Office of the

 Commissioner of Commercial Taxes

 Andhra Pradesh: Hyderabad

REVISED SHOWCAUSE NOTICE

**CCT’s Ref.No.DX2/ 394/2012 Zone-V, dated: 13-06-2012**

Sub: SUITS – O.A No.9244/2011 filed by Sri S.Satyanarayana, 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 Show cause notice of Revised integrated seniority list of ACTOs for the panel year 1992-93 to 1999-2000 of Zone-V – preparation of seniority of subsequent panel years from 2000-01 to 2004-05 as per available vacancies - Notice issued - Objections called for - Regarding.

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

 2. Govt. Memo. No.39295/CT.I (2)/2011, Rev (CT.I) Dept, dt.26-11-2011

 3. CCT’s Ref.No.DX2/942/2011Zone-V, 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. CCT’s Ref.No.DX2/ 394/20102 Zone-V, dated: 29 -05-2012 (SCN)

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

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

 8. Judgment of Hon’ble APAT dt.22-07-2003 in O.A No.6022 of 2001 and batch and as modified in O.A.No.5058 of 2004 and batch, dated.11-08-2009.

 9. CCT’s Ref.No.DX2/ 394/20102 Zone-V, dated: 06-06-2012 (SCN)

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Sri S.Satyanarayana and (4) others have filed O.A No.9244/2011 before Hon’ble APAT Hyderabad regarding revision of their seniority in the cadre of ACTO. The Hon’ble APAT, Hyderabad has issued interim orders dt.05-12-2011 that “Pending further orders in the O.A there shall be a direction to the Respondents to revise the seniority list of the Applicants in the cadre of ACTO by following memo No.263/CT-I(2)/2011, dated 29-06-2011 issued by the respondent No.3. Necessary orders shall be passed within a period of eight weeks from the date of receipt of a copy of this order.”

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-V (i.e. Warangal Nodal Division) prepared and published in the A.P Gazette No.119, dated 24-03-2004 on the mentioned lines of Government Memo. No.263/CT.I (2)/2011, dated.29.06.2011 read with Govt.Memo No.39295/CT.I (2)/2011, Rev (CT.I) Dept, dt.26-11-2011 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 occupied their own slots. Consequently, certain RPs has not found placements / panel years from 1992-93 to 1999-2000 vide reference 5th cited and those who are relegated in earlier panel years, now their names are placed to the subsequent panel years as per available vacancies for the panel years from 2000-01 to 2004-05 of Zone-V.

 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 6th 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 , 3rd and 5th cited, the matter is re-examined in the case of Warangal nodal Division i.e. Zone-V for the panel years from 2000-01 to 2004-05 and the vacancies are identified as per the guidelines of the reference 2nd .3rd and 5th cited and the integrated seniority list of ACTOs of Zone-V for the panel years 2000-01 to 2004-05 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 should be 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 Warangal-Zone-V

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Panel year | 2000-01 | 2001-02 | 2002-03 | 2003-04 | 2004-05 | Total |
| Total ACTO Vacancies arosed | 3 | 3 | 1 | 12 | 19 | **38** |
| Total DR vacancies to be filled (40%) | 1 | 1 | 0 | 5 | 8 | **15** |
| Total RP vacancies to be filled (60%) | 2 | 2 | 1 | 6 | 9 | **20** |
| City List vacancies carry forwarded | 0 | 0 | 0 | 1 | 2 | **3** |
| **Unfilled DRs Vacancies** | RPs |  |
| Upto 1999-2000 | 50 | From 2000-01 to 2004-05=(-1) | (20) RPs are placed | **From 2000-01 to 2004-05= (-1 )** |
| Total upto 2000-01 to 2004-05 | 49 |  |  |  |

\*Note:-The Government had suspended City List quota vide Govt.Circular U.O Note.No.44232/SPF-A/2002, GAD (SPF-A) Department, dated 15-02-2003 in view of the judgment of Hon’ble Supreme Court of India in C.A.No.9643/9644 of 1995, dated.07-11-2001. Hence, the City List quota vacancies kept vacant till the receipt of G.O Ms No.1758, dt.11-10-2011. The Government amended G.O Ms No.81, dt.03-02-1990 and issued a fresh G.O Ms No.1758, dt.11-10-2011 and ordered that, in the 10 point cycle, the 10th vacancy meant for city list has been allotted by transfer (Division). The City List vacancies are not taken in the seniority list of ACTOs. Therefore, these carry forwarded vacancies will be considered for Rank Promotees in the panel year 2011-12 only and later in the respective panel years.

It is to inform that the total number of vacancies of ACTOs in Warangal Nodal Division of Zone-V for the period from 2000-01 to 2004-05 are (38) out of which (15) are meant to be filled with Direct Recruits, but filled (16) and (20) to be filled with Rank Promotees, but filled (21). While filling the vacancies meant for Rank Promotees, for the panel years from 2000-01 to 2004-05, 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 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 does 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 in this proposed seniority list.

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, except for City List candidates from 15-02-2003. Therefore, the Show Cause Notice, dt.06-06-2012, as in reference 9th cited is treated as cancelled and thereby withdrawn in view of issue of this revised Show cause notice.

The show cause notice of revised integrated seniority list of ACTOs for the panel year 1992-93 to 1999-2000 of Zone V issued on 29-05-2012 and for the panel years from 2000-01 to 2004-05of Zone-V is also to be issued respectively. As per the Govt. Memo No.263/CT.I(2)/2011, dated 29-06-2011 of Zone-VI the revised integrated seniority list of ACTOs for the panel years from 1975-76 to 1991-92 of Zone-V has been finalized duly following the Rota-Quota Rules vide CCT’s Ref.No.DX2/942/2011 Zone-V dt.23-04-2012. However, the earlier seniority list (which is being now revised) from the panel year 1992-93 to 1999-2000 of ACTOs of Zone-V required revision on the basis of the Government in Memo. Ref. No. 263/CT.I (2)/2011, Rev (CT.I) Department dated 29-6-2011 of Zone VI, read with the interim orders dt.21-12-2011 in O.A No.9829/2011 by the Hon’ble APAT, Hyderabad issued in case of Zone-VI. 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-V for the subsequent panel years 2000-01 to 2004-05, as per the guidelines mentioned thereon after verification of records of CCT’s office and as per Dist.Gazette No.15 Dated 22-01-2008. 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 7th 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 has issued the revised integrated show cause notice now 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), Warangal Nodal division.

Copy to the Deputy Commissioner (CT), Warangal Division

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