

**Proceedings of the Principal Secretary/Commissioner of Commercial Taxes, Ezhilagam,
Chepauk, Chennai.600 005.
Present: T. Jacob, I.A.S.,**

Proc.No.P1 / 58439 / 2007

Dated 01.12.2008

Sub.: Public Services – Commercial Taxes Department – Inter-se seniority lists of ACTOs for the years from 1968 to 2006 – Drawn – Communicated.

- Ref.:**
1. Orders of the Hon'ble Supreme Court of India dated 10.02.1999 in CA No.1454 of 1987.
 2. Orders of the Hon'ble High Court of Madras dated 10.01.2005 in WP No.26121 of 2004.
 3. CCT Proc.No.P1/59797/2004, dated 16.09.2005 and 23.09.2005.
 4. Orders of the Hon'ble High Court of Madras dated 22.11.2006 in WP No.7540 of 2006.
 5. Interim orders of the Hon'ble Supreme Court of India dated 20.10.2008 in Contempt Petition No. 263 of 2007 in CA No. 1454 of 1987.

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In its orders first cited, the Hon'ble Supreme Court of India had confirmed four principles evolved by the Hon'ble High Court of Madras in its orders dated 19.06.1986 in WP No.12786 of 1985 with regard to fixation of inter-se seniority between transferees and direct recruits in the category of Assistant Commercial Tax Officer (ACTO). Based on these orders, a consolidated inter-se seniority list of ACTOs for the years from 1972 to 1981 was drawn in SC & CCT Proc.No.P1/16546/1999, dated 21.07.1999 which was set aside by the erstwhile Tamil Nadu Administrative Tribunal vide its orders dated 07.06.2000 in OA Nos.5745 of 1999 and related cases filed by both transferees and direct recruits. A fresh consolidated list was then drawn in PC & CCT Proc.No.P1/49719/2000, dated 04.07.2000 and these orders were challenged by some direct recruit ACTOs in OA No.7243 of 2000 before the Tamil Nadu Administrative Tribunal, which had now been renumbered and transferred to the Hon'ble High Court of Madras as WP No.2571 of 2007 consequent on the abolition of the TNAT. A contempt petition was filed by some of the direct recruit ACTOs before the Hon'ble Supreme Court in CP No.263 of 2007 in CA No.1454 of 1987. In the contempt petition, the petitioners prayed to release the Inter-Se-Seniority list from 1982 onwards only. The earlier seniority list were pending before the Hon'ble High Court. Based on the acceptance before the Hon'ble Supreme Court on the last date of hearing of the contempt petition i.e.20.10.08, the petitioners have withdrawn this WP to enable the department to publish the inter-se seniority lists as taking in to consideration of the year involved in the above said list i.e. 1971 -1980.

2. During the course of hearing of this case on 20.10.08, the Hon'ble Supreme Court was pleased to pass the interim orders directing the department to publish afresh Inter se seniority list.

3. In the circumstances, in supersession of the lists drawn for the years from 1968 to 2006 earlier, the Inter se seniority list of ACTOs for the years from 1968 to 2006 are now drawn afresh by following the four principles affirmed by the Hon'ble Supreme Court in CA No.1454 of 1987 and in consonance with the relevant provisions of the General Rules for the Tamil Nadu State and Subordinate Services and the Special Rules for the Tamil Nadu Commercial Taxes Subordinate Service.

4. Upto the year 1980, the seniority lists of ACTOs were prepared separately for the four composite divisions of Chennai, Coimbatore, Trichy and Madurai. In terms of G.O. Ms.No.679, CT & RE Department, dated 29.07.1980, one unit system for the State as a whole

was adopted from 01.08.1980 for the purpose of fixing seniority in the cadres of ACTO and DCTO and necessary amendments to the Special Rules for the TN CT Subordinate Services were also made in G.O.Ms.No.501, CT & RE Department, dated 11.06.1985, with effect from 01.03.1982. In pursuance of the two said Government orders, a combined ad-hoc seniority list for ACTOs and DCTOs who have acted before 01.08.1980 in all the four composite divisions was drawn by the then CCT on 17.09.1985 and 30/31.10.1985 respectively. The inter-se seniority list of ACTOs and the consequential DCTO select lists were challenged by certain direct recruit ACTOs (S. Sundararaj and others) in WP No. 12786 of 1985. While allowing the said writ petition on 19.06.1986, the Hon'ble High Court of Madras framed four principles, which were confirmed by the Hon'ble Supreme Court in CA No.1454 of 1987 filed by the State. In its orders dated 10.02.1999 in the said CA NO.1454 of 1987, the Hon'ble Supreme Court confirmed all the four principles. The four principles framed by the Hon'ble High Court are:-

- (1) Each year should be taken as a unit for fixing the inter-se seniority.
- (2) Persons not actually appointed in the year 1966 should not be included in 1966 year's list and that seniority should be determined with reference to the date of their joining as JCTO.
- (3) The date on which an officer commences probation is the proper criterion for fixing the inter-se seniority.
- (4) If there are vacancies out of the required reservation of 40% in the permanent cadre of Assistant Commercial Tax Officers for direct recruits, any appointment made either by transfer or by promotion cannot be utilised to fill up those vacancies. Such appointments being of a temporary character, whenever direct recruits are appointed through Public Service Commission, they being holders of permanent posts by direct recruitment, they have a right to be appointed to whatever posts that are taken out of the 40% posts reserved for direct recruitment.

5. The inter-se seniority list has been prepared in consonance with the above four principles. Each year has been taken as a separate unit and substantive vacancies in permanent posts for that year alone have been considered for confirmation of transferees and direct recruits within their respective quota prescribed in the special rule 2.

6. The provisions of special rules 2 and 3 and general rules 35 (a) and (aa) have been followed in placing the direct recruits and transferees within their respective quota and in fixing their inter-se seniority each year in the permanent post vacancies.

7. In the years where the number of direct recruits appointed has exceeded their quota in the permanent post vacancies available for that year, the excess direct recruits have been placed in the subsequent years' lists within their quota.

8. The names of ACTOs who have not been considered for permanent vacancies are shown separately with year of appointment.

9. Any errors/omissions, if any, may be brought to the notice of the undersigned authority within 15 days from the date of publication of this list with details since this list is provisional.

Sd/- T. Jacob
Principal Secretary/Commissioner of Commercial
Taxes

To
All the individuals concerned
Through All the Joint Commissioners including Enforcement.

Copy to the Secretary to Government, Comml. Taxes and Regn. Dept., Chennai.9
Copy to all the Joint Commissioners including Enforcement.
Copy to Notice Board in O/o Commissioner of Commercial Taxes.

/Forwarded By Order/

JOINT COMMISSIONER (ADMINISTRATION)