



JOINT COUNCIL OF ACTION
INCOME TAX EMPLOYEES FEDERATION
&
INCOME TAX GAZETTED OFFICERS' ASSOCIATION
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No.JCA/2018-19

Dated, 6th December, 2018

To
The Chairman,
Central Board of Direct Taxes,
North Block, New Delhi.

Respected Sir,

Sub:-Revival of agitation by JCA – settlement of long pending issues- Reg.

Ref: Letter from F.No. HRD/CM/221/1/2018-19/5113 dated 03.12.2018.

At the outset we would like to extend our sincere thanks for responding so promptly to our letter dated 22.11.2018, communicating our decision of the revival of the agitation programme under certain circumstances. Moreover this is probably for the first time in years, when the Board communicates the current status of most of the pending issues to the JCA through the letter under reference.

Initially we have been excited considering the move as a welcome departure from the vicious cycle of meeting-direction-no action-meeting, which has of late become the norm. Unfortunately our excitement has soon turned into disappointment on perusal of the letter. The reason is quite obvious. But we still feel that it is our duty to explain the things issue wise as under:

3. i) Finalisation of Duty List of all Group C officials as per the Cadre Restructuring 2013: It is stated in the HRD letter that the issue has been forwarded to the DoMS on 30.07.2018 and accordingly the issue is considered as settled. The first letter for finalisation of duty list along with our proposal was submitted on 28th July, 2016 and reminders were sent in every two to three months. There is no such requirement of approval/consultation for finalisation of this issue. But unfortunately even after two years and four months, duty lists are yet to be notified. If this is called “pro-active” approach, how can one then describe inactiveness?

ii) Withdrawal of Order of diversion of 1633 posts from West Bengal & Sikkim Charge: The HRD letter states that *there is no order of diversion of posts from West Bengal & Sikkim region.* But the fact is that the Board has so far temporarily stayed the operation of its ‘phasing out order of 1633 posts vide Annexure N of Scheme for distribution of posts’ dated 04.04.2014 by issuing an order (HRD/CM/102/28/2013-14/5405, dated 23.03.2015). The two instances mentioned in the letter are nothing but mere relaxation of the ban imposed on the promotion to the posts earmarked for

phasing out, that too after critically examining the acute stagnation of the region. But the permanent solution remains elusive. Moreover in the meantime, 3 posts for TPRU (vide an order dated 02.09.2016), 18 posts for ITAT, Surat Bench (vide an order dated 04.10.2018) and 24 posts for Vigilance Directorate (proposed vide the HRD letter dated 23.10.2018) have been diverted or proposed to be diverted, violating Board's own order of maintaining status quo. As the facts stated above reveal, the claim made in the letter is far away from "justified". The board should come clean on this issue by passing an unequivocal order withdrawing the phasing out proposal.

iii) Withdrawal of the letter dated 13th May 2013 as per the judgement of Pr.CAT, New Delhi regarding stoppage of payment of Casual workers and issuance of direction to all Pr.CCIT for payment of Casual Workers directly from the Wages fund:

We are very much thankful to the CBDT for withdrawal of Para 5 of Instruction dated 13th May 2013 of CIT(V & L), CBDT. But at the same time, it is to mention here that in ***the case of Udayanand Thakur in OA No.2012/2013 in CAT, PB, Delhi***, pronounced on 22.04.2014, the Principal Bench, CAT directed in Para 12 clearly as *"Therefore, the general statement of CIT (Vigilance), CBDT that the CCITs/DGITs have violated any of the aforesaid Office Memoranda in the case of Applicants are not factually correct and it has been made without any application of mind. Further, it is seen, as observed earlier, that the Applicants have been working with the Respondents for fairly long time. Suddenly issuing a direction to CCITs/DGITs that they should ensure that none of the DDOs working in this region make any payments to the directly deployed casual workers in contravention of the Government/doPT's orders and the judgement of the Supreme Court and bringing the Applicants in this OA under the said direction is nothing but arbitrary and illegal. We, therefore, quash and set aside the aforesaid impugned letters dated 09/13.05.2013 and 22/05/2013. We also make the stay granted against the operation of the aforesaid orders given on 11.06.2013 absolute. Further, we direct the Respondents to continue to disburse payments/remuneration/wage/payments to the Applicants against their employment as per the standard terms and conditions prevalent and being followed at present."*

As per the above mentioned judgement of CAT, Principal Bench, New Delhi, the CBDT issued an instruction to all Pr.CCsIT/DGsIT **on 16th October, 2015**. In the **Para 3.3 under the heading "Litigation on the issue of the CBDT's letters dated 04.07.2011 & 9/13.05.2013"**, it was stated clearly that ***"In the aforesaid letters there was a direction to CCsIT and DGsIT that they should ensure that none of the DDOs make any payment to the directly deployed casual workers. The said letters were challenged in number of cases all over the country. These letters were quashed and set aside by Hon'ble CAT in several cases including the case of Udayanand Thakur in OA No.2012/2013 in CAT, PB, Delhi. It is felt the wages have to be paid for service of the casual labour availed. Therefore, no further appeal may be filed on this issue."***

In our view, the Board clearly misinterpreted and wrongly implemented the judgement of the Court by not withdrawing the above said letter violating the direction of the CAT, Pr.Bench in the above mentioned case. However, the CBDT accepted the judgement, which had quashed the said letter dated 09/13.05.2013 by not taking any

further action or filing further appeal. Unfortunately neither the letter was withdrawn nor was any direction sent to the Pr. CCsIT for regular payment under wages fund as demanded by the JCA. **After three long years**, mere withdrawal of para 5 of the said letter dated 13th May 2013 of CIT (Vigilance), CBDT is not only violation of the direction of the Hon'ble CAT, it is simply delaying the settlement of the issue as demanded as per the judgement.

iv) To enhance the pay of Casual Workers as per 7th CPC recommendation and to enhance the pay as per 6th CPC recommendation from 1st January, 2006 instead of 1st July 2008 : Taking **more than 8 months just to endorse** the DoPT OM dated 19.02.2018 regarding payment of as per recommendation of Central Pay Commission, cannot be termed as 'proactive' when there was absolutely no involvement of any other Department.

v) Implementation of 6th CPC for payments to such daily wage/Casual Labourers to whom Temporary Status have not been granted: Citing the orders dated 22.01.2015 and 31.03.2017 issued by the Department of Posts regarding payment of wages to Casual workers (without temporary status) engaged on contingency basis, we demanded in our first letter dated 19.10.2016 (a several reminders were also submitted) for issuance of similar order for the benefit of a large number of casual workers (without temporary status), similarly placed in our Department since long. We have been requesting/persuading over a long period of time for sending this file to the DoPT for approval, as done in the case of the Department of Posts. It is most unfortunate that the concerned authority can only manage to send this file very recently, wasting the time so precious for those meagrely earning people.

vi) Implementation of the recommendation of the 7th CPC – Dress Allowance: The Deptt. of Expenditure issued the OM on 02.08.2017 for implementation of the recommendations of the 7th CPC on dress allowance and the concerned authority endorsed it on 01.11.2017 describing the OM issued by the DoPT in the place of DoE. This vital mistake has misled all the regions, which, in turn, have stalled its implementation. We demanded in our letter dated 27.09.2018 for inclusion of the Notice Server in the list of recipients along with the other categories of staff, who were supplied uniforms as per the order of the CBDT dated 07.06.1975 (annexed with our letter). Though two months have passed, the requisite modification and inclusion are still pending, definitely for any "justifiable" reason. As per our information, the concerned authority of HRD has sent a letter to the US-IX, CBDT for verification/confirmation of the said letter issued by the CBDT.

4. There are several other most important long pending issues raised by the JCA in many occasions/meetings. The Central JCA was finally compelled to tread the path of agitation from June 2018 demanding early settlement of the long pending issues. After the meeting with your goodself on 26th June, 2018 and firm assurance given and the commitment made by the then Member, (Admin) on 30th July, 2018, which were later endorsed by your goodself on 31.07.2018 in the presence of the then Member (Admin) and Member (A & J). The Central JCA thereafter decided to suspend the agitation programme till 18th of November, 2018. But most unfortunately despite the firm assurance and commitment of the highest authority of CBDT, these issues haven't been

resolved, though the involvement of any other Departments in any of those issues has not at all been required.

As the HRD letter has tried to display those issues as either resolved or close to settlement, we think it prudent to discuss those issues in the order those appear in that letter.

i) Constitution of the Cadre Review Committee: The JCA in the meeting with your goodself on 26.06.2018 had raised the issue of stagnation in the cadre of ITO and the need for immediate constitution of Cadre Review Committee. The said demand was accepted by yourself and necessary direction was issued to the HRD. The proceeding of the said meeting was minuted and the minutes was also circulated accordingly. The JCA again submitted a letter dated 09.07.2018 for constitution of cadre review committee, which is fallen due as per the DoPT OM dated 25.05.2018, wherein Cadre Review proposal has been asked to submit by November, 2018. But before the call of agitation, we met with the Member (Admn.) almost twice in a week and he assured us every time of constitution of the committee within a few days (sometime the following day fixed as deadline). **But till now no order has been issued regarding constitution of the committee as well as terms of reference.** It is to mention here that in the CBIC, the order has already been issued for constitution of the committee and terms of reference have also been finalized. Even three meetings have already been held. The interesting thing is that their proposal is required to submit by December, 2018.

There is no scope for denial that the IRS community is very much reluctant or rather scared of the next cadre review. The reason is also well known. The reverse pyramidal structure in IRS, which had been formed after 2013 CRC, defied all norms laid down in CRC Cadre Review Monograph issued by DoPT; so much so that the 7th CPC took a note of the same and recommended for its review. There is no prize to guess the fate of any honest review. But on the other hand 97% of the work force in the Department is eagerly looking forward to it to resolve the problem of acute stagnation at ITO level and ITI feeder cadres as well as filling up of the vacancies. Apprehension of 3% of the workforce shall not prevail over the genuine career aspiration and concern of 97%. You will appreciate that “in process” is a common evasive phrase without a definite time limit and sounds as a cruel joke to the ears of the hundreds in the Department, waiting for their second promotion after more than twenty years of service.

ii) RRs of EA and ITI may be put on hold till the next Cadre Review as per discussion held with the then Member(Admin) with the JCA on 31.07.2018 : A final proposal was submitted by the JCA on 4th April, 2018 regarding finalisation of pending Recruitment Rules. At first, the Department agreed with our proposal and submitted it before the DoPT. The DoPT as usual returned both the files with same objections, which had made few years ago. After launching of our agitation programme in the month of June this year, we firmly opined that the RRs should be required to put on hold till the next cadre review due to huge change in the scenario of Departmental functioning. But without any discussion with us further, the files were sent to the DoPT again after some modification/changes, which were totally against the career progression of our members. As our agitation was launched, the files were called back immediately and in our presence, the then Member (Admin) directed the concerned

authority of HRD for putting those on hold and to send those only after proper negotiation/discussion with the JCA. But till now there has been no such discussion held on this issue. In the letter dated 03.12.2018 of the HRD, it has stated that the matter of framing of RRs of EA & ITI is under consideration, though our categorical demand is to put it on hold till the next cadre review. Naturally nothing less than a written assurance/communication in this issue will be considered as a “justified” step in the right direction.

iii) Relaxation for Promotion to the posts of TA/Sr.TA/Steno Gr.II(erstwhile) in existing RRs due to huge vacancies in promotion quota and change of crucial date of eligibility from 1st April to 1st January as per DoPT order: In our opinion, the views conveyed in the said letter of HRD are totally confusing. We put it bluntly that it is nothing but a dilly-dallying tactics of the Member (Admin), CBDT, who is not in favour of this proposal since his assumption of the Charge. During our agitation, the then Member (Admin) promised us and instantly directed to the ADG (HRD-2) on 30.07.2018 to send the file with positive notes. As we learnt that after collecting all data from the regions including the number of eligible officials going to be benefited from the grant of such relaxation, the file was sent to the Member (Admin) from the HRD within a few days. Since the second week of August, the file has been pending with the Member (Admin). On every week we have routinely met once or twice, discussed and requested the Member (Admin) for sending the file to your goodself, as you are totally in favour of relaxation and have always assured us to try your level best to get it approved from the Revenue Secretary. In every occasion, the Member (Admin) has assured to send the file within a few days (sometime even promised to send on that very day). As per our information, the file has been ultimately sent in the last week to the Revenue Secretary for approval. But the same has been sent back with the comment to put up before his successor. We are not in a position to accept any further delay in processing and approval. As per our understanding, it is an obligation of the present Member (Admin) to honour the assurances given by his predecessor.

iv) Regularization: It is learnt that the proposal for 2014-15 regularization has finally reached the Board for necessary approval and onward submission to the UPSC. We clearly fail to appreciate as to why so much delay has been taken place. The proposal of the same batch was earlier sent to UPSC on 30.09.2016. So other than the routine vigilance clearance and routine approval, everything should have been in a submission ready position. But to our complete dismay, it has been observed that after sitting tight over two and half years (ad-hoc promotion in their case taken place in April, 2016), the HRD has suddenly come out with a long list of deficient APARs. Even the routine vigilance clearance or APAR grading has taken record time for completion. We are not sure what more is lying ahead for those hapless officers. But we have learnt a new meaning of “proactive” from the same directorate, which has issued the letter under reference.

It is obvious that if the regularisation of this batch is not taken on priority basis, their further career progression to STS from 01.01.2019 are going to be affected adversely. The communication to the JCA, instead of giving any idea on definite progress in this issue, merely commented that the matter is under active consideration.

The same is the story for the left over officers of 2013 batch and earlier years. We are thankful to the Board for granting STS to most of the officers of 2013 batch and earlier on time i.e. on 01.04.2018. But even after the lapse of 9(nine) months, STS was not granted to left out officers numbering around 30 on the ground of non-availability of APARs. We failed to understand that if the issue is under *active consideration* than why there has been such a long delay.

v) Grant of pay parity of Inspector & ITO with the IB/CBI and upgradation of pay of TA to Rs.2800 as per CSS/Organised Accounts Service through Departmental Anomaly Committee: We are very much thankful to the concerned authority for submitting the proposal to the Anomaly Committee. But OM of the CBDT issued to clarify the queries raised by the Addl. Secretary (Revenue) and the Chairman, Departmental Anomaly Committee, created certain confusions due to the same Grade Pay for both the grades (Rs. 5400 in pre-revised scale for both ITO & ACIT) though in different Pay Band (PB-2 for ITO and PB-3 for ACIT respectively). In this regard, this to submit humbly that the same situation had earlier been arisen after 5th CPC. The pay parity of ITI with CBI Inspector & ACIO-I of IB had thereafter been restored and following the upgradation of the pay of ITI, the pay scale of ITO had also been upgraded by the competent authority after examining all the aspects in detail (copy of the minutes of the Department of Expenditure and orders are already submitted). There has been no change in the situation since then. It is therefore requested to send further specific proposal for upgradation of pay of ITO to the Level-9 (from the beginning, not after regular service of 4 years) and pursue the matter with Anomaly committee as well as Department of Expenditure in real proactive manner for approval.

vi) Temporary reallocation of posts of Inspectors to the charges where stagnation is acute in the cadre of Inspector : As per the decision taken in the meeting with your goodself in the presence of the Member (Admin) on 26.06.2018, a committee was constituted under the Chairmanship of Pr.DGIT, HRD. It is really a matter of shame for our Department that till date no meeting has been convened due to non-availability of information. It is learnt that after the vigorous persuasion by the concerned authority in HRD, only a very few regions have sent report in this regard. As per our experience, in some earlier occasions, the same authority collected reports/information on other issues from the regions across the country by return fax or within a very short period after the explicit direction of the higher authority. It clearly shows that the Authority doesn't want to resolve the long pending issues within a specific time frame. It is a classic example of how the things can be delayed even in an issue, where no other Department is involved.

vii) Removal of Stagnation in the grade of ITO & commensurate posts in the cadre of AO/PS: We are not sure how far it is "desirable or justifiable" to **completely ignore the most talked about issue of stagnation in the ITO cadre** in the response letter of the HRD. Regarding AO & PS cadres, we are tired of such clichéd reply. It is high time to consider some other facts regarding the last Cadre restructuring. After the complete curtailment of proposed Apex scale post and heavy curtailment in HAG+ posts recommended by the Committee of Secretaries (CoS) in its meeting dated 19.02.2013, a

Group of Ministers (GoM) overturned the decision of CoS in its meeting dated 29.04.2013 and restored the original proposal. One needn't to be a rocket scientist to guess the quantum of efforts, persuasion and pressure required to form a GoM just to overturn the recommendation of the committee headed by the topmost bureaucrat of the land. Moreover, constitution of the GoM for Cadre review has been done only on that occasion in the history of cadre review of Indian Bureaucracy. We really feel ourselves let down when the same Department shows the clichéd reason of rejection by DoPT or DoE. By the same yardstick, the Department should have given up after the rejection by the CoS and not to put efforts to do the unthinkable (i.e. overturn the decision of the topmost bureaucrat of the land). We are not sure how far such partisan attitude is desirable and justifiable.

viii) Regularisation of Casual Workers who are covered under Uma Devi Judgement : There are two connected issues. Other than the issue discussed in the HRD letter, another issue is regularisation of Casual workers who are not covered under Uma Devi judgement as per the orders of different Courts. Their cases are also required to be looked into seriously.

ix) Merging of Staff Car Drivers with the Tax Assistant, with relaxation or to restructure the cadres to reduce huge stagnation and direction may be given to all Pr.CCsIT for recruitment of SCD(OG) as per new RR: A letter was submitted on 01.08.2018 by the JCA, which contained the alternate proposal. Since then we have heard nothing about it. Other two issues on Staff Car Driver may also require to be addressed.

From the discussion above, it is amply clear that the reality is far away from the tall claims made in the HRD letter, which says as follows: ***“the Department is pro-actively involved in finalizing all the all the issues raised by the JCA. Several issues flagged by JCA have already been resolved as mentioned above and the remaining issues are likely to be finalized at the earliest.”***

We have consistently informed you that the progress on many pending issues are not being reported properly to your goodself by the authorities below or the attached Directorates. The delays categorically pointed out above speak for the efforts actually put in by the concerned authorities. We invite you to personally examine the facts discussed above to appreciate the real status. However, the best irony is the last line of the letter issued by the HRD judging others' actions being completely oblivious of own performance, which says that ***“..in above circumstances any call of non-participation in survey etc. is neither desirable nor justified”***.

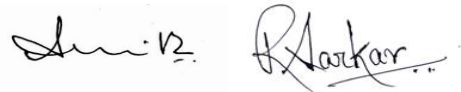
We never have any intention to unnecessarily organise any agitation programme. The JCA has always tried to maintain very cordial relationship with all your predecessors in office as well as you and also at all levels of the administration. You may appreciate the fact that only due to the active and willing co-operation of the employees and officers; the Department has successfully implemented several Government projects like IDS, PMGKY, operation Black Money and fulfilment of

ambitious Budget Target etc. **After successful implementation of so many projects and most significant contribution to the Government coffer, it is also not *justified and desirable* that the long pending issues of members of JCA are not at all redressed in time.**

Naturally, we are not in a position to even give any thought to the appeal or advice conveyed through that letter. Though, the extended Secretariat meeting of ITEF will be held on 8th December, 2018 at Chennai to discuss about this progress. Afterwards, the Central JCA will meet on 2nd week of December, 2018 to review the position and will decide further course of action.

Thanking You,

Yours sincerely,



(Amitava Dey) (Rupak Sarkar)
Joint Convenors

Copy for information and necessary action to:

- (I) The Member (Admin), CBDT, New Delhi
- (II) The Pr.DGIT, HRD, CBDT, New Delhi