



\$~8

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 20.12.2025

+ W.P.(C) 12183/2022

ASHISH KUMAR THAKUR & ORS.Petitioners

Through: Mr. K.B.S. Rajan, Sr. Adv. with
Mr. Sudarshan Rajan, Mr.
Nischay Chaudhary, Mr.
Upmanyu Chikara and Mr.
Akshansh, Advs.

versus

UNION OF INDIA & ORS.Respondents

Through: Mr. Neeraj, SPC and Mr. Sahaj
Garg with Mr. Manoj, Income
Tax Officer

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed, challenging the Order dated 03.01.2020 passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as the 'Tribunal') in O.A. No. 2030/2014, titled *Ashish Kumar Thakur and Ors. v. UOI through its Secretary and Ors.*, whereby the O.A. filed by the petitioners herein was dismissed.

2. The limited issue that arises for consideration before this Court is whether the 1494 additional reserved posts at the level of Income Tax Officer, created pursuant to the approval of the Cabinet in a meeting held on 23.05.2013, would be said to arise in the vacancy year 2013-14 or in the vacancy year 2014-15.



3. To answer the above issue, the petitioners state the following dates as being relevant:

<i>Stage of Restructure</i>	<i>Date</i>
<i>Proposal by the CBDT/Ministry of Finance for restructuring submitted to Cabinet Sectt.</i>	<i>Not known to petitioners</i>
<i>CCS deliberates on the issue and approves creation of posts.</i>	<i>25.05.2013</i>
<i>Communication of the approval to CBDT</i>	<i>31.05.2013</i>
<i>Provisional Allocation by CBDT to Regions</i>	<i>31.03.2014</i>
<i>Final Allocation by CBDT to Regions</i>	<i>04.04.2014</i>
<i>Budget allocation</i>	<i>10.07.2014</i>
<i>Gazette Notification</i>	<i>22.10.2014</i>
<i>Notification by Delhi Region</i>	<i>15.11.2014</i>
<i>Operative Date as per gazette & Delhi Region</i>	<i>15.11.2014</i>

4. The learned senior counsel appearing for the petitioners submits that the learned Tribunal has erred in, solely on the basis of the Cabinet's approval of the Cadre Restructuring Scheme in the meeting held on 23.05.2013, holding that the vacancies would arise in the financial year 2013-14. He submits that the final notification in respect of the said vacancies took place only on 22.10.2014, *vide* Notification No. 51/2014/F. No. 187/35/2014(ITA.I), and was prescribed to be with effect from 15.11.2014.

5. He places reliance on the judgment of the Supreme Court in ***Union of India and Anr. v. K.P.S. Raghuvanshi and Ors.***, (2017) 8 SCC 334, to contend that it is only with the final notification that the vacancies would arise and as the same had taken place in the year 2014-15, the vacancies would arise only in 2014-15.

6. On the other hand, the learned counsel for the respondents, drawing our reference to a communication bearing No. F.No.A-11013/1/2013-Ad.VII dated 31.05.2013, addressed by the Central Board of Direct Taxes ('CBDT') to all the Chief Commissionerate of Income



Tax, submits that the additional posts at different levels, including that of Income Tax Officer, stood created with effect from 23.05.2013. He submits that thereafter it was only an administrative process of allocating these posts to different Commissionerates and that the same would not affect the date of the creation of the posts. He submits that therefore, the posts in question were created in the year 2013-14.

7. He further submits that Commissionerate across the country have considered the creation of the posts having taken place in 2013-14.

8. We have considered the submissions made by the learned counsels for the parties.

9. The communication dated 31.05.2013 referred by the learned counsel for the respondents so far is relevant to the present petition reads, as under:

“2. All the additional posts at different levels as per Annex A stand created with effect from 23rd May, 2013 (the date of the Cabinet Meeting), These posts shall be filled up in accordance with the Cabinet approval in the following manner:-

i. The 166 additional regular posts and 620 additional reserve posts at the level of Assistant Commissioner of Income Tax and 563 vacancies arising in this grade due to promotions to higher grade will be filled up equally by promotion and direct recruitment. Therefore, the additional 1349 posts created at this level will be filled over a period of 5 years with 270 posts per year being filled in the next four years and 269 posts being filled in the fifth year. Every year these posts will be filled by promotion and by direct recruitment in equal proportion.

ii. The Cabinet has permitted, as a one-time measure, filling up of the additional posts that are to be filled by promotion immediately, without awaiting amendments in the recruitment rules on the basis of the model recruitment rules issued by DOPT. Accordingly, the process of filling up of all



the additional posts that are to be filled by promotion shall be initiated immediately on the basis of the model recruitment rules issued by the DoPT without awaiting amendment is the recruitment rules of the relevant post(s)."

10. From the reading of the above, it would be evident that the posts stood created by the Cabinet decision dated 23.05.2013; it was only a final bifurcation of the same amongst the various Commissionerate, that had to take place and which was eventually done by way of a provisional allocation by the CBDT to various regions on 31.03.2014 and the final allocation on 04.04.2014. We are informed that all Commissionerate have treated the creation of the posts for the year 2013-14.

11. The notification dated 22.10.2014 relied upon by the learned senior counsel for the petitioners has no relation to the creation of the additional posts, but deals with the delegation of powers.

12. In ***K.P.S. Raghuvanshi*** (Supra), for giving effect to the creation of the post, a final approval from the President was required. The Supreme Court held that it is the date when the President approval was conveyed that would be considered as a date of creation of the posts. In the present case, the creation of the posts had taken place with the approval of the decision taken by the Cabinet Committee on 23.05.2013. The vacancies, have therefore arisen in the year 2013-14, and we find no infirmity in the Order passed by the learned Tribunal.

13. The petition is, accordingly, dismissed.

NAVIN CHAWLA, J

MADHU JAIN, J

DECEMBER 20, 2025/ys/P/SS