficit.

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Sl No | Panel Year | Date of arose vacancy | C.R.P.No. | CRP meant for | SC ACTOs working Before inclusion | SC ACTOs working after inclusion | Rank in the SA List | Name of the ACTO to be included | Remarks if any |
| 1 | 2011-12 | 30-09-2011 | 91 | SC | 20 | 21 | 72 | P.Shankar(SC) | No change |
| 2 | 2011-12 | 11-10-2011 | 97 | SC | 21 | 22 | 86 | M.Devadas(SC) | No change |
| 3 | 2011-12 | 11-10-2011 | 2 | SC(W) | 22 | 23 | 2 | R.Jayanthi(SC) | No change |
| 4 | 2011-12 | 11-10-2011 | 7 | SC | 23 | 24 | 9 | M.Srinivas(SC)(Earlier filled at CRP 16) | By relegating the name of K.Gopala Krishna (OC) |
| 5 | 2011-12 | 13-12-2011 | 16 | SC | 23 | 24 | 19 | M.Narayana(SC) | Earlier filled at CRP 27 |
| 6 | 2011-12 | 31-12-2011 | 22 | SC(W) | 24 | 25 | 82 | R.Sarala(SC) | Earlier not included |
| 7 | 2011-12 | 10-05-2012 | 27 | SC | 24 | 25 | 23 | K.Bhikshamaiah(SC) | Earlier not included |
| 8 | 2012-13 | 12-08-2013 | 41 | SC | 19 | 20 | 7 | N.Vijaya Ratnam(SC) | Earlier not included |

1. In view of the facts explained above, Sri K. Bhikshamaiah, ACTO represented for revision of seniority. After examining the whole issue, it was requested vide this office ref. 8th cited for permission to be given for revision of seniority list of ACTOs of Nodal Hyderabad Rural Division for the panel year 2011-12 & 2012-13, and while revising the panel for the year 2011-12, the adequacy is to be revised in view of the fact that the (3) SC candidates were promoted notionally as DCTOs from 29-06-2011. The adequacy No. for 26 is reduced to 20 in the said panel year 2011-12.
2. The Commissioner of Commercial Taxes, T.G., Hyderabad in his reference 9th cited permitted to take action to revise the seniority list of ACTOs for the year 2011-12 and 2012-13, as proposed in this office ref. 8th cited.
3. Due to inclusion of the name of K. Bhikshamaiah, ACTO (SC) at Communal Roster Point No. 27 in the Panel Year 2011-12 the name of Smt. Swaroopa Rani (OC) ACTO had to be relegated from the panel year 2011-12 to the Panel Year 2012-13.
4. The Nomenclature of the post of ACTO has been re-designated as Deputy State Tax Officer with effect from 22-06-2017 vide Govt. of Telangana G.O.Ms.No.186 Rev. (CT-I)Dept., Dated:21-08-2017.
5. In the Special Rules of A.P. Commercial Taxes Subordinate Service Rules 1990, In Rule 4 sub-rule (a) of the said rule has been amended and included that the rule of Special reservation (General Rule 22) shall apply to the appointment of ACTO by Direct Recruitment and to their appointment by transfer, the reservation in favor of Orthopedically Handicapped persons shall be 2% & Hearing Handicapped person 1% vide G.O.Ms. No. 204 Rev. (CT-I) Dept., Dt:10-03-2010 so far as it relates to this department only.
6. The Government vide G.O.Ms.No.42 Dept., for Women, Children, Disabled & Senior Citizens (DW) Dept., Dated:19-10-2011 has provided reservation in Promotions to the Differently Abled employees @ 1% each at Roster Point 6 for Visually Handicapped, 1% at Roster Point 31 for Hearing Handicapped and 1% at Roster Point No.56 for Orthopedically Handicapped.
7. During the panel year 2012-13 (17) Direct Recruit ACTOs were allotted by the Commissioner of Commercial Taxes vide their Ref. No.DX4/1026/2008, dt:21-11-2012 read with APPSC Lr. Rc.No.943/RS-23A/2010, dt:07-11-2012 and out of which (14) were reported.
8. They are given seniority position as per the ranking communicated by the A.P.P.S.C. irrespective of dates of joining and placed below the name of the promotee whose date of joining is 30-11-2012 as per the guidelines in Govt. memo No.16/Ser-A/93-39/GA Dept., dated:21-04-1999. The First Candidate was joined on 17-12-2012.

1. Further in the same panel year 2012-13 another (15) Direct Recruit ACTOs were allotted by the Commissioner of Commercial Taxes vide their Ref. No.DX4/777/2009, dt:14-05- 2013 read with APPSC vide Lr. Rc.No.896/RS-23-B/2011, dt:30-04-2013 and out of which (14) were reported.
2. They are given seniority position as per the ranking communicated by the A.P.P.S.C. irrespective of dates of joining and placed below the name of the promotee whose date of joining is 31-05-2013 as per the guidelines in Govt. memo No.16/Ser-A/93-39/GA Dept., dated:21-04-1999. The First Candidate was joined on 25-06-2013.
3. Keeping in view of the above developments, it is proposed to revise the panel of ACTOs of this Nodal Division for the year 2011-12 and 2012-13. The Draft Revised Panels for the above two years is shown in Annexure-I of this Show Cause Notice. Simultaneously, the revised draft combined seniority list of ACTOs (DRs and RPs) of this Nodal Division is prepared and is as shown in Annexure-II to this Show Cause Notice.
4. It is to inform that there is no change in the Seniority List of ACTOs of Nodal

Hyderabad (Rural) Division, Hyderabad for the panel year 2009-10 to 2010-11 finalized vide ref. 1st cited from Sl.No. (1) to (55).

1. All the persons covered by both Annexure-I of this notice are hereby advised to

file their written objections if any, against the above proposed Show Cause Notice of ACTOs within (30) days from the date of publication of this Show Cause Notice, failing which will be presumed that they will have no objection for the above proposal to revise the panel of ACTOs of 2011-12 and 2012-13 and also the seniority list of ACTOs consisting of both DRs and RPs for the said two years.

1. In response to the show cause notice the following individuals filed common

objections on various dates.

**OBJECTIONS:**

1. Sri Y. Surrender Lincoln, DSTO, 0/0. the AC(ST), Siddipet Circle, Nizamabad

Division, dated. 06.04.2018.

1. Smt. N. Shailaja, DSTO, 0/o. AC(CT) IDA, Gandhi Nagar Circle,Hyd ® Divn.,

dated. 06.04.2018.

1. Smt. R. Vijayalaxmi, DSTO, 0/o. AC(CT), Hydernagar Circle,Hyd ® Divn.,

dated. 06.04.2018.

4. Sri M.A.Mannan , DSTO, 0/o. the AC(ST), Rajendranagar, Sarrornagar Division,

dated. 10.04.2018.

5. Sri S. Venkateshwara Rai, DSTO, 0/o. the JC(ST), Sarrornagar Division,

dated. 17.04.2018.

6. Sri Mohd Abdul Sharrif, DSTO, 0/o. the JC(ST), Sarrornagar Division,

dated. 17.04.2018.

7. Sri K. Srinivas, DSTO, 0/o. the AC(ST), Spl.Commodities, Sarrornagar Division,

dated. 17.04.2018.

8. Sri M.A.Khayyum DSTO, 0/o. the AC(ST), Vanasthalipuram, Sarrornagar Division,

dated. 17.04.2018.

9.Smt. K. Prasanna Kumari, DSTO, 0/o. the AC(ST), Mahabubnagar Circle

Nalgonda Division, dated. 09.04.2018.

10.Smt.P.Jayalaxmi, DSTO, 0/o. the AC(ST), Balanagar Circle, Hyderabad Rural

Division, Hyderabad, dated. 17.07.2018.

All the above objections from 1 to 10 on inclusion of certain SC/ST ACTOs in the panel for the year 2011-12 & 2012-13 placing reliance on the Judgement of Hon"ble Supreme Court, that no consequential seniority shall be accorded to SC/ST Candidates except in promotions.

They contented that " As seen from the parameters considered for preparation of said seniority list stated that the seniority is based on the roaster points arisen in the rotation. In view of this, the following objections are made the placement as proposed in the seniority list of Assistant Commercial Tax Officers.

That the getting of promotion earlier on arising of roster point meant for certain category does not carry right of seniority in the promoted category over the general candidate as it amounts to accelerated seniority so that for further promotion, the one who got higher seniority due to roster point stands in advantageous position even contend for a general vacancy over the senior open candidate in initial category, thereby effecting principles of justice and equality before law, the above legal position is upheld in several judgements of the Hon'ble Supreme Court such as M.Nagaraj & Ors Vs Union of India & Others (2006) SCC 212 and S.Panneer Selvam & Ors Vs Government of Tamil Nadu & Ors in Civil Appeal Nos. 6631-6632 of 2015.

In the case of S.Panneer Selvam & Ors Vs Government of Tamil Nadu & Orson 27th August 2015 in CIVIL APPEAL Nos. 6631-6632 of 2015 the Hon'ble Supreme Court held that "In the absence of any provision for consequential seniority in the Rules the 'catch up rule' will be applicable and the roster point reserved category promotees cannot count their seniority in the promoted category from the date their promotion and the senior general candidates if later reach the promotional level, general candidates will regain their seniority".

Accordingly, the same theory has been adopted in the recent judgment of High Court of Andhra Pradesh & Telangana in the case of Mohd. Wasif Yousuf Vs State of Telangana in WP No. 34356 of 2017 dated 13-10-20 17 in which it is clearly orders that "the respondent-authorities are directed to verify whether consequential seniority principle is already introduced in the respondent-Department granting seniority to employees belonging to SC/ST Category promoted in the vacancies reserved for the said categories in the promotional posts superseding the general category seniors and if no such principle is introduced in the service regulations/rules, the respondents shall follow the principle laid down by the Supreme Court in the cases of B.K.Pavithra V. State of Tamil Nadu [(2015) 10 SCC 192]".

It is pertinent to note that the High Court case also relates to same service Rules (TS&SS Rules) and State of Telangana.

Recently, the Central Administrative Tribunal Principal Bench, New Delhi in O.A. No.3476/2013 and connected O.A.s in its judgment on 22.01.2018 observed as under.

3. In M. Nagaraj & Ors. Vs. Union of India & Others, (2006) SCC 212 (supra), the Constitution Bench of the Hon'ble Apex Court observed asunder: -

After referring to a series of authorities, the Court concluded as follows:

"121. The impugned constitutional amendments by which Articles 16(4A) and 16(4B) have been inserted flow from Article 16(4). They do not alter the structure of Article 16(4). They retain the controlling factors or the compelling reasons, namely, backwardness and inadequacy of representation which enables the States to provide for reservation keeping in mind the overall efficiency of the State administration under Article 335. These impugned amendments are confined only to SCs and STs. They do not obliterate any of the constitutional requirements, namely, ceiling- limit of 50% (quantitative limitation), the concept of creamy layer (qualitative exclusion), the sub-classification between OBC on one hand and SCs and STs on the other hand as held in Indra Sawhney, the concept of post-based Roster with in-built concept of replacement as held in R.K. Sabharwal.

122. We reiterate that the ceiling-limit of 50%, the concept of creamy layer and the compellinq reasons, namely, backwardness, inadequacy of representation and overall adminiqrative efficiency are all constitutional requirements without which the structure of equality of opportunity in Article16 would collapse.

Referring certain other cases they stated that , the above case laws are applicable to the present exercise of drawing seniority in the category of Assistant Commercial Tax Officers and the accelerated seniority ignoring the initial category seniority i.e., Senior Assistant is violation of principles of justice in view of the judgments.

Therefore, their request consider the case law cited above, and to place their name as per the inter-se-seniority list of Senior Assistant of Zone-VI without disturbing the initial category list in view of the judgments.

**REPLY TO THE OBJECTIONS:**

50 The above objections have been carefully examined with reference to the record and orders of the Government relating to SC/ST candidates in the matter of their promotions with consequential seniority in the cadre in Government services as per G.O.Ms.No.26 SOCIAL WELFARE (ROR1) DEPARTMENT DATED. 20.02.2009. The Rule of Reservation shall be implemented with consequential seniority in favor of SC/ST candidates in promotions in all category posts in all State Government Departments with immediate effect. Further the Rule 22 of APS & SS Rules were amended in favor of reservation in promotion which is still in existence.

Further, the Hon'ble Supreme Court of India in Special Leave to Appeal ( C) No.28306/2017 dated. 05.06.2018 amended in this matter as under;

**"Heard learned counsel for the parties. Learned ASG has referreds to order dated 17.05.2018 in SLP ( C) No.30621 of 2011.**

**It is made clear that the Union of India is not debarred from making promotions in accordance with law, subject to further orders, pending further consideration of the matter".**

In view of the orders of Hon'ble Supreme Court of India, the Government Order is still in force and this Government Order mentioned supra not the subject matter of the Judgment referred by the individuals who filed objection.

As long as this Government Order exists and Rules not amended consequential seniority has to be extended in favor of SC/ST candidates in promotions.

Thus, the objections of the individuals do not survive and accordingly rejected them as devoid of any merits.

As such all the SC/ST candidates rightly proposed in the panel year 2011-12 & 2012-13 of ACTOs of Hyderabad Zone-VI and the same is confirmed.

51 Further, the objection mentioned at Sl.no.9 of Smt. K. Prasanna Kumari, ACTO also examined. Smt. K.Prasanna Kumari was initially appointed by transfer as ACTO on adhoc basis earlier pending finalization of seniority list in the cadre of Sr.Asst., Subsequently the seniority list in the cadre of SR.Asst., has been finalized through the Prooceedings of DC(CT), Hyderabad Rural Division No. E2/179/2011 (SA) Dated.21.10.2013, in which the name of Smt. K. Prasanna kumari placed at SI.No.46 and the name of Smt. P. Jayalaxmi, ACTO at SI.No. 29 the seniority list became final since. Smt. K. Prasanna Kumari did not file any statutory appeal. Therefore Smt. P. Jayalaxmi senior to Smt. K. Prasanna Kurnari.

It is settled principle of law that feeder category seniority is along taken in to consideration for promotion and according seniority in the normal course to a Government Servant. No seniority would be given with reference to adhoc promotion.

Therefore, Smt. K. Prasanna Kumari, cannot claim seniority over Smt. P. Jayalaxmi in the cadre of ACTO. Accordingly her objections is over ruled.

52. Similarly to the above case, the objection mentioned at Sl.no.10 of Smt. P.Jayalaxmi, ACTO also examined and noticed that the adhoc promotions from the category of Senior Asst., to ACTO was made basing on the finalized seniority of Senior Assistant Proceedings of DC(CT) Hyderabad (Rural) Division, Hyderabad Rc.No. E2/179/2011, SA daed.21.10.2013(11/2008- 03/2011), where in she was figured at SI.No.29, where as the name of Sri K. Bhikshamaiah was already placed in the earlier panel year for the year 2007-2008 Proceedings of DC(CT) Hyderabad Rural Division, Hyderabad Rc.No. E2/128/2005, (SA) dated.05.01.2009, Andhra Pradesh Gazette Part-II Extraordinary Published by audhtority No.27, Hyderabad, Thursday, February 12, 2009, where in he was placed (01-01-2007 to 31-10-2008) at SI.No.23. Thus (1) Sri K. Bhikshamaiah, was already senior to Sri N. Vijayarathnam and Smt. P. Jayalaxmi.

Subsequently, Smt. P. Jayalaxmi was given adhoc promotion as ACTO by Addl.Commissioner of Commercial Taxes, LEGAL. A.P., Hyderabad in his Procds.No. CGT's Ref.No.DX2/894/2013 dated.17.09.2013, where in she was placed at sl.no.87 (SC-W) adhoc, promotion (Appointment by transfer) to the post of ACTO under Rule 10 (a) APS & SS rules 1996 read with rule 3(ii) of APCTS, which is always subject to revision of feeder category seniorities.

In the later course since new facts have been come fourth in view of Appeal Petition of Sri K. Bhikshamaiah and orders of Hon'ble APAT in O.A.No. 3507/2015 dated. 20.07.2015 and instructions of the Addl.Commissioner(CT) in his Rc.No.TS CCT's Ref.No.C(DX)/434/2015, dated.21.07.2017, he is being placed in the instant seniority list above and over P. Jayalaxmi, duly revising the seniority list.

In view of the above the objection are over ruled.

In view of the above findings as there is no need to change the order of seniority as proposed in show cause notice in the reference 15th cited. The same is hereby confirmed and here with finalized. Consequently the provisional seniority list of ACTOs of Hyderabad Rural Nodal Division for the year 2011-12 to 2012-13 issued in the reference 15th cited is hereby confirmed.

The confirmed seniority list of ACTOs of Hyderabad Rural Nodal Division for the year 2011-12 to 2012-13 is enclosed in Annexure.

 Sd/xxx

 Joint Commissioner(ST)

 Hyderabad Rural Division

 Hyderabad

 Encl:- (ANNEXURE - I)

TO,

1. The individuals by e-mail through the concerned Officers.
2. Copy to all the CTOs in Nodal Hyderabad Rural Division through mail for display one copy on the notice board and send certificate to this effect that the notice has been displayed on notice board of your office with date.
3. Copy to the Deputy Commissioner (CT), Nizamabad, Nalgonda, Saroornagar through mail for display on the notice borad and send certificate to this effect that the notice has been displayed on notice board of your office with date.
4. Copy Submitted to the Addl. Commissioner of Commerical Taxes (Legal), O/o the CCT, A.P., Hyderabad for kind information.
5. Copy submitted to the Commissioner (ST), Telangana, Hyderabad for favor of information.
6. Copy submitted to the Director of Printing Press, T.S., Hyderabad with a request to publish the proceedings and Annexure – I is for (50) copies and provide the Gazettee Copies.

MANAGER(Gazetted)