

ALL INDIA ASSOCIATION OF CENTRAL EXCISE GAZETTED EXECUTIVE OFFICERS

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Vice Presidents: Sampat Rai, Vatan Kamble (Central); Anurag Chaudhary, Ravi Joshi (North); A. Ravinder Singh, Rajan G. George (South); A. S. Roy, Shubhrangshu Deb (East); P. D. Nimhan, S. K. Jha (West)

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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. 242/CR/13

Dt. 24.08.13

To,

Dr. Syamal Kumar Sarkar,
The Secretary, DOPT,
North Block, New Delhi.

Sub: Cadre Restructuring of CBEC.

Sir,

Kindly refer to the Ref. No. 190/CR/13 Dt. 02.07.13 of the Association alongwith other communications.

2. It is submitted with due regards that the meeting of the Cadre Review Committee, as you know, is scheduled for 27.08.13 but the doubt is being raised **whether the posts created in cadre restructuring including temporary posts created for five year may be filled by promotions.**

3. It is further submitted that the temporary posts proposed to be created for a limited period of 5 years (not for an indefinite period) are not part of the regular cadre strength of IRS (C&CE). Hence, these have to be filled-up by promotions only. Further, direct recruitment against these posts may cause an administratively inconvenient situation after five years when these temporary posts may get abolished. If all these posts are filled-up by promotion, the department will face no such administrative problem as almost all of those, who will get promoted against these temporary posts, will superannuate by the time of review of the requirement of these posts after five years. In this regard, the legal opinion given by Sh. Amarjit Singh, the former Additional Solicitor General of India & current Member of the Law Commission of India is also enclosed herewith.

4. Your kind attention is also invited to the **Article 309, Proviso, Part- Enforceability of Service Rules, Clause (a)- Appointment, Sub-Clause (3)**, produced as under:

"It is competent for the government, in its discretion, to lay down qualifications as to academic attainments, age or the like for appointment to a post or service and also to relax such Rules in particular cases, provided the Rules themselves confer such power of relaxation upon the Government to meet the exceptional circumstances in particular cases; and such Rules do not contravene any constitutional provision."

5. It is very clear from the preceding para the government has all powers & discretions to lay down or relax any rule. Based on the said provisions only, all the newly created posts were filled-up in one go (**instead of staggered manner**) only by promotions (**instead of dividing equally between direct and promotee officers**) by relaxing the rules at the time of the implementation of the last cadre restructuring.

6. Moreover, the DOPT communications issued vide D.O.No.5/26/2010-CS.II(A) Dt. 06.10.10, No. 19/1/2008-CS.I(P) Dt. 20.07.10, No. 20/51/2009-CS.II Dt. 27.01.11, No.35034/9/2010-Estt.(D) Dt. 10.02.11, OM No. 35034/9/2010-Estt. (D) Dt. 10.02.11 etc. stipulate very clearly that the cadre restructuring should be viewed to mitigate the stagnation of the stagnated employees. Thus; the purpose of cadre restructuring will be defeated, if all of the posts (permanent or temporary) are not filled-up by promotions only in one go. If all of the said newly created posts are not filled-up by promotions only in one go, only 1% of the officers joining the job as Inspector of Central Excise would be able to enter the junior group 'A' at the fag end of the career.

7. The Central Excise Superintendents are forced to retire on PB2 post without further promotion in the service career of 35-40 years while their common entry counterparts are getting 5/6 promotions

attaining easily the PB4 levels. Even ACPS/MACPS is unable to undo this injustice. Not only it, the most of group 'B' gazetted officers are promoted to a STS post while Central Excise Superintendents are promoted (if any) merely to a JTS post (**the promotion of Central Excise Superintendents to a STS post was also recommended to 6th CPC by the CBEC but the same is now being back tracked**). The Central Excise Superintendents are also forced to work under their extreme juniors of Customs belonging to same cadre.

8. It is also worth to submit that the IRS officers of CBEC were granted parity with their common entry counterparts of CBDT in last cadre restructuring and they are going to get parity with other better placed common entry group 'A' counterparts in the ongoing one. But despite of the repeated requests, no parity with common entry counterparts like CBDT, CSS etc. has been considered for Central Excise Superintendents/Inspectors which is very well possible by adopting the measures like-

a) time bound promotions/scales (**time scales after every 5 years were also recommended by CBEC to 6th CPC but the same is now being back tracked**),

b) notional promotions,

c) creation of supernumerary posts,

d) creation of separate service (**it was also recommended by CBEC to 6th CPC but now it is also being back tracked**),

e) direct promotion to higher post/s (**Customs Ministerial officers are being promoted to the post of Customs Appraiser without working for a single day on the post of Customs Examiner**),

f) upgradation of posts,

g) in-situ promotions (**requiring no creation of posts**) and/or

h) any other specific measure/s including batch to **batch non-functional upgradation** (on the lines of DOPT OM No. AB.14017/64/2008-Estt.(RR) dt. 24.04.09 granting NFU to other group 'A' officers at par with IAS) and

i) re-framing the recruitment rules without trifurcating a single cadre of Inspector/Superintendent prescribing the qualifying service in consonance of the DOPT OM No. AB-14017/61/2008-Estt.(RR) dt. 24.03.09 which stipulates the promotion of the grade of Inspector to the grade of Joint Commissioner, Additional Commissioner & Commissioner after completion of 12, 17 & 20 years of service respectively. The validity of this OM was also admitted by CBEC during the presentation of cadre restructuring proposal on 18.01.11 but they showed their inability to implement it due to the want of the required number of vacancies/posts. Therefore, the required number of posts may kindly be created to implement the OM or the officers may even be granted in-situ promotions **requiring no creation of posts** independent of cadre restructuring.

9. In view of above, it is requested that-

i) **No cut may kindly be made to any post** (temporary or permanent).

ii) All the posts may kindly be filled **only by promotions like the last cadre restructuring**. Otherwise, the extraordinarily acute stagnation of Central Excise Superintendents will increase instead of decrease and, thus, the sole purpose of cadre restructuring will be defeated.

iii) All the posts/vacancies (newly created and cascaded downwards on account of promotions on higher posts) may kindly be filled-up **in one go like the last cadre restructuring**.

iv) **Specific measures** may also kindly be devised independent of cadre restructuring for acutely stagnated Central Excise Superintendents/Inspectors to grant them parity with their common entry counterparts of CBDT, CSS etc. enabling them also to attain PB4 levels and

v) **No direct recruitment** may also kindly be made to IRS at least for next 5 years after the implementation of cadre restructuring particularly keeping in view the extraordinarily acute stagnation of Central Excise Superintendents/Inspectors. It was also assured by the CBEC during the presentation made on cadre restructuring on 18.01.11 that no direct recruitment would be made to IRS for more than 1 years. Moreover, it will also help to intact the stature of the IRS.

Thanking you,

Yours faithfully,

Encl: Legal opinion by Sr. Adv. Amarjit Singh (6 pages)

(RAVI MALIK),
Secretary General.

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(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. 255/CR/13

Dt. 06.09.13

To,

Sh. Ajit Kumar Seth,
The Cabinet Secretary, Govt. of India,
Cabinet Secretariat, New Delhi.

Sub: Cadre Restructuring of CBEC.

Sir,

AGAIN THANKS A LOT TO CLEAR THE CADRE RESTRUCTURING OF CBEC.

2. It is also requested with due regards, particularly keeping in view the extraordinarily acute stagnation of Central Excise Superintendents/Inspectors, that-

i) **Specific measures to grant parity with the common entry counterparts** of CSS etc. may kindly be devised independent of cadre restructuring for the officers recruited, whether promotee or direct, as Inspector of Central Excise enabling them also to attain PB4 levels.

ii) The immediate steps may kindly be taken to convert the **temporary posts to permanent/regular**,

iii) All the posts, whether temporary or permanent/regular, may kindly be filled-up **only by promotions like the last cadre restructuring**.

iv) All the posts/vacancies (newly created and cascaded downwards on account of promotions on higher posts) may kindly be filled-up **in one go like the last cadre restructuring**.

v) All the posts at STS (Deputy Commissioner) level may kindly be initially **operated at JTS level (Asst. Commissioner)** in terms of the provisions of GFR 254 or be converted to JTS level keeping in view that all the officers at JTS level are to be automatically promoted to STS after 4 years of service.

vi) **No direct recruitment** may also kindly be made to IRS at least for next 5 years after the implementation of cadre restructuring.

Thanking you,

Yours faithfully,

(RAVI MALIK),
Secretary General.

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Ref. No. 261/CR/13

Dt. 10.09.13

To,

Dr. Syamal Kumar Sarkar,
The Secretary, DOPT,
North Block, New Delhi.

Sub: Cadre Restructuring of CBEC.

Sir,

AGAIN THANKS A LOT TO CLEAR THE CADRE RESTRUCTURING OF CBEC.

2. It is also requested with due regards, particularly keeping in view the extraordinarily acute stagnation of Central Excise Superintendents/Inspectors, that-

i) **Specific measures to grant parity with the common entry counterparts** of CSS etc. may kindly be devised independent of cadre restructuring for the officers recruited, whether promotee or direct, as Inspector of Central Excise enabling them also to attain PB4 levels.

ii) The immediate steps may kindly be taken to convert the **temporary posts to permanent/regular**,

iii) All the posts, whether temporary or permanent/regular, may kindly be filled-up **only by promotions like the last cadre restructuring**.

iv) All the posts/vacancies (newly created and cascaded downwards on account of promotions on higher posts) may kindly be filled-up **in one go like the last cadre restructuring**.

v) All the posts at STS (Deputy Commissioner) level may kindly be initially **operated at JTS level (Asst. Commissioner)** in terms of the provisions of GFR 254 or be converted to JTS level keeping in view that all the officers at JTS level are to be automatically promoted to STS after 4 years of service.

vi) **No direct recruitment** may also kindly be made to IRS at least for next 5 years after the implementation of cadre restructuring.

Thanking you,

Yours faithfully,

(RAVI MALIK),
Secretary General.