

**Sub: Review DPC's by Mumbai Zone for promotion to the post of Superintendent and assigning higher seniority starting 15 years back on the basis of unauthentic pre-CR (as on 01.01.99) strength in response to letter F. No. A-32022/26/2007-Ad.IIIA Dt. 03.04.14.**

The Review DPC's have been conducted in the Mumbai Zone for promotion to the post of Superintendent based on the subject-mentioned letter of Ad.IIIA section of CBEC. The CBEC has informed to Mumbai Zone vide this letter that their pre-CR sanctioned strength of the Superintendents was 1040 as on 01.01.99. Based on this communication, the review DPC's have been conducted in Mumbai on 05.08.14 and higher seniority has been assigned to 649 officers vide Order No. 211/2014, 212/2014, 213/2014, 214/2014, 215/2014 and 216/2014. The above letter has been written to the Mumbai Zone by Ad.IIIA section of CBEC in r/o some Court Case relating to the promotion to the post of Inspector. **No issue of promotion to the post of Superintendent is involved in this Court Case.**

2. If the said officers are reassigned higher seniority in the all India seniority list of the Central Excise Superintendents, it will go against the interest of the Superintendents of other zones already being figured in the all India seniority list because their positions in the seniority list will be lowered. As per law of justice, the seniority of no officer can be lowered without the issuance of the due show cause notice to him/her.

3. Further, the pre-CR strength (as on 01.01.99) as communicated by section Ad.IIIA to Mumbai is not only mismatched but also not reliable being not based on authentic sanction order of the Ministry issued by the competent authority. Therefore, any Review DPC conducted by treating the above sanctioned strength as genuine would be illegal unless the strength is verified from the relevant sanction orders of the Ministry.

4. In view of the above, any demand for reassignment of seniority of Superintendents of Central Excise in all India seniority list based on Review DPC's conducted by Mumbai Zone taking into account that the above pre-CR strength has been communicated by section Ad.IIIA in the absence of relevant sanction letter of the Ministry is illegal. Even if the posts were actually lying vacant (though impossible), the reasons for under reported vacancies/strength to DPC's for 1999 onward with documentary evidence may also be required as the posts lying vacant for over one year are deemed to be abolished as per GOI, MF OM No. 7(7) E.(Co-ord)/93 dated 3.05.93 read with GOI, MF OM No. 2(1)/E.Co-ord.I/2003 dated 9.09.03.