

ALL INDIA ASSOCIATION OF CENTRAL EXCISE

GAZETTED EXECUTIVE OFFICERS

President: Sushil Kumar Pareek
Mob. 09414203722

Address for communication: 240, Razapur, Ghaziabad-201001 (U.P.)
mail Id: ravimalik_sweet@yahoo.com

Secretary General: Ravi Malik
Mob. 09868816290

Vice Presidents: R.Pratap, Ravi Joshi, K.P.S.Rai, Anil D.Bhavisskar, V.Suresh Kumar, R.L. Sampath Kumar, Lok Nath Mishra, V.N.Jha, K.A.Sayyed, Surendra Singh

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Office Secretary: C.S.Sharma (**Mob.** 09313885411) **Treasurer:** N.R.Manda (**Mob.** 09871483585)
(Recognised by G.O.I., Min. of Fin. vide letter F.No. B. 12017/10/2006-Ad.IV A Dt.21.01.08)

Ref. No. 144 /11

Dt. 19.08.11

To,
Sh. Jayant Misra,
ADG (HRM), Directorate General of HRD, CBEC,
New Delhi.

Sub: Representation on the basis of the directions of the Supreme Court.

Sir,

Kindly refer to the OM issued by your goodself vide F.No. 8/38/HRD/(HRM)/2009 Dt. 11.08.11 regarding the change of Recruitments Rules as per the directions Dt. 03.08.11 of the Hon'ble Supreme Court.

It is requested with due regards that the Recruitments Rules may kindly be amended/revised in such a manner that all the group 'B' entry level officers; i.e.; the Inspectors of Central Excise, Preventive Officers and Examiners of Customs of same year are brought at par in terms of promotions and this parity may also be maintained for future promotions for the simple reasons as detailed below:

A. The officers belonging to the Inspector cadre, i.e., Inspector of Central Excise, Preventive Officer and Examiner of Customs are recruited through one & the same all India combined competitive examination in one & the same single organization of CBEC of one & the same department of Revenue.

B. The eligibility conditions & qualifications for Inspector of Central Excise, Preventive Officer and Examiner of Customs are same to appear in all India combined competitive examination.

C. The all India merit position of these officers in the combined competitive examination, however, depends on the marks scored as well as the post opted; but past general trend was that the Inspectors of Central Excise had been placed very well above the Examiners of Customs while the later ones were being placed at the bottom of the merit list. Moreover, the Inspectors and Superintendents of Central Excise are uniformed executive officers bearing Ashok symbol on their uniform while the Examiners and Appraisers of Customs are not entitled to wear the uniform.

D. As far as the Inspectors of Central Excise and the Examiners of Customs are concerned, the Inspectors of Central Excise also had to pass a physical test at the time of recruitment which was not required for the Examiners of Customs in the past. It is very surprising and unfortunate that these

physically fit Central Excise officers have now to work under a junior officer even with physical infirmity.

E. The officers belonging to Central Excise category are working in all of 3 wings under CBEC, i.e., Central Excise, Customs and Service Tax while the Customs category officers are performing only Customs work related duties. Even in the Customs Intelligence Agency like DRI, the most of the personnel belong to Central Excise. Thus, the Central Excise category officers have multi-skilled expertise than the Customs category officers. On account of this, the Central Excise category officers deserve the better deal than the Customs category officers in each & every matter including the promotions. It is very unfortunate & surprising that the senior Central Excise officers have to work under and supervised by the junior Customs officers having no knowledge of Central Excise as these Customs officers have not worked in Central Excise even for a single day.

F. They all are serving in the same organization of CBEC of the same department of Revenue and performing the same nature of duties under the same administrative hierarchy. All of these three streams belonging to the same single cadre of Inspector have also been shown as "Inspector only" in the Recruitment Rules and other related documents. All of these three were also shown as Inspector even in the last cadre restructuring.

G. A single cadre of Inspector has been trifurcated without any justification by CBEC in 3 categories (promoted to the level of Superintendent group 'B' gazetted cadre which is also trifurcated to Superintendent of Central Excise, Superintendent and Appraiser of Customs) again merging at the level of Asstt. Commissioner giving all the benefits to Customs (particularly Examiners & Appraisers) categories. This merger at group 'A' entry level again proves and demonstrates that all of 3 categories of Inspector of Central Excise, Preventive Officer and Examiner of Customs belong to the same single cadre of Inspector. It is an admitted fact that a senior officer (Inspector/Superintendent) belonging to Central Excise category has to work under an officer of Customs category even junior by 17 years without any justified reason. The exact situation, however, is that a senior officer belonging to Central Excise category has to work under an officer of Customs category even junior by 20 years instead of 17. The officers of Inspector level of the year 1972 in Central Excise category are still waiting to become Asstt. Commissioner while the Inspector level officers (Examiners) of the year 1992 in Customs category have already become Asstt. Commissioner. Whereas it is surprising fact that the Examiners (Inspector cadre) of the year 2006 would become Asstt. Commissioner in the year 2012 (within 6 years) under the present circumstances even before as well as after the implementation of cadre restructuring and they shall reach the level of Commissioner or above while the Inspector of Central Excise of the year 1982 would only be able to become Asstt. Commissioner after implementation of cadre restructuring (after 30 years or even more, if the cadre restructuring is implemented after 2012) and they will retire without further promotion.

As far as the any formula based on the ratio is concerned, that will not solve the problem for the sake of just and fair representation because the strength of all the 3 feeder categories is never constant and always keep changing which is the only reason that the 6:1:2 formula is not working presently and is unable to give just and fair representation to each category. Like that, any formula based on the altered ratio will also be unable to give just and fair representation to all categories and it will require to be changed again after a period of time. The varying strength of each category is already on the record of the CBEC.

It is also submitted without being prejudiced to anything that the Hon'ble Supreme Court has also observed in para 2 of its judgement that ".....in light of subsequent development in the cadre

strength of the 3 feeder categories of group 'B' services.....”

and in para 4 that “.....some officers were promoted from group 'B' to the grade of Asstt. Commissioner.....” intending only that there should be parity in the promotions of group 'B' officers for which group 'B' gazetted officers may not be distinguished. The existing rules for promotion to the post of Asstt. Commissioner also say that the group 'B' (instead of gazetted group 'B') officers of 3 categories would be promoted in the said fixed ratio. The Union of India has also filed an affidavit in Civil Appeal No. 1198 stating that it has initiated the process of reviewing the Recruitment Rules, 1987 for promotion from group 'B' posts (instead of group B gazetted posts) to group 'A' posts. It is further submitted that the Inspectors of Central Excise, Preventive Officers and Examiners of Customs all are group 'B' officers as on today and only the parity in the promotions of all of them will secure just and fair representation of all the 3 feeder categories. Accordingly as far as the strength of the Central Excise category officers is concerned, it may kindly be calculated by adding the number of all the group 'B' officers, i.e., Inspectors and Superintendents altogether and more than 29000 Central Excise category officers should not be discriminated to benefit the fistful Customs category officers particularly the Examiners and Appraisers. The Customs work being done by the Central Excise personnel should also not be accounted to the share of Customs personnel to discriminate the Central Excise personnel like in past. The Central Excise strength also includes Narcotics, all Directorates and all the Customs work where being manned by Central Excise personnel. In the judgement of the Hon'ble Supreme Court also, on the basis of which the existing Recruitment Rules came into existence, the Central excise officers were placed above the Customs officers on account of their large scale early retirements and acute stagnation.

The various communications of DOPT like D.O.No.5/26/2010-CS.II(A) Dt. 06.10.10, No. 20/51/2009-CS.II Dt. 27.01.11 and No. 19/1/2008-CS.I(P) Dt. 20.07.2010 etc. say that cadre restructuring process should be observed to remove the stagnation of stagnated categories. The latest OM No.35034/9/2010-Estt.(D) Dt. 10.02.11 of DOPT also says very specifically that cadre restructuring should be viewed to mitigate the stagnation of the stagnated employees. However, very unfortunately, this process in CBEC is to the advantage of non-stagnated categories (Customs category officers particularly Examiners & Appraisers, Ministerial officers, IRS officers etc.) only without caring a little for the admittedly and actually stagnated category of Central Excise officers. In the last cadre restructuring, the IRS officers very handsomely got the parity in promotions with their counterparts of CBDT and like that in the ongoing cadre restructuring also, they are going to get this parity with other better placed group 'A' cadres ensuring 4 promotions for their direct recruit IRS officers within an eligibility period of 17 years while no such parity has even been thought for the actually & acutely stagnating Central Excise category officers. However, in toto 9 promotions have been suggested for direct recruit IRS officers in the ongoing cadre restructuring. It is, therefore, requested that the Recruitment Rules may kindly be framed in such a manner that our Central Excise category officers may also be able to get the promotions within the eligibility period as prescribed by DOPT vide No. 14017/61/2008-Estt.(RR) dt. 24.03.09 for the various grade pays. If these disparities in promotions were removed suo moto by CBEC, the said petitions would have not been filed.

In view of the above, it is again requested that the Recruitment Rules may kindly be framed/amended/revised in such a manner that the parity in promotions between the officers entering the job as Inspectors of Central Excise in a relevant year and the most highly promoted officer entering the job as Examiner of Customs of the same year without loss of seniority to the senior officers of Central Excise in comparison to the officers of Customs on the basis of base cadre seniority in the present working Commissionerate of Central Excise/Customs House of Customs may be brought. This may be done by bringing all the officers joining at the level of the Inspector of Central Excise at par with the most highly placed (in terms of promotion) officer joining as Examiner of Customs of a

relevant year without loss of seniority to the senior officer; i.e.; if an Examiner of 1992 has become Asstt. Commissioner, the Inspectors of 1992 should also become Asstt. Commissioner; if an Examiner of 1987 has become Deputy Commissioner, the Inspectors of 1987 should also become Deputy Commissioner; if an Examiner of 1980 has become Joint Commissioner, the Inspectors of 1980 should also become Joint Commissioner; if an Examiner of 1975 has become Additional Commissioner, the Inspectors of 1975 should also become Additional Commissioner & so on. That is the only way to secure the just and fair representation of all the 3 group 'B' feeder categories by giving them equal opportunities for promotions. The Association has already suggested various measures (like creation of separate service on the lines of CSS and promoting the Superintendent of Central Excise directly to a senior group 'A' post, time bound promotions, notional promotions, seniority benefit at the time of entry to group 'A' etc.) to the government to bring the parity in promotions amongst analogous counterparts in the various representations of it which are enclosed herewith. The copy of the written submissions made to the Hon'ble Supreme Court in the Writ Petition No. 385/10 is also enclosed herewith. The best way to bring this parity seems to adopt the mechanism of notional promotions with the creation of super-numeric posts even upto the level of the retirement with all the service benefits. Even one time or more specific relaxations may be asked from the DOPT for the purpose. If the CBEC has even better mechanism/scheme to bring parity in the promotions of group 'B' officers for the just and fair representation, the same is ever welcomed.

Last but not the least, the just and fair representation of all the group 'B' feeder cadres is only possible by giving the equal opportunity of promotions to all the group 'B' officers and this equal opportunity of promotions is possible only by bringing all the basic entry level group 'B' officers of the same relevant year at par in the matter of promotions. It is, therefore, requested that the Recruitments Rules may kindly be devised in such a manner that no basic entry level officer has to work under his junior even for a single day throughout his service career.

It is also requested that all the ad hoc promotions may kindly be reviewed and regularized in the light of new Recruitment Rules as directed by the Hon'ble Supreme Court.

It is also submitted that any additional submissions would be made by the Association at the earliest possible opportunity as per the circumstances, if required.

Thanking you,

Yours faithfully,

(RAVI MALIK),
Secretary General.

- Encls: i) Graphic representations showing the promotional avenues of Central Excise & Customs Officers (A-I).
ii) Promotional hierarchies (A-II).
iii) Copy of the written submissions made to Supreme Court (A-III).
iv) Copies of the Minutes of Board meetings dt. 12.01.11 & 18.02.11 (A-IV & V).
v) Copies of the earlier representations (A-VI).

Copy with the request for necessary action to-

- 1) The DG, HRD, CBEC, New Delhi.
- 2) The Member (P&V), CBEC, North Block, New Delhi.

- 3) The Joint Secretary (Admn), CBEC, North Block, New Delhi.
- 4) The Chairman, CBEC, North Block, New Delhi.
- 5) The Revenue Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi.
- 6) The Finance Minister, Ministry of Finance, North Block, New Delhi.

(RAVI MALIK)

Annexure-II

(i) Existing promotional hierarchy of IRS officers-

- (1) Asstt. Commissioner
- (2) Deputy Commissioner
- (3) Joint Commissioner
- (4) Addl. Commissioner
- (5) Commissioner
- (6) Chief Commissioner
- (7) Member
- (8) Chairman

Total 7 promotions & Chairmanship/Membership of any Commission/Authority etc. after retirement

(ii) Proposed promotional hierarchy of IRS officers-

- (1) Asstt. Commissioner
- (2) Deputy Commissioner
- (3) Joint Commissioner
- (4) Addl. Commissioner
- (5) Commissioner Grade II
- (6) Commissioner Grade I
- (7) Chief Commissioner
- (8) Principal Chief Commissioner
- (9) Member
- (10) Chairman

Total 9 promotions & Chairmanship/Membership of any Commission/Authority etc. after retirement

(iii) Proposed promotional hierarchy of Stenographers

- (1) Stenographer Grade Pay 2400/- in PB II

- (2) Stenographer Grade Pay 2800/- in PB II
 - (3) Stenographer Grade Pay 4200/- in PB II
 - (4) Stenographer Grade Pay 4600/- in PB II
 - (5) Stenographer Grade Pay 4800/- in PB II
 - (6) Stenographer Grade Pay 5400/- in PB II
 - (7) Stenographer Grade Pay 5400/- in PB III
 - (8) Stenographer Grade Pay 6600/- in PB III
- Total 7 promotions**

(iv) Proposed promotional hierarchy of Examiners of Customs

- (1) Examiner
- (2) Appraiser
- (3) Asstt. Commissioner
- (4) Deputy Commissioner
- (5) Joint Commissioner
- (6) Addl. Commissioner
- (7) Commissioner

Total 6 promotions with a fair chance of 7th promotion

(v) Former promotional hierarchy of Ministerial Officers

- (1) LDC
- (2) UDC
- (3) DOS
- (4) OS
- (5) AO
- (6) CAO

Total 5 promotions

(vi) Current promotional hierarchy of Ministerial Officers

- (1) LDC
- (2) TA
- (3) STA
- (4) DOS
- (5) AO
- (6) CAO

Total 5 promotions

(vii) Promotional hierarchy of Inspector of Central Excise

- (1) Inspector
- (2) Superintendent
- (3) Asstt. Commissioner (if any)

Total 1 promotion in the most of the cases

(viii) Promotional hierarchy of Inspector of Income Tax

(1) Inspector

(2) ITO

(3) Asstt. Commissioner

(4) Deputy Commissioner

(5) Joint Commissioner

(6) Addl. Commissioner

(7) Commissioner

Total 6 promotions with a fair chance of reaching even above

(ix) Promotional hierarchy of Assistant of CSS/Rajya Sabha

(1) Assistant

(2) Section Officer

(Direct promotion to Senior Group A equivalent to our 2 Promotions)

(3) Under Secretary

(4) Deputy Secretary

(5) Director

(6) Joint Secretary

Total equivalent to 6 promotions