

COMMITTEE ON PETITIONS

(FIFTH LOK SABHA)

(THIRTIETH-REPORT)

[Representation regarding service grievances of
Income-tax Officers, Class II]

[Presented to Lok Sabha on the 12th May, 1976]



सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

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COMPOSITION OF THE COMMITTEE ON PETITIONS
(1975-76)

Shri Jagannath Rao—*Chairman*

MEMBERS

2. Shri S. C. Besra
- *3. Shri Ishwar Chaudhry
4. Shri Biren Engti
5. Shri D. P. Jadeja
6. Shri Mallikarjun
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13. Dr. Rudra Pratap Singh
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15. Shri Tula Ram

SECRETARIAT

Shri B. K. Mukherjee—*Chief Legislative Committee Officer*

Shri J. R. Kapur—*Senior Legislative Committee Officer*

*Nominated with effect from the 20th August, 1975, *vice* Shri Hemendra Singh Banera resigned from the Committee with effect from the 3rd August, 1975.

THIRTIETH REPORT OF THE COMMITTEE
ON PETITIONS (FIFTH LOK SABHA)

INTRODUCTION

1.1. I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Thirtieth Report of the Committee to the House on the representation regarding service grievances of Income-tax Officers, Class-II.

1.2. The Committee considered the matter at their sittings held on the 13th September, 1973, 21st May, 17th July, 9th September, 19th November and 10th December, 1975 and 4th March, 21st April and 3rd May, 1976.

1.3. The Committee took oral evidence of the petitioners, namely the representatives of the All India Federation of Income-tax Gazetted Services Associations at their sittings held on the 9th September, 1975 and 4th March, 1976 and of the representatives of the Indian Revenue Services (Income-tax) Association on the 10th December, 1975.

1.4. The Committee also took oral evidence of the representatives of the Ministry of Finance (Department of Revenue and Banking) at their sittings held on the 19th November, 1975 and 21st April, 1976.

1.5. The Committee deliberated on the matter and arrived at their conclusions on the said representation at their sitting held on the 3rd May, 1976.

1.6. The observations and recommendations of the Committee on the matter have been included in the Report.

JAGANNATH RAO,

Chairman,

Committee on Petitions.

NEW DELHI;

Dated the 3rd May, 1976.

REPORT

2.1. Sarvashri Jyotirmoy Bosu, R. D. Nimbalkar, A. B. Vajpayee, D.C. Goswami, Jambuwantrao Dhote, P. Venkatasubbaiah, Gurdas Singh Badal and Tridib Chaudhuri, M. Ps, forwarded identical representations (See Appendix-I) signed by Sarvashri P. K. P. Nambiar, A. S. Ahuja and other Income-tax Officers, Class-II, regarding their service grievances for consideration by the Committee.

A. Petitioners' grievances and prayer

2.2. In their representation, the petitioners submitted *inter alia* as follows:—

“That since the creation of Income-tax Officers Services, Class I & II in 1945, both these classes of Officers have been performing exactly identical duties in inter-changeable charges with no job differentiation; in fact, no single charge in this Department has ever been classified or earmarked for either Class I or Class II Officers, and officers have over the past 27 years, been freely posted to all charges without any distinction ever having been made on the ground of their belonging to two separate classes;

* * * * *

That in spite of the performance by the two classes of ITO's of similar functions and shouldering of equal responsibilities, an artificial distinction exists which results in wide disparity between them in the matter of status, pay scales, and promotional prospects and other privileges.

* * * * *

That the Chairman of the Central Board of Direct Taxes in his evidence before the Public Accounts Committee of the Parliament observed 'Class II service of the Income-tax Officers should be abolished; all Income-tax Officers should be in Class-I; Income-tax Officers both Class-I and Class-II perform the same type of duties'.

That the Public Accounts Committee of the Parliament in its 29th Report of April, 1968 for 1967-68 has observed that the Government will doubtless examine the suggestion and take suitable action, as it considers the above observations, of the Chairman, justified.

* * * * *

That the above-mentioned artificial and discriminatory classification of Income-tax Officers offends Articles 14 and 16 of the Constitution of India besides violating the Rule of Law, equity and natural justice.”

2.3. The petitioners prayed that:—

- “(i) There should be only one Class of Income-tax Officers with equal status, equal pay and equal opportunity; those who have been doing equal work without any job differentiation should not be subjected to any future scheme of job classification and thus deprived of the benefits of their past services.
- (ii) The Officers who have been officiating for more than two years in any post, should be immediately confirmed.”

2.4. In a memorandum submitted to the Committee on the 9th September, 1975, the representatives of the All India Federation of Income-tax Gazetted Services Associations stated *Inter alia* as follows:—

“The Reorganisation Scheme of 1944 envisaged different work-norms and job-classification and intended to earmark the posts for the two Classes of Income-tax Officers by allocation of only simple and routine nature of duties involving lower responsibility to Class—II Officers, who were not to be given work of Class—I Officers, except in cases of the utmost exigency and that too with the Boards approval. The Cadre strength of Income-tax Officers Class—I and Class—II was to be in the ratio of 4:1 (34 Class—I and 83 Class—II). during the Reorganisation period of 1945-1950, all the eligible Class—II Officers were absorbed in the newly created Grade—I and Grade—II posts of Class—I, before the large scale introduction of direct recruitment. Thereafter the eligibility rule for promotion to Class—I was framed requiring 5 years service in Class—II ; in view of small cadre strength in Class II, a small percentage of 33·1/3% of vacancies in Class—I was fixed as quota for promotion in 1951 for a period of 5 years in the first instance ; thereafter matter was to be reviewed for upward revision of the quota depending upon administrative exigency. With the enormous increase in the number of assesseees and consequently the volume of work, introduction of various Direct Taxes Acts, mounting complications of tax laws, and menacing problems of black-money and tax-evasion the strength of Class—I Officers has been increased about 3—4 times only but that of Class—II Officers the increase has been more than 26 times the number originally envisaged without corresponding increase in the quota for promotion; this has been done in flagrant disregard to the career planning and aspirations of Class—II Officers. Thus the number of Class—II Officers increased from 83 to 933 on 30-9-57, and further to 2172 on 1-10-72 and that of Class—I Officers increased from 334 to 623 and 685 respectively during the same period.

* * * * *

“Since the creation of the Income-tax Service Class-I and Class-II in 1945, both these classes of officers have been performing identical functions, holding interchangeable charges, with no job differentiation and shouldering equal responsibilities. In fact, over the past 30 years, Income-tax Officers, belonging to both Class-I and Class-II have been freely posted to all charges without any differentiation having been made on the ground of their belonging

to two separate classes and in fact most of the important posts and charges in the field and the Head quarters are being held by Income-tax Officers, Class-II. The nature of work, standard of performance, both as regards quality and quantity, are exactly similar for both classes of Officers. So also, the statutory powers of these two classes of Officers, who bear the same designation and who are subordinate to the same authority *viz.*, Inspecting Assistant Commissioners, are exactly the same. These facts have been admitted by the Government on numerous occasions, on the floor of both the Houses of Parliament. There cannot be a worst example of injustice than in this case, where equal pay is denied to the Officers for equal work. There is a wide disparity in the matter of career prospects of two classes of Officers doing the same work. Whereas a Class-I Officer gets deputation post after a period of 5 years of service, a vast majority of the Class-II Officers may at the most get promotion to Class-I only during his service career and will retire as such. This has created a sense of frustration and disgust amongst a large section of the Officers of the Department. This injustice is known to the Department also. It was for this reason that the Chairman, Central Board of Direct Taxes gave his definite views before the Public Accounts Committee of the Parliament in 1967 that without the abolition of this class and the conversion of the existing Income-tax Officers, Class-II into Class-I, the efficiency of the Department would not improve. It was for this reason and agreeing with the views of the Chairman, that the Public Accounts Committee of Parliament in their 29th Report (1967/68), recommended the abolition of this unjust classification. The Working Group of the Administrative Reforms Commission also endorsed the finding of the Public Accounts Committee in their Report to the Government. However, this abolition has not come about as yet.

* * * *

The Federation understand that Shri K.R. Ganesh, the then Minister of Revenue and Expenditure had desired the Board to re-examine the issue of the abolition of the cadre of Income-tax Officers, Class-II but nothing has been done.

It has to be mentioned that no job classification has been possible in the Department among these two classes of Income-tax Officers and it would have to be accepted that none is possible.

* * * *

In the situation which has now been created, mere increase in quota for promotion will not solve the problems of the present set of Class-II Income-tax Officers who have so long been denied the benefit of their equal and past services rendered, and have all through suffered total loss in terms of pay status and career prospects as a result of discriminatory policy in regard to their conditions of service and career management. Though belated, all of them should be encadred in Class-I to enable them to render sustained devoted service and remove the injustice to which they have

so long been subjected to. The problem of administration being essentially a human problem, a single Class-I Service which ensures steady work without fear or favour will be more conducive to overall efficiency than a climate of uncertainty discrimination and disappointment.

* * * * *

No regular Departmental Promotion Committee meets to confirm the Class-II Officers who have completed two years of service. In many Commissioners' charges Officers who have put in more than 6—7 years of service have not yet been confirmed. Non-confirmation affects the morale and efficiency of the Officers and gives rise to other complications.

* * * * *

The Federation will be very grateful if the Officers are confirmed in time in the interest of morale and efficiency."

2.5. In their Supplementary memorandum dated the 15th November, 1975, to the Committee, the petitioners stated *inter alia* as follows:—

"The Central Board of Direct Taxes is now treating the 'Seniority Rules of 1973' as the Bible and is trying to do everything to favour the direct recruits to Class-I only and champion their cause in every direction and to harm the Income-tax Officers, Class-II and the Officers promoted from the cadre, on the pretext that for every matter, whether it is fixation of pay or promotions, these rules are guidelines. It conveniently forgets that these Rules are neither 'Recruitment Rules' nor 'Rules' for a pay fixation, nor even 'Quota Rule' by any stretch of imagination. It wants to rely on these Rules for 'promotion' to Class-I although that may result in depriving hundreds of matured, elderly and eligible Officers in Class-II (numbering more or less 1500) of their promotion as in Government's view they cannot be promoted till direct recruits are inducted first and imparted training. It will be noticed that this stand of the Government has striking semblance with the claims of the direct recruits before different Courts over the disputes on seniority though this claim was quashed by the Hon'ble Court at Gujarat in Patil's case. Moreover, the Government very well knows and, in fact, admits that there is no Statutory Quota Rule since 16-1-1959 (in Civil Suit No. 1473 of 1974—J.R. Punia & Ors.-vs-Union of India & Ors.). It has prerogative to recruit by promotion any number of Officers in Class-I by increasing the number of Class-I posts and by converting Class-II posts in Class-I and may suspend direct recruitment for any number of years. Similarly, for fixation of pay, in 'senior scale' of Officers promoted to Class-I, again these Seniority Rules are relied upon, thus denying to the belatedly promoted, Officers even the benefits which they enjoyed before 1st January, 1973, which denial is clearly against the intention of the Third Pay Commission.

—(Chapter 8 Para 28 and 29 dealing with pay fixation in 'Established Services').

In effect, this means that these officers virtually remain in Class-II, even after promotion, as the pay scales of Class-II and junior scale in Class-I, have little difference, though according to the certi-

posts granted by the same Central Board of Direct Taxes, they shoulder higher responsibility, on promotion.

The Board has been selling the idea that the Class-II Officers and the Officers promoted from that cadre will have opportunity to rise to the top positions; in fact, on behalf of the department it was contended before the Supreme Court that on an analysis of the vacancies which might occur in the higher echelons of the service in future and the present age of the promotees, there was really no ground of despondency. The following chart would show the hollowness of the Board's contention as well as the difference of career prospects of promotees *vis-a-vis* direct recruits.

Position of Assistant Commissioners as at the end of the Calendar Year

	1982	1984	1986	1987
Vacancies anticipated by the Board	1289	1402	1744	1847
Vacancies falling to the promotees	245	102	25	11
Vacancies falling to the direct recruits	1135	1300	1719	1836

By 1982, under the 'Seniority Rules, 1973' none of the posts of Commissioners and only 20% of the posts of Asstt. Commissioners will come to the members of the Federation and the percentage will be less than 1% in 1987 and that also if there is a regular increase of 5% compound of the cadres in each year. Some of our ex-Chairmen S/Shri J.P. Singh, R.N. Mutto and R.D. Shah could rise to the position from the cadre of Inspectors by virtue of their merit but under the present rules not a single promotee Officers would be a Commissioner in future howsoever meritorious he is and majority of them would retire in Class-II and some in Class-I.

In the past the Board, *inter alia*, raised the question of financial burden to scuttle the claims of 'equal pay for equal work' but the same consideration has not prevented the Board to make a recent proposal for creation of more than two hundred posts for Commissioners to solve the alleged stagnation in the Assistant Commissioners' cadre, knowing fully well that almost all such posts will go to the direct recruits under the new Seniority Rule. The same Board, however, did not consider it necessary to accommodate only 66 Assistant Commissioner-members of the Federation with twenty years of I.T.O's service rather showed undue haste in effecting their reversion just a year back. Financial question did not come in the way in effecting promotion of direct recruits to Class-I with only 7-8 years of effective service to the cadre of Assistant Commissioners.

It would appear from the foregoing paragraphs that under the existing scheme of things and circumstances, the Income tax Officers, Class-II have neither any future nor any incentive and have no reasons to believe that their legitimate grievances would be redressed though many of them were assured obviously to get better type of candidates at the time of their entry in the Department that they would move up to the cadres of Assistant Commissioners and Commissioners of Income-tax.

The official witnesses, *inter alia*, justified the retention of the Class-II cadre for I.T.Os. before the 'Pay Commissions' and elsewhere by saying that this would provide scope for promotion of the Inspectors of Income-tax. But an important fact is conveniently forgotten that if the Income-tax Officers, Class-II are not allowed to move up the ladder and release their posts how the Inspectors expect promotion to that cadre and beyond it. In one hand, the authorities have been making annually regular direct recruitments to Class-I in numbers and withholding promotion of the eligible Income-tax Officers, Class-II, senior in age and equal service on one ground or another and on the other hand have made *ad hoc* recruitments to I.T.Os', Class-II cadre in hundreds thereby prohibiting the prospects of Income-tax Inspectors."

2.6. In their letter dated the 3rd April, 1976, addressed to the Committee on Petitions, the President of the Federation stated *inter alia* as follows:—

"Numerous letters on the subject have been addressed by the Federation and its affiliated units to the authorities urging that job-classification should not be introduced as it is an unworkable proposition which the administration has signally failed to implement over the last 32 years despite recommendations made by various high power bodies and committees based on incorrect evidence tendered by official witnesses. It was also earnestly requested in all these correspondences that opportunity be afforded to the Federation for discussing with the authorities any scheme they may have in mind involving classification of jobs. As submitted before the august Committee in the course of the hearing on 4-3-1976, all our prayers and petitions have fallen on deaf ears ; the view of an organisation representing more than 80% of the Department have been sighted and ignored.

Further, we understand that confidential instructions have been issued by the Central Board of Direct Taxes to Commissioners of Income-tax to specify such number of posts as Class-I posts, as would correspond more or less to the existing sanctioned strength of that cadre. Such an artificial division has no relevance either to the nature or importance of any particular job, but seeks to justify the continuance of the present system of

getting the bulk of the major and important jobs done by Class-II Officers, and possibly to present a fair accompli when the matter actually comes up before Parliament.

The Board seem to be unconcerned about the present Officers in Class-II who have been doing equal work till date without job-classification. Hundreds of these Officers who have already become eligible for promotion even under the present scheme, have been denied the benefit of their past services. If the Board were now to insist on embarking on a futile experiment and attempt to classify jobs, which we sincerely believe is bound to end in failure and be ultimately withdrawn, such a scheme should in all fairness and equity not be made applicable retrospectively to the existing Class-II Officers and heap upon them further injury.

The scheme of job Classification also has the seeds of graver implications ; it could be exploited for assigning important cases to chosen and favoured Officers which may have serious implications in a revenue department. Besides, it is bound to create a sense of frustration among the deserving Officers which will certainly not be conducive to good tax administration."

2.7. In another letter, dated the 17th April, 1976, addressed to the Chairman, Central Board of Direct Taxes, by the President of the Federation, it has been stated *inter alia* as follows :—

"It has been the firm belief of the Federation that no such job-classification, as proposed by the Ministry (and Director of Organisation & Management Services) is possible in the Income-tax Department. In fact, what has been proposed is a classification of men and not posts, which can hardly be termed as job-classification.

The proposed classification once again attempts the perpetuation of class distinction, which though proposed by the Ministry and supported by the direct recruits to Class-I (in the shape of changing the designation of Income Tax Officer to 'Senior Income Tax Officer' and 'Income Tax Officer') was rejected by the 'Select Committee'—on 'the Taxation Laws (Amendment) Bill, 1973'. The recommendation of the 'Committee' was accepted by the Government and the Parliament both, and the proposal was dropped. It is unfair to once again resurrect the dead and pernicious principle.

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The Federation, therefore, urge that if any scheme of job-classification has to be introduced (though they believe that it is unworkable) the same should be attempted after first fixing scientific work-norms for officers, and further identifying the jobs which can, if at all, be termed as 'important' or 'unimportant'. In any event, no scheme of job-classification, can in equity, be introduced retrospectively which would have the effect of depriving the existing Officers in Class-II of the past services in undifferentiated charges."

2.8. In his letter dated the 26th April, 1976, the Secretary of the All India Federation of Income-tax Gazetted Services Associations, has requested for confirmation of Income-tax Officers in various cadres without any delay.

B. Comments furnished by the Ministry of Finance (Department of Revenue and Banking)

2.9. The representation was referred to the Ministry of Finance (Department of Revenue and Insurance) for furnishing their factual comments for consideration by the Committee. In their factual note, dated the 25th January, 1975, (See Appendix-II) the Ministry have stated *inter alia* as follows :—

“Prior to 1944, Income-tax Officers were all in Class-II Service. The Class-I Service of Income-tax Officers was created in the reorganisation scheme of 1944 with the object of improving the Income-tax Administration.

The rationale of two categories of Income-tax Officers is the difference in the matter of importance of work. In regard to the type of work, both Class-I and Class-II Income-tax Officers derive their powers from the Income-tax Act, equally. Class-I Income-tax Officers are intended to be generally given more important Wards and cases, except at their earlier probation and training stages when they are also required to handle work of less importance to achieve proficiency for higher work. Class-II Income-tax Officers are intended to be generally given less important Wards and cases. Unfortunately, there has been continuing shortage of Class-I Officers for some years with the result that a large number of Income-tax Officers Class-II had to be posted against Class-I posts. This is because the sanctioned strength of Class-I posts has been steadily increasing while the number of direct recruits taken each year could not be increased beyond a certain limit as that would necessarily result in dilution of the quality of the cadre and for considerations of career management which should be such as would offer reasonable prospects of promotion to higher cadres.

Ever since the two classes of Income-tax Officers were created in 1944, the question was examined from time to time by higher Committees, Commissioners, as also by Government, as to whether it was desirable at all to have two classes of Income-tax Officers. The First Pay Commission was satisfied that there was no justifiable grievance in allowing the Class-II Service to continue. The Direct Taxes Administration Enquiry Committee (*i.e.* Tyagi Committee) of 1958-59 which looked into this question, felt that Class-II cadre should continue. Relevant extracts from the Committee's report are attached as Annexure I. The Second Pay Commission was also in favour of retaining a separate Class-II grade as there was a large volume of work

would be wasteful to employ Officers recruited for higher type of work. This Ministry had also examined the matter in the past and were not in favour of amalgamation of Class-I and Class II cadres. However, charges of Income-tax Officers have to be classified as Class-I and Class-II charges on the basis of the nature of work. This was not done but, as recommended by Wanchoo Committee, these are now being determined. Another important consideration behind this was that it was necessary to have a Class-II cadre which offers reasonable prospects of promotion to Class-III Inspectors. Class-II Officers themselves, can look forward to promotion as Class-I Officers and, therefore, gradually to higher posts.

** ** ** **

Recently, the Wanchoo Committee had occasion to consider the matter. The Committee has categorically rejected the suggestion that all posts of Income-tax Officers, Class-II, should be converted into Class-I posts merely because all of them are doing assessment work. In the Committee's view, what needs to be done is to classify jobs according to their importance and then assign cases to Officers according to the degree of responsibility involved. The Committee has made specific recommendations as to the types of assessment cases which should be handled by Class-II Officers and junior Class-I Officers and other assessment cases. The manner in which the Committee's recommendation is to be implemented, is under examination.

** ** ** **

The Third Central Pay Commission also went into this matter and has come to the conclusion that the posts of Income-tax Officers (Class-II) should continue as a separate cadre.

** ** ** **

The question concerning the existence of various grades in the different Services is primarily an organisational and management problem and is, therefore, one for the Government to deal with. The existence of two Classes of Officers deriving powers, equally, from the law which they administer, is not a feature which is peculiar to the Income-tax Department. Since it cannot be denied that there are comparatively simpler types of cases which require to be handled by the Department, it would necessarily add to the burden on the tax-payer if officers belonging to the Class-I Service, which is costlier are employed to deal with such cases. Moreover, one consequential and far reaching effect of abolition of the grade of Income-tax Officers (Class-II) and its conversion to Class-I, will be the complete stoppage of the avenue of promotion now available to Inspectors of Income-tax and the consequential diminution of the promotion prospects of the Class-III officials in the lower grades."

2.10. In regard to the note recorded on 9-8-1974 by Shri K.R. Ganesh, the Minister of State in the Ministry of Finance, then Ministry of Finance

(Department of Revenue and Insurance) in their note (See Appendix-III) dated the 28th November, 1975, stated *inter alia* as follows :—

“In that note, which was recorded after the Government had announced their decisions on the recommendations/observations made in the report of the Third Central Pay Commission, the Minister had desired Chairman, Central Board of Direct Taxes, to take a view in the Board on his suggestion for creation of a new cadre of Examiners of Accounts/Auditors/Inspecting Officers in a Gazetted Class-II Cadre and prescribing of a running scale for the post of Income-tax Officer cadre in Class-I with provision for advance increment at the Efficiency Bar stages. The suggestion was examined and it was decided that the whole matter concerning the pay-scale, etc. for Income-tax Officers (Class-I) and Income-tax Officers (Class-II) should be treated as having been finally settled by the report of Third Central Pay Commission and Government's decisions thereon announced in the Resolutions dated the 1-11-1973 and 1-5-1974.”

C. Views of the Indian Revenue Service (Income Tax) Association Representing Class I Officers of Income Tax Department

2.11. In their note dated the 19th November, 1975, the Indian Revenue Service (Income-Tax) Association has stated *inter alia* as follows :—

“Class II Income Tax Officers and their Associations have been quite persistent in claiming that they are doing the same work as Class I Income Tax Officers. This is despite the fact that over the last 30 years, their claim has been considered by several high-powered Committees and Commissions, such as the Investigation Commission, the Tyagi Committee, the Wanchoo Committee and the Third Pay Commission, and found wanting in substance. The verdict of all these Committees and Commissions has been that there may be no difference in statutory powers and functions of the two classes of Income Tax Officers, yet in practice there is a distinction based on the kinds of assessment cases and responsibilities involved as also on the separate roles intended for them in the administrative hierarchy.

The very same claim of equality was raised before the Supreme Court by a Class II Officer. On the basis of his personal experience has submitted that he had succeeded Class I Income Tax Officers in certain charges while in others he was relieved by them and that there was no real difference in the work done by Class I and Class II Officers. The Government explained the classification in terms of the reorganisation scheme of 1944 and justified it in term of differentiation of responsibilities. The Hon'ble Court rejected the petition and held that the classification of Income-Tax Officers into Class I and Class II cadres was reasonable and based on intelligible differentia (K.M. Bakshi vs. Union of India, AIR 1962 SC 1138).

In the past, gross violations of the rules of recruitment and seniority by the Central Board of Revenue catapulted persons from Class III and Class II cadres to very high positions in the Department, including the posts of Chairman and Member. But the Supreme Court judgements of 22-2-1967, 16-8-1972 and 16-4-1974 have put an end to such illegalities and irregularities taking place in future for the benefit of promotees to Class I. At the same time, the demand of Class II Officers and their Associations for abolition of Class II cadre of Income Tax Officers has been turned down in no uncertain terms both by the Wanchoo Committee and the Third Pay Commission. Their aim in continuing the agitation on the decredited claim of same work is now for the sole purpose of getting things done by the back door, that is, by a large-scale conversion of Class II posts into Class I posts and by creation of fresh Class I posts. In this regard, pressure is being exercised by them through work-to-rule threats etc. to have the standards of output reduced and work-norms lowered in order to somehow show a huge deficiency of Class I Officers. This is so despite the Legislative changes effective from 1-4-71 according to which about 75% of assessment cases shall have to be disposed of under a summary procedure for which only Class II Officers are required. Already on such artificial basis, about 500 promotions from Class II to Class I on an *ad hoc* basis were pushed through in 1973. It is for consideration by this august body whether the problem should be handled by the authorities in such superficial manner instead of curbing the root causes mentioned above so as to make both cadres more efficient and productive."

2.12. In their Memorandum dated the 5th December, 1975 submitted by the Indian Revenue Service (Income-Tax) Association to the Committee it has been stated *inter alia* as under :—

"Over the last 30 years, the demand for abolition of Class II Service of Income-Tax Officers by its merger with the Class I Service of Income-Tax Officers has been raised before every Pay Commission as well as every Committee appointed to examine the working of the Income-Tax Department. All these high-powered Committees and Commissions have rejected the said demand in no uncertain terms. In fine, the verdict has been that even though there might be no difference in statutory functions and powers of the two classes of Income-tax Officers, there is a real distinction between the two based on the nature and class of work as also the responsibilities involved and the different rolls intended for them in the administrative hierarchy.

* * * * *

We submit that Class II Income-tax Officers and their Association have been encouraged to persist with the controversy by the failure of the Central Board of Direct Taxes to do certain obvious and essential things which would ensure proper discipline and efficiency in the Department. It is our prayer to the Hon'ble Committee to consider the following submissions and suggestions to make such recommendations to Government as may be considered fit and proper for the purpose.

Classification of Charges :

There is and can be no dispute that all charges are not equal and that they do not involve the same importance or responsibility. Broadly speaking, there are three kinds of charges, namely (i) Central circles and company wards which require senior officers ; (ii) A-Ward or Ist Charges in general business circles which require middle-level officers ; (iii) Charges of minor importance like refund circles, charges for small-income cases, etc. where junior officers will be adequate. With this pattern of charges being known and the three-tier hierarchy of Income-tax Officers as laid down in the Reorganisation Scheme on 1944 being based thereon, the Board had till 1973 done precious little in the matter of proper classification of the various charges. The result has been indiscriminate postings without much regard to the status of officers concerned. This sort of state of affairs cannot but help create fanciful idea of equality and the case of Kishori Mohanlal Bakshi was actually based on such indiscriminate postings and lack of specific classification of charges into Class I and Class II charges. Since 1973, more particularly after the Report of the Third Central Pay Commission, the Central Board of Direct Taxes has taken some steps for classifying the charges as senior or junior charges, but the work is still not over. This work deserves to be complete on a priority basis. We further suggest that if for any compelling reason, a Class II Income-tax Officer has to be posted to a Class I charge, that officer must be granted special pay or allowance for assumption of duties and responsibilities which are admittedly of greater importance.

Administrative Control :

In the three-tier hierarchy of Income-tax Officers, Class II Income-tax Officers constitute the lowest cadre and there is no right of promotion as Class I Income-tax Officer on the basis of length of experience or seniority as such. Promotion from Class II to Class I is by selection on merit on the recommendation of the Departmental Promotion Committee presided over by a member of the Union Public Service Commission. The Class I cadre of Income-tax Officers, which represents the starting cadre of the Indian Revenue Service (Income-tax Wing), is thus a higher cadre and this is further evidenced by the higher scale of pay as also the more onerous and responsible role intended for the Class I recruits. Yet Class II Income-tax officers are in no way responsible to Class I Income-tax Officers, both classes of Income-tax Officers are subordinate to an officer of the junior administrative grade, namely Assistant Commissioner of Income-tax, who is three stages above the Class II Income-tax Officer. This situation under which Class I Income-tax Officers lack administrative control over Class II Income-tax Officers whereas both are equally subordinate to the same officer, namely, Assistant Commissioner

of Income-tax, is another factor which is played up to support the claim of equality on behalf of Class II Income-tax Officers and their Association. Perhaps in no other service or department there prevails this type of administrative set up everywhere Class II officers are subordinate to their immediate seniors in Class I Service. Inasmuch as A-Ward and 1st Charges have to be and must be manned by Class I Income-tax Officers, there is no reason why Class II Income-tax Officers manning junior or minor charges should not be placed under the administrative control of the former. This shall, it is submitted, lead to a better sense of discipline in accordance with the actual hierarchical set up in the Income-tax Department.

Designation of Income-tax Officer :

The root cause for the survival of the myth of Class II Income-tax Officers doing the same work as Class I Income-tax Officers is the continuation of the very same designation for officers belonging to three separate and unequal grades. The result is that an Inspector from Class III Service just promoted as Income-tax Officer, Class II, thinks he is as good as any senior Class II Officer on the verge of promotion to Class I and in turn as good as a Class I Income-tax Officer. The Administrative Reforms Commission and thereafter the Wanchoo Committee came to the conclusion that the designation of Class I Income-tax Officers should be made different in conformity with their higher status and level of responsibility *vis-a-vis* Class II Income-tax Officers. However, Class II Income-tax Officers and their Association have been opposing the proposed changes and the Central Board of Direct Taxes seems to have succumbed to that opposition. On our part, we submit that such opposition is not only unreasonable and irrational but positively short-sighted and damaging to Class II officers themselves as they have to remain stuck up with the same designation for as many as 18 to 23 years despite two promotions during that period available to every Class II Officer of any reasonable competence or merit.

* * * *

The result is that the distinction between officers of different levels who are admittedly performing functions and shouldering responsibilities of unequal importance is blurred and an erroneous impression about their relative seniority and status is conveyed to the public as well as officers in other services/departments. It is, therefore, time that the present pattern of designations which is being continued since the Indian Income-tax Act of 1922 be given a fresh look and certain improvements made therein with a view to conforming to the realities of the situation as well as improving the morale of officers at all levels.

On grounds of separate scales of pay, job classification, psychological satisfaction and morale of the officers concerned, we suggest the following pattern of designations :

- | | |
|----------------------------------|-----------------------------|
| (a) Class II, Income Tax Officer | Income-tax Officer. |
| (b) Class I, Junior Scale | Assistant Commissioner. |
| (c) Class I, Senior Scale | Senior Asstt. Commissioner. |

These three categories of Officers may be placed under a generic nomenclature of 'Assessing Officer' in lieu of 'Income-tax Officer' so as to minimise changes in the statute. In fact, the proposed nomenclature of 'Assessing Officer' ought to replace separate designations of 'Wealth-tax Officer' 'Gift-tax Officer' etc. and thereby add to simplicity under the other Acts also. It may be added that even now some of the existing Assistant Commissioners have been assigned assessment work; so there can be no objection taken to the proposed ambit of 'Assessing Officer'."

D. Evidence before the Committee

(i) Evidence of the petitioners

2.13. The Secretary, All India Federation of Income-tax Gazetted Services Associations in his evidence on the 9th September, 1975, stated that before 1944, there was only one class of ITOs, namely, Class II. But there were two Grades. One was ITO Class II Grade I and other was ITO Class II Grade II. The promotion to the next cadre of Assistant Commissioners was from ITO Class II Grade I, and the Commissioners of Income-tax used to be promoted from the cadre of Assistant Commissioners. The re-organisation scheme, when it was proposed by the Government on the 29th September, 1944 envisaged two classes of ITOs, ITOs Class I and ITOs Class II. In Class I again they envisaged two Grades, Class I Grade I and Class I Grade II, while the nomenclature of the then existing Class II was changed to Class II Grade III. The Government also decided later that the then existing posts of Class II Grade I would be upgraded to Class I Grade I because it was an initial stage of reorganisation of the service and benefits enjoyed by officers before reorganisation were not denied to them. They also proposed that promotion to the cadre of Assistant Commissioners after the scheme came into existence, would be from Class I Grade I instead of from Class II Grade I as was done earlier. The promotion to the cadre of Commissioners had to be from the cadre of Assistant Commissioners only.

2.14. On the date of reorganisation in the Department, the Sanctioned strength of the Officers was Commissioners—8, Assistant Commissioners—54, ITOs Class I—334 and ITOs Class II—83. Out of 334 Class I Posts, 153 were in Grade I and the remaining 181 in Grade II.

2.15. The witness further stated that when the reorganisation scheme was being introduced in 1944, the then Finance Member and the Member of the Central Board of Revenue said that the intention was to improve the efficiency of the Department and the morale of the personnel and that for

improving the efficiency of the Department, they would try to demarcate the charges into senior or important charges and junior or un-important charges so that the 334 ITOs Class I Officers would do the work of important charges or senior charges and the remaining 83 ITOs Class II would do the work of junior charges or unimportant charges. It was in this background that the Department started the Class I cadre in the Income-tax Service. From that very year 1945, the dispute started as it was virtually impossible to classify the charges. Despite the intention of the Government that important charges or senior charges would be manned only by Class I Officers, important charges were being manned by Class II Officers also. Therefore, ITOs Class II started challenging the whole basis of the scheme saying that they were being discriminated against. Their struggle was going on for the last 28 years.

2.16. The witness submitted that nothing had been done by the Government to follow the basic intention of the reorganisation scheme at posting of ITOs Class II or Class I had never been demarcated. He cited instances where a Class II ITO was promoted to Class I but he continued to do the same work which he was doing when he was Class II Officer. There were many people in Class I who had been succeeded by Class II Officers and he cited instances of such cases. The basic aim of the reorganisation scheme of demarcation of duty between the seniors and the juniors had never been realised. All ITOs Class II were experienced and mature and, therefore, they had been entrusted with important charges of Central Circles, Company Circles, Birla group investigation and other investigations and seizures etc.

2.17. The witnesses pointed out that the Income-tax Act did not distinguish between the functions of ITOs Class I and Class II. In various Sections of the Income-tax Act, the term used was "Income-tax Officers" and the powers being enjoyed by the Income-tax Officers, whether Class I or Class II, were the same. It was only an administrative distinction.

2.18. In regard to promotional avenues to ITOs Class I and Class II, the witnesses stated that there were ITOs Class II who had put in 15 years of service but still had not become Class I Officers. A direct recruit in Class I after two years of training and seven years of field work, got an administrative grade whereas a Class II Officer even after 15 to 16 years of service was still Class II Officer. That was the discrimination because of which they had represented before the Committee.

2.19. In regard to financial implications of the scheme for conversion of Class II posts to Class I, the witnesses submitted that the Government took a plea that it would affect the economy and would cost Government Rs. 2 to Rs. 3 crores. The witnesses submitted that they would give an assurance that if Class II posts were converted to Class I posts, they would collect Rs. 40 crores more next year.

2.20. When asked to justify their demand for abolition of posts of ITOs Class II and their conversion to Class I, in the face of its rejection by the three Central Pay Commissions and the Direct Taxes Administration Enquiry Committee, etc., the witnesses submitted that the Government had not given a correct picture of the facts to those bodies. Everywhere it had been stated that ITOs Class II Officers were meant to be given un-

important or simple type of work whereas their submission was that there should not be two classes of Officers performing the same functions. In this connection, the President of the Association stated that over the last thirty years, attempts had been made to classify the jobs. But it was their firm conviction that jobs could not be classified. An attempt was made in the case of estate duty. Government had classified the jobs, but they failed and withdrew those instructions. It could not be done. Actually what was happening was that all the wards which were administered by ITOs had a mixed bag of important cases and unimportant cases. Evidence tendered by the Government before various authorities had been that the ITOs Class II were doing a simple type of job. It was on that basis that the recommendations of the Pay Commissions and the other Committee went against the ITOs Class II. In certain court cases also, Government had said the same thing. In 1966 in an affidavit filed by the Government before the Supreme Court in W. P. No. 5 of 1966—M. C. Joshi Vs. Union of India & Others, it had been stated: "As regards his (Petitioner's) submission that Class I and Class II are distinct and separate I submit that though for purpose of appointments and pay they are so, in the matter of performance of duties there is no discrimination whatsoever between Class I and Class II Income-tax Officers as explained hereto before". But now the Government was saying that it was trying to classify the jobs. Thus, the statement made earlier by the Government that the Class II ITOs were doing simpler jobs stood contradicted. The witnesses, therefore, suggested that the grade of ITOs Class II might be abolished and an integrated pay scale might be made.

2.21. In his evidence, before the Committee on *the 4th March, 1976*, the President, All India Federation of Income-tax Gazetted Services Associations, stated that Government's stand before the various Committees and Commissions that jobs of Income-tax Officers could be classified, was incorrect. According to him, the jobs of Assessing Officers could not be classified and during the last 32 years, Income-tax Officers, Class II, were shouldering the same responsibilities as those of the Income-tax Officers, Class I. That was why, they had been pressing for abolition of Class II cadre by its merger with Class I cadre. On enquiry, the President of the Association informed the Committee that Officers in Class II service were equally qualified and in some cases were even more experienced and possessed better educational qualifications.

(ii) *Evidence of the representatives of the Ministry of Finance (Department of Revenue and Banking)*

2.22. The Committee heard oral evidence of the representatives of the Ministry of Finance (Department of Revenue and Insurance) on the points arising out of the representation regarding service grievances of Income-tax Officers, Class II, on *the 19th November, 1975* and *21st April, 1976*.

2.23. On enquiry by the Committee about the strength of Officers in the Income-tax Service, the Chairman, Central Board of Direct Taxes, informed the Committee that the working strength of the Income-tax Officers, Class II, was 2,026 and that of Income-tax Officers Class I was 1,279.

2.24. On being asked by the Committee whether there were different pay scales in Class I Service, the witness stated that after the implementation of the recommendations of the Third Pay Commission, there were two

scales in Class I Service—Junior scale and Senior scale. Prior to that, there was only one unified scale in Class I Service.

2·25. When asked to state the reasons for continuance of the cadre of Income-tax Officers Class II, the Chairman, Central Board of Direct Taxes, stated that it had all along been felt that there should be two Classes in the Income-tax Officers' Service. Class III Service served as a feeder service for Class II. Class III people were eligible for promotion to Class II. This was a very important consideration for having Class II Service. The Third Pay Commission had also recommended the continuance of Income-tax Officers Class II. The witness further informed the Committee that the Income-tax Service was not the only Service where Class I and Class II cadres existed. In other Services, like Railways, P & T, CPWD, Accounts Service also Class I and Class II cadres existed.

2·26. Regarding the powers and responsibilities of Class I and Class II Income-tax Officers, the witness stated that so far as the statutory powers under the Income-tax Act were concerned, they were the same for both but having regard to the nature of duties to be performed and the importance of the responsibilities thereof, it was possible to say that a particular Officer performed comparatively less important functions and the other Officer performed comparatively more important functions. The witness added:—

“We have started Summary Assessment Scheme. The idea is that maximum number of people may not be called to Income-tax Office. Their returns may be scrutinised only. These are the cases of comparatively less importance. It is our intention to give this type of job to Class II Officers, rather even to those Class I Officers, who have put in less than three years service and who need more experience. There are some other areas (of work also which we find can be handled by Class II Officers or Class I Officers who have joined service very recently—who have not even completed their probation period etc. There are jobs which could be classified and an attempt has been made to classify those jobs for appointment of Senior Class II Officers and Junior Class I Officers.”

2·27. The Committee asked the witnesses to give their comments on the submission made by the petitioners that they were also doing more important work. The witness admitted that in many cases Class II Officers, who had put in sufficient number of years of service and were found to be good in investigation, were also doing important work.

2·28. In regard to promotional prospects for Income-tax Officers Class II to Class I, witness stated that when Class I Service was constituted, only 20% Class II Officers were eligible for promotion to Class I. Later on, it was raised to 2/3: 1/3. According to the new seniority rule which had been approved by the Supreme Court, they would be eligible for promotion in the ratio of 50: 50. Any Class II Officer, after having adequate experience and holding important charge could become eligible for Class I post.

2·29. Regarding mode of appointment of Class II Officers, the witness stated that normally Officers in Class III were entitled for promotion to Class II, but on three occasions when the scope for promotion from Class

III to Class II was not sufficient direct recruitment to Class II took place. But since 1969, a decision had been taken that there would be no direct recruitment to Class II but it would be filled by promotion from Class III Officers. The policy of the Department was that direct recruitment would be only in Class III and Class I of the Service. The Chairman Central Board of Direct Taxes, was of the view that for the efficient and proper functioning of the Income-tax Department, continuance of Income-tax Officer Class II and Income-tax Officers Class I was necessary.

2.30. The Chariman, Central Board of Direct Taxes, informed the Committee that interest of both Income-tax Officers Class II and Class I was nearest to his heart and that he was, as the Head of that Department, trying to bring the both sides together and to remove the grievances and misgivings of Officers of both the classes in the interest of the harmonious and efficient working of the Department.

2.31. In his evidence before the Committee on the 21st April, 1976 the Chairman, Central Board of Direct Taxes informed the Committee that efforts were going on to bring the two Associations of Income-tax Officers Class I and Class II respectively together to the negotiating table to resolve their differences. He added that if all these efforts failed, Government would take action to redress the genuine grievances of the Income-tax Officers.

2.32. In reply to a question, the witness stated that the existing strength of Income-tax Officers Class II was 2028 and that of Income-tax Officers Class I was 1254. He further stated that the number of vacancies in Class I occurring every year was not uniform. According to their recruitment policy, the vacancies were filled by direct recruits and promotees in the ratio of 1:1.

2.33. On enquiry by the Committee whether all Income-tax Officers Class II, who had rendered a minimum of five years' service and were eligible for promotion to Class I, had been promoted the Chariman, Central Board of Direct Taxes, while explaining the procedure of promotion from Class II to Class I, stated that for given number of vacancies in Class I they prepared a list of certain number of Class II Offices in order of their seniority. Then they were categorised as outstanding, very good and good. Any body who was categorised as outstanding went on the top and took a place in order of seniority with other outstanding officers. Then came those who were very good and good depending upon the number of vacancies. The rest were dropped out. The witness submitted that if any officer did not get the promotion after reaching the maximum it was not a fault of the system it might be the fault of the officer himself.

2.34. In response to a question, the Chairman, Central Board of Direct Taxes, informed the Committee that they had undertaken a cadre management review and they had noticed that in the Income-tax Service there was a lot of stagnation at the level of Assistant Commissioners and at the level of Class II Officers. As a result of the review, they had prepared a plan which was under consideration of the Government. In that plan they had suggested that the ratio of the strength of the Class I to Class II Income-tax Officers should be 3:2 instead of 2:3 at present. The witness added that in order to increase the number of Class I posts, he had made a request to the Government that they

should sanction the additional posts entirely in Class I till 1979. The idea behind their plan was that work was done by a comparatively senior class of people and at the same time it should provide more avenues of promotion for Class II Officers.

2.35. In regard to abolition of the cadre of Income-tax Officers Class II, the Chairman of the Central Board of Direct Taxes stated that highlevel Committees and Commissions had gone into that question in detail and they had come to the conclusion that it was necessary to have Class I and Class II in Income-tax Service as in other Services.

2.36. The witness further stated that although the statutory powers of both Classes of ITOs were the same, in their Department, there were various types of work—important, more important and less important, for example, there was an assessee whose total annual income was Rs.15,000/- only and there was another assessee whose total income was a crore of rupees. Although both were liable to be assessed in the same way in accordance with the provisions of the same law, but assessment of a person with an income of a crore of rupees required much greater responsibility, knowledge, expertise, experience etc., than the assessment of a person with an income of Rs.15,000/-

2.37. On being asked whether they had issued any instruction/guidelines for classification of jobs—as important, more important and less important the Chairman of the Central Board of Direct Taxes stated that they had proposed a scheme of job classification which had been sent to the Income-tax Commissioners for their comments. After making some changes in the light of their comments, Government would implement the scheme. The witness also promised to furnish to the Committee in writing the cadre Management Plan and the proposed Job Classification Scheme.

(iii) *Evidence of the representatives of the Indian Revenue [Service (Income Tax) Association*

2.38. In his evidence on the 10th December, 1975 the President, Indian Revenue Service (Income Tax) Association, stated that the claim made by Class II Income-tax Officers and their Association that they were doing the same type of work as was being done by Income-tax Officers Class I and that, therefore, their Class II cadre might be abolished by merger with Class I Service, had been examined in depth time and again but every time the said claim had been found to be unjustified from the administrative point of view. Though there might be no difference in statutory functions and powers of the two Classes of Income-tax Officers, there was a distinction between them based on the nature of work as also the responsibilities involved and the different roles intended for them in the administrative hierarchy.

2.39. The witness further stated that there were certain things which were not being done by the Central Board of Direct Taxes in order to discourage the agitational approach adopted by the Income-tax Officers Class II for abolition of Class II cadre. There were three reasons on account of which their claim of equality with Income-tax Officers Class-I was being made time and again. All the Income-tax Officers were the assessing officers but they had got charges which could be classified according to the importance

of the cases, revenue potential or the scope for investigation or the administrative work. Every Committee which had looked into the working of the Income-tax Department had emphasised that all charges were not equal and the level of the responsibilities was not the same. But no classification of charges had been made with the result that there had been indiscriminate postings without regard to status of Officers concerned. The witness suggested that there should be a more rational and reasonable posting scheme to utilise Class I and Class II Officers effectively. The second point was that in all other services, a Class II Officer was under the administrative control of his senior Class I Officer but it was not so in the Income-tax Department. Class I and Class II Officers were both made responsible to the Assistant Commissioner who belonged to the Junior Administrative Grade and who was three stages above the Class II Income-tax Officers. This was another factor which propped up the claim of equality on behalf of Class II Income-tax Officers and their Association. The witness suggested that there should be a line of control and Income-tax Officers Class II might be made subordinate to Income-tax Officers Class I. Thirdly as recommended by the Administrative Reforms Commission and the Wanchoo Committee, designations of Income-tax Officers Class-I and Class-II might be changed in accordance with their status and responsibilities.

2.40. When asked to state their opinion regarding abolition of the cadre of Income-tax Officers Class-II the witnesses stated that their contention was that that category should remain because Income-tax Officers Class I could do more important and complicated work whereas Income-tax Officers Class-II could do simpler work.

2.41. The Committee enquired from the witnesses in what way the interests of the Income-tax Officers Class I would be affected if there was only one Class of Income-tax Officers, the President of the Association stated that at present there were 1250 Class-I Income-tax Officers and 1863 Class II Income-tax Officers. Taken together, the number would exceed 3000 and the posts of Assistant Commissioners available were 528. At present, only Class I Income-tax Officers were entitled to be considered for promotion as Assistant Commissioner. On merger of Class-II into Class-I, their chances for promotion as Assistant commissioner would further diminished and there would be a stagnation unless and until there was a proportionate increase in the cadre of Assistant Commissioners.

2.42. In regard to posting of Income-tax Officers, the witnesses stated that there was a concurrent jurisdiction (among 8 or 10 Officers) and there was a pecuniary limit, *i.e.* cases of Rs. 25,000 would be looked into by some Income-tax Officers, cases over Rs. 50,000 would be looked into by another category of Income-tax Officers. Cases were divided among different Income-tax Officers on the basis of revenue, penal or investigational requirements. In the case of Central Circle or Investigation Circles, Class-II Officer were almost never posted. However, there was no rigid rule in regard to their postings.

2.43. When asked to give suggestions for resolving the dispute between Income-tax Officers Class-I and Class II in the interest of efficient functioning of the Income-tax Department, the witnesses stated that their grudge against the Central Board of Direct Taxes had been that whereas the recommendations relating to the technical side made by any Committee were immediately translated into action by way of making amendments in the Statute year after year

so far as administrative aspects were concerned, for those who shouldered this extra work, nothing was being done by the Board and the administrative aspects had been completely ignored. In fact, the Class-I as well as Class-II Officers had gone to the Court to fight their cases because in their Department nobody looked after the Cadre management or career planning for the Officers. The scheme of re-organisation was put into effect in the Department in 1944. Thereafter, there had been no review of that scheme. If a proper Cadre management was there, there would have been no grievances at all. The Income tax law had become complicated with so many new taxes. The legislation also had become more and more complex and more and more onerous responsibilities had been thrust on the Officers with authorisation of searches and seizures. But no incentive was given to the field officers for putting in their best. Year after year they did not get any promotion whereas their colleagues from the same batches who went to other Services in other Departments of the Government of India became senior to them. So far as their Association was concerned, after the last judgment of the Supreme Court in April, 1974 they thought that the litigation was over and that the Board would do some constructive work so that there would be no grievance left out among the Class-II and Class-I Officers. But that did not happen.

2.44. The witnesses informed the Committee that on the 16th and 17th June, 1975, they had had a joint sitting with the Federation of Class-II Officers wherein many problems—technical as well as administrative—were discussed. They had gone to the extent of agreeing that, in future, Government might stop direct recruitment to Class-I service so that Class-I vacancies might go to the Class-II Officers, some by promotion while others by limited Departmental competitive examination open to Class-II Officers. Their approach was that since these two Classes had to remain there was room for co-operation and co-operative efforts should be made for betterment of the Department and the country as a whole.

2.45. In his letter dated the 9th February, 1976, the President of the Indian Revenue Service (Income Tax) Association, stated as follows:—

“In the course of our Association’s appearance before the hon’ble Committee on the 10th December, 1975 our representatives made some submissions relating to the differentiation of responsibilities between Income-tax Officers borne on different cadres and the classification of charges of Income-tax Officers on the basis of criteria like onerousness of responsibility, quantum of revenue and requirements of investigation. In the chart annexed hereto (See Appendix-IV) we have furnished a specific outline of a three-tier classification in conformity with the three-tier cadre divisions and pay scales as recommended by the Third Pay Commission and accepted by the Government of India.

We submit that in the past as well as at present some such classification has been and is being broadly followed. In fact, since the beginning of 1973 the Central Board of Direct Taxes has issued instructions for having the duty posts of Income-tax Officers specifically demarcated in accordance with the prescribed guidelines. This work is still in progress. We would request the Hon’ble Committee to recommend expeditious completion thereof.

In our written Memorandum and, thereafter, in our oral evidence, we have explained the three main reasons behind the controversy of 'same work' which is being repeatedly raised by Class II Officers in our Department. We would request the Hon'ble Committee to please consider favourably our concrete suggestions for ending this controversy, particularly the one for the streamlining of designations so as to make clear the existing hierarchy as also at the different levels of responsibility."

2.46. In their reply, dated the 28th February, 1976 on the points raised in the letter, dated the 9th February, 1976, from the President, Indian Revenue Service (Income-tax) Association, the Ministry of Finance (Department of Revenue and Banking) have stated as follows:—

"Prior to 1-1-1973, Income-tax Officers were only in two grades, namely, Income-tax Officers (Class-I) and Income-tax Officers (Class-II). The former were intended to be generally given more important wards and cases, except at their earlier probation and training stages when they were also required to handle work of less importance to achieve proficiency for higher work. The latter were intended to be generally given less important wards and cases.

The question of Job Classification has been under examination for some time past. The matter is now being dealt with in the light of the relevant recommendations of the Third Central Pay Commission and the classification suggested by the Association is broadly in line with the Job Classification formulated by the Central Board of Direct Taxes for identifying and demarcating the charges of Income-tax Officers (Class-I Senior-scale), Income-tax Officers (Class-I Junior Scale), and Income-tax Officers (Class-II.)"

2.47. Subsequently, in their communication dated the 26th April 1976, the Ministry of Finance (Department of Revenue and Banking) have furnished notes on the following :—

- (i) The Cadre Management Plan for the Indian Revenue Service (Income-tax) (See Appendix-V); and
- (ii) Proposed Job Classification in respect of the posts of Income-tax Officers which will be finalised after receiving the comments of the Commissioners of Income-tax (See Appendix—VI).

2.48. In their note on Cadre Management Plan for the Indian Revenue Service (Income-tax), the Ministry have stated *inter alia* as follows :—

"The Plan formulated in June, 1975 covers the period 1-4-1975—31-3-1979. It takes into account prospective work-load and corresponding manpower, restructuring of the cadres in the context of changes in the situation, and stagnation due to inadequacy of promotional prospects. The important proposals emerging from the Plan are as under :—

- (a) In order to match manpower with current and prospective work-load, 626 new posts of Class I Income-tax Officers, 29 new posts of

Assistant Commissioners and 7 new posts of Commissioners should be created in the period 1-4-1975—31-3-1979.

- (b) As the number of vacancies due to normal retirement and new posts etc. in the cadre of Class I Income-tax Officers in the period 1-4-1975—31-3-1979 comes to as many as 1231, 355 direct recruits should be appointed through two special competitive examinations. The remaining vacancies would be filled in through the normal channels of promotion from the ranks of Class II Income-tax Officers and yearly competitive examinations for Central Services.

* * * * *

The ratio of Class I posts to Class II posts in the Department should be 3: 2 instead of 2:3. In order to correct this imbalance all new posts should be placed in Class I till this imbalance is removed.

Keeping in view the vacancies in the grade of Income-tax Officers Class I, as on 1-4-1975, future vacancies arising out of retirements, resignations, promotions to higher grades, and the addition of new posts, the Plan contemplates the promotion of 717* Class II officers to Class I during the period 1-4-1975 to 31-3-1979. This would have the effect of removing stagnation from the ranks of Class II Income-tax Officers substantially.”

2.49. In their note on Job Classification, the Ministry of Finance have given the broad guidelines according to which important wards/circles jobs will be entrusted to Income-tax Officers Class I and the following types of work will be allocated to Income-tax Officers Class II :—

- (i) Central Information Branches.
- (ii) Public Relations Officer/Welfare Officer.
- (iii) Foreign Section.
- (iv) Tax Recovery Officer.
- (v) General Circles.
- (vi) Salary Circles.
- (vii) Refund Circles.
- viii) Survey Circles .
- (ix) Summary Assessment Circles.
- (x) Ordinary Scrutiny Circles.

2.50. The Committee note that the Supreme Court in its judgement dated the 16th April, 1974, in Civil Appeals Nos. 2060 of 1971, 67, 139 and 393 of 1972 Bishan Sarup Gupta etc. vs. Union of India and others, and writ petition No. 287 of 1973, Sadhu Saran Singh vs. Union of India and others had observed, *inter alia* as follows :—

“When considering this point it must be clearly understood that this court is not concerned with Government’s policy in recruiting officers to any service. Government runs the service and it is presumed that it knows what is best in the public interest. Government knows the calibre of candidates available and it is for the Government to determine how a particular

*160 promotions have already been made since the plan was formulated,

service is to be manned/whether by direct recruits or by promotees or by both and, if by both, what should be the ratio between the two sources having regard to the age factor, experience and other exigencies of service. Commission and Committees appointed by the Government may indeed give useful advice but ultimately it is for the Government to decide for itself."

[AIR-1974—SC Page 1618].

E. Recommendations/Observations of the Committee

2.51. The Committee note the opinions expressed by the Central Pay Commissions and other high level Government Committees regarding the question of abolition of the cadre of Income-tax Officers, Class II. The Committee also note that the Supreme Court in its judgement dated the 16th April, 1974, had observed that "Government runs the service and it is presumed that it knows what is best in the public interest. Government knows the calibre of candidates available and it is for the Government to determine how a particular service is to be manned/whether by direct recruits or by promotees or by both and, if by both, what should be the ratio between the two sources having regard to age factor, experience and other exigencies of service".

2.52. The Committee are of the view that the question concerning the existence of various grades in the different Services is primarily an organisational and management problem and is, therefore, one for the Government to deal with. The Government are the best judge of the requirements of their own administrative machinery in the matter of recruitment and composition etc. of a particular Service. It is upto the Government to consider whether in the Income-tax Department and in other allied Services, there should be a uniform Cadre of Officers. This is a matter which has to be considered in entirety by the Government keeping in view the exigency of the Services as a whole.

2.53. The Committee have noted that ever since the two Classes of Income-tax Officers were created in 1944, the question of abolition of one cadre or amalgamation of the two Classes of Income-tax Officers was examined from time to time by various Committees/Commissions but the Ministry of Finance consistently disfavoured the amalgamation of Class I and Class II cadres. The Ministry, however, considered that "Charges of Income-tax Officers have to be classified as Class I and Class II charges on the basis of the nature of work. This was not done."

The Committee fail to understand the reasons why the charges of Income-tax Officers Class I and Class II could not be classified all these years by the Ministry of Finance. That Ministry had let things drift in their own way so much so that a dispute has been going on for over a decade concerning demands of the two cadres of Income-tax Officers. The pivotal role of this Department as a tax-collecting machinery cannot be over-emphasised. It is therefore imperative that the unseemly infighting in the Income-tax Department should be put

an end to and energies of the staff and Officers are canalised into more fruitful channels. The Committee take note of the assurance given by the Chairman of the Central Board of Direct Taxes during his evidence that he is personally making efforts to bring the representatives of Income-tax officers, Class I and Class II together with a view to find an agreed solution to their problems and to redress all their genuine grievances in this regard. The Committee hope that this process will be expedited and the problem solved once and for all.

2.54. The Committee are aware that a large number of Income-tax Officers, Class II have held important charges and distinguished themselves in the matter of tax-collection and assessment. The merit of such Officers should be recognised. The Committee suggest that the Government may examine the feasibility of rewarding by promotions such Officers who have rendered meritorious services for a period of five years and more in important charges. In the opinion of the Committee this is necessary to keep up the morale and efficiency of the Officers.

2.55. The Committee further recommend that all unfilled vacancies in Class I should be filled up as a matter of course as and when such vacancies occur without keeping them in abeyance.

2.56. One of the grievances of the petitioners is about the delay in confirmation. The Committee are of the view that confirmation of Officers, both in Class I and Class II cadres, should be made as a matter of course as and when permanent posts fall vacant without keeping them in abeyance. Further the number of permanent posts in each cadre should be so regulated that an Income-tax Officer is normally confirmed in his respective cadre within a prescribed minimum period.

2.57. The Committee note that according to the present rules, the ratio of promotees to direct recruits in the cadre of Income-tax Officers, Class I is 1:1. The Committee would like to stress the imperative need of properly implementing this rule so that there is no dissatisfaction on this score among the promotees and the direct recruits.

2.58. The Committee have noted the broad guidelines proposed to be laid down by the Government in the matter of job classification for Income-tax Officers Class I and Class II. They would, however, like to stress that the parameters of this job classification between the two cadres should be clear and well defined so that there is no scope for any discontent on this score in future. The Committee feel that any scheme of job classification should be able to satisfy the majority of the existing affected Officers and, therefore, it should be finalised in consultation with their respective associations.

NEW DELHI,

Dated the 3rd May, 1976.

JAGANNATH RAO,

*Chairman,
Committee on Petitions*

APPENDIX I

(See Para 2.1 of the Report)

(Representation *re.* service grievances of Income-tax Officers, Class II.)

To

The Hon'ble Speaker,
Lok Sabha,
New Delhi.

The Humble petition of Shri P.K.P. Nambiar and Shri A.S. Ahuja and others serving as Income-tax Officers under the Ministry of Finance, Government of India,

Sheweth—

1. That the petitioners are working as Income-tax Officers, Class II in the Department of Revenue & Expenditure, Ministry of Finance, Government of India.

2. That the Income-tax Officers, Class II cadre is partly filled in by direct recruitment made through the Union Public Service Commission and partly by promotion, made on the basis of selection on merit by the Departmental Promotion Committee of Inspectors of Income-tax who are recognised as an authority under the Income-tax Act. All the existing Officers in Class II Service are graduates, many of them double graduates and not a few of those recruited directly in the past holders of Doctorates of different Universities.

Besides the Cadre of Class II Income-tax Officer, there is in this department a cadre of Class I Income-tax Officers also. Recruitment of Class I Income-tax Officers is made through the Union Public Service Commission either directly from among candidates appearing in the combined competitive Services Examination or by Promotion of Income-tax Officers, Class II on the basis of selection on merit.

3. That since the creation of Income-tax Officers Services, Class I & II in 1945, both these classes of Officers have been performing exactly identical duties in inter-changeable charges with no job differentiation; in fact, no single charge in this Department has ever been classified or earmarked for either Class I or Class II Officers, and Officers have over the past 27 years been freely posted to all charges without any distinction ever having been made on the ground of their belonging to two separate classes;

That the nature of work, the standard of performance both as regards quality and quantity, the statutory powers, the duties, both technical and administrative, as well as the jurisdictions of both the classes of Officers are exactly identical, and neither under any of the Direct Taxes Acts nor in actual practice and working, any distinction is made between these two classes of Income-tax Officers in the matter of postings, jurisdiction, duties, workload and administrative responsibilities. A Class II I.T.O. is not subordinate to a Class I, I.T.O., in fact both these classes of I.T.Os are subordinate to the same authority *viz.*, the Inspecting Assistant Commissioner of Income-tax.

4. That in spite of the performance by the two classes of I.T.Os. of similar functions and shouldering of equal responsibilities, an artificial distinction exists which results in wide disparity between them in the matter of status, pay scales, and promotional prospects and other privileges

5. That a Class II ITO is eligible, under the existing rules, for promotion to Class I, on completion of five years service as a Class II Officer.

6. That from 1963, promotions from Class II to Class I have not been made regularly every year as was being done earlier. Actually, during the period 1963—72, only 119 regular promotions have been made, while 607 direct recruits have been inducted.

7. That the above lapse of the Central Board of Direct Taxes has resulted in an accumulation of more than one thousand Officers awaiting their promotion to Class I, who have put in service of 5 years or more in Class II.

8. That many of these Officers have put in even more than ten years service as I.T.O. and have also become fairly aged and experienced in service.

9. That out of the total strength of about 2,900 I.T.Os., 2,200 are classified in Class II and of these more than 1,000 have already become eligible for promotion to Class I but have not yet been promoted.

10. That there are about 500 vacancies in the cadre of I.T.Os Class I remaining unfilled though there are more than 1,000 eligible Class II Officers available for filling up of these vacancies who have been made to work against these and similar other vacancies for several years.

11. That even after officiating for a number of years, Officers have not been confirmed in Class II and Class I.

12. That the above discrimination has resulted in enormously jeopardising the promotional prospects of the petitioner and officers similarly placed like him to the post of Assistant Commissioner.

13. That the above facts have been brought to the notice of the higher authorities through individual representatives as well as through the resolutions passed by the various officers Associations all over the country and also by All India Federation of Income tax Gazetted Services Associations (which was recognised by the Government as early as 1933).

14. That the perpetuation of this discrimination between the two classes should be ended by abolition of Class II and having only one class of Income-tax Officers, has been urged before various Committees and Commissions such as the Working Group of the Administrative Reforms Commission, Public Accounts Committee etc., which have recommended abolition of Income-tax Officers of the Class-II cadre and conversion of the same to Class I.

15. That the Chairman of the Central Board of Direct Taxes in his evidence before the Public Accounts Committee of the Parliament observed "Class-II service of the Income-tax Officers should be abolished; all Income-tax Officers should be in Class-I; Income-tax Officers both Class-I and Class-II perform the same type of duties.

16. That the Public Accounts Committee of the Parliament in its 29th Report of April, 1968 for 1967-68 has observed that the Government will doubtless examine the suggestion and take suitable action, as it considers the above observations of the Chairman, justified.

17. That the then Union Finance Minister, Shri Morarji Desai in two of his addresses to the Annual Sessions of All India Federation of Income-tax Gazetted Services Associations also endorsed the view that there was no justification for the continuation of two classes of Income-tax Officers shouldering similar responsibilities and statutorily doing the same work.

18. That the principle of Article 39(d) of the Constitution of India—equal status, pay and opportunity for equal work—has not been observed in respect of the Class II Income-tax Officers.

19. That the above-mentioned artificial and discriminatory classification of Income-tax Officers offends Articles 14 and 16 of the Constitution of India besides violating the Rules of Law, equity and natural justice.

20. That various representations made to the higher authorities have so far not met with any positive response from the executive.

21. That the petitioner has been compelled to approach the Lok Sabha as a last resort in view of the above-mentioned failures of the Executive to fulfil the legitimate aspirations of the petitioner and to abide by the principles enunciated in the Constitution of India.

And accordingly your petitioners pray that

- (i) there should be only one Class of Income-tax Officers with equal status, equal pay and equal opportunity; those who have been

doing equal work without any job differentiation should not be subjected to any future scheme of job classification and thus deprived of the benefits of their past services,

- (ii) the Officers who have been officiating for more than two years in any post, should be immediately confirmed, and your petitioners, as in duty-bound shall ever pray.

Name of Petitioner	Address	Sd/- Signature
1. Shri P.K.P. Nambiar	Income-tax	Do.
2. Shri A.S. Ahuja and other Income-tax Officers.	Officer, Collection, Cannanore, KERALA	Do.

Countersigned by

1. Shri Jyotiromy Bosu, M.P.
2. Shri R. D. Nimbalkar, M.P.
3. Shri A.B. Vajpayee, M.P.
4. Shri D.C. Goswami, M.P.
5. Shri Jambuwantrao Dhote, M.P.
6. Shri P. Veerkatasubbaiah, M.P.
7. Shri Gurdas Singh Badal, M.P.
8. Shri Tridib Chaudhuri, M.P.

APPENDIX II

(See para 2·9 of the Report)

[Factual note of the Ministry of Finance (Department of Revenue and Banking on the representation regarding service grievances of Income-tax Officers, Class II.]

NOTE

Prior to 1944, Income-tax Officers were all in Class II Service. The Class I Service of Income-tax Officers was created in the reorganisation scheme of 1944 with the object of improving the Income-tax Administration. The following grades of Income-tax Officers were created with the adoption of the reorganisation scheme :—

I.T.Os. Grade I	(Class I Service)
I.T.Os. Grade II	(Class I Service)
I.T.Os. Grade III	(Class II Service)

With effect from 1-7-1959, the various grades of Income-tax Officers were abolished on the recommendations of the Second Pay Commission and the categories of Income-tax Officers were reduced to two, as follows :—

I.T.Os.	Class I	(Pay scale Rs. 400-1250)
I.T.Os.	Class II	(Pay Scale Rs. 350-900)

2. The rationale of two categories of Income-tax Officers is the difference in the matter of importance of work. In regard to the type of work both Class I and Class II Income-tax Officers derive their powers from the Income-tax Act, equally. Class I Income-tax Officers are intended to be generally given more important Wards and cases, except at their earlier probation and training stages when they are also required to handle work of less importance to achieve proficiency for higher work. Class II Income-tax Officers are intended to be generally given less important Wards and cases. Unfortunately, there has been continuing shortage of Class I Officers for some years with the result that a large number of Income-tax Officers Class II had to be posted against Class I posts. This is because the sanctioned strength of Class I Posts has been steadily increasing while the number of direct recruits taken each year could not be increased beyond a certain limit as that would necessarily result in dilution of the quality of the cadre and for considerations of career management which should be such as would offer reasonable prospects of promotion to higher cadres. The quota prescribed in 1951 for promotion from Class II (33-1/3% of the vacancies in Class I) is small, and there has been continuing litigation over the question of seniority and the resulting uncertainty which hampered search for a final solution to the problem. The issues involved in the Court cases are referred to in detail in paras 8-10 below.

3. Ever since the two classes of Income-tax Officers were created in 1944, the question was examined from time to time by higher Committees, Commissions, as also by Government, as to whether it was desirable at all to have two classes of Income-tax Officers. The First Pay Commission was

satisfied that there was no justifiable grievance in allowing the Class II Service to continue. The Direct Taxes Administration Enquiry Committee (i.e. Tyagi Committee) of 1958-59 which looked into this question, felt that Class II cadre should continue. Relevant extracts from the Committee's report are attached as Annexure I. The Second Pay Commission was also in favour of retaining a separate Class II grade as there was a large volume of work which could be entrusted to Class II Officers and on which it would be wasteful to employ Officers recruited for higher type of work. This Ministry had also examined the matter in the past and were not in favour of amalgamation of Class I and Class II cadres. However, charges of Income-tax Officers have to be classified as Class I and Class II charges on the basis of the nature of work. This was not done but, as recommended by Wanchoo Committee, these are now being determined. Another important consideration behind this was that it was necessary to have a Class II cadre which offers reasonable prospects of promotion to Class III Inspectors. Class II Officers themselves can look forward to promotion as Class I Officers and, thereafter gradually to higher posts.

4. The Administrative Reforms Commission examined the problem from various angles. Apparently, a suggestion was made before the Commission's Working Group on Central Direct Taxes Administration that there was no distinction between the nature and importance of assessment work done by either of the two categories of Income-tax Officers, namely, Class I and Class II, and the Working Group was impressed by that suggestion. With this understanding of the position, the Working Group felt that two classes of Officers doing some type of work constituted an anomaly which needed to be removed. The Working Group, therefore recommended that all posts of assessing officers should be in Class I. However, the Commission, disagreeing with the observations of the Working Group, observed in their report on Central Direct Taxes Administration that Income-tax Officers (Class II) should continue to be given assessment work. The Commission went on to reiterate the position that the Class II Income-Tax Officers should be put on assessment work on comparatively simpler type of cases, but recommended that the strength of the Class II cadres might be reduced over a period of years. The Commission, thus, recognised the distinction between assessment cases of a simpler type and those of an important nature which is the rationale behind continuance of two classes of Income-tax Officers. Again, in their report on personnel Administration, the Commission made an important recommendation in regard to Class II cadre in the various Central Government departments. The Commission drew pointed attention to the existing opportunities for advancement open to those who are in Class II. After examining the position regarding the respective quotas for direct recruitment and promotion to Class I in the various Services, the Commission recommended that the promotion quota should be increased to 40% where it is now less than that percentage. In other words, the Commission did not envisage a situation where the Class II cadre may have to be virtually abolished in any service and, in their view, the problem is really one of rationalising the opportunities available to Class II Officers for elevation to Class I. Relevant extracts from the Reports on Central Direct Taxes Administration of the Working group and of the Commission and the Commission's report on personnel Administration are attached as Annexures II, III and IV.

5. Recently, the Wanchoo Committee had occasion to consider the matter. The Committee has categorically rejected the suggestion that all posts of Income-tax Officers, Class II, should be converted into Class I posts merely because all of them are doing assessment work. In the Committee's view

what needs to be done is to classify jobs according to their importance and then assign cases to officers according to the degree of responsibility involved. The Committee has made specific recommendations as to the types of assessment cases which should be handled by Class II Officers and Junior Class I Officers and other assessment cases. The manner in which the Committee's recommendation is to be implemented, is under examination. An extract containing the Committee's recommendations on this point is attached as Annexure V.

6. The Third Central Pay Commission also went into this matter and has come to the conclusion that the posts of Income-tax Officers (Class II) should continue as a separate cadre. Relevant extracts from the Commission's report are at Annexure VI.

7. The Income-tax Officers, Class II, can look forward to promotion to the higher grade of Income-tax Officer, Class I. The basis of promotion is selection on merit on the recommendation of a D.P.C. , presided over by a Member of the Union Public Service Commission. Income-tax Officers, Class II, with not less than 5 years service in the grade are eligible to be considered for promotion. The number of officers considered for promotion each time the Departmental Promotion Committee meets depends on the number of Class I posts to be filled. It is, therefore, not necessary that all I.T.Os. Class II, who have completed 5 years service in the grade must be considered for promotion, every time a D.P.C. meets to select officers for Promotion to Class I.

8. In 1962 , some direct recruits, who were taken into the Indian I.T. Service, Class I, on the results of the I.A.S. etc. examination held in 1950 and subsequent years filed writ petitions in the Punjab High Court challenging the seniority rules of Income-tax Officers, Class I, which allowed a weightage of 2-3 years to the officers promoted from Class II to Class I. They also alleged that the quota rule which fixed the ratio of direct recruitment and promotion at 80 : 20 (later revised to 66-2/3 and 33-1/3) had not been properly implemented thereby infringing the guarantees of Articles 14 and 16 of the Constitution. The writ petitions were dismissed. The matter was brought in appeal to the Supreme Court. The Supreme Court delivered its judgement on 22-2-1967. The Supreme Court held that the weightage rule was not violative of guarantees under Articles 14 and 16 of the Constitution, provided the quota rule was strictly observed. The court held that the officers promoted in excess of the quota during the period 1951—56 were illegally promoted and issued a writ of mandamus directing the Government to re-adjust the seniority of direct recruits and promotees in accordance with the quota rule and the seniority rule.

9. The Government prepared a revised seniority list in accordance with the mandamus of the Supreme Court and issued it on 15-7-1968. In this list, 154 promotee officers were shown as having been promoted in excess of the quota upto the end of 1967. They were not to be reverted, but were to be adjusted in the seniority list against vacancies falling to the promotion quota during 1968 and future years. Two writ petitions against this list were filed in the Delhi High Court—one by a promotee and the other by a direct recruit. One more petition was filed by a promotee officer in the Gujarat High Court. The Delhi High Court dismissed the writ petition filed by the promotee officer but substantially allowed the one filed by the Direct Recruit. The Gujarat High Court allowed the petition by the promotee officer. As two High Courts had given differing judgements and otherwise also it was considered necessary, the Government of India took the matter in appeal before the Supreme Court. The direct recruit and promotee officers also filed appeals in the Supreme Court.

10. The Supreme Court delivered an interim judgement on 16-8-1972. It held that the old seniority rule, which allowed weightage to promotees, had ceased to operate from 16-1-1959 by reason of the infringement of the quota rule and that it was for the Government to devise, if necessary in consultation with the U.P.S.C., a just and fair seniority rule, as between direct recruits and promotees for being given effect to from 16-1-1959. The Government were given 6 months' time to frame the rule, prepare a seniority list in accordance with the Court's directions and file these before the court. The parties were given liberty to apply after the list was filed. The proceedings of the Court were kept pending till then. In pursuance of this judgement, the Income-tax Officers, (Class I) Service (Regulation of Seniority) Rules, 1973 (Annexure VII) were framed and promulgated by a Gazette notification on 9-2-73. A seniority list of Income-tax Officers, Class I appointed upto 1971 was also prepared and both the Rules and the list were filed in the Supreme Court on 15-2-1973. Objections were filed before the Court on behalf of both the direct recruits and the promotees. These were heard by the Court and the final judgement of the Supreme Court in the matter was pronounced on 16-4-1974. The Court has held that the seniority rule is just and fair and that the seniority list prepared by Government in accordance with the Court's directions is the correct seniority list.

11. It has been stated in para 9 above that the seniority list issued on 15-7-1968 had shown 154 promotees in excess of the quota. These excess promotees were to be adjusted against future vacancies. In that view of the matter, no fresh promotions could be ordered till they were first absorbed. This is why no promotions were made in the years 1967, 1968, 1969, 1970 and 1972. However subject to final judgement of the Supreme Court on the cases pending before it, *ad hoc* and provisional promotions of Income-tax Officers, Class II to Class I were ordered as below:—

May, 1971	. . .	150	} By selection through duly constituted D. P. Cs. (For a period not exceeding one year and on the basis of fitness only)
August, 1973	. . .	190	
November, 1973	. . .	300	
March, 1974	. . .	54	

12. The quota for direct recruitment and promotion upto 15-1-1959 was 66-2/3% and 33-1/3% respectively. The Income-tax Officers, (Class I) Service (Regulation of Seniority) Rules, 1973 lay down that the seniority of promotees and direct recruits will be fixed in the ratio of 1:1 in the manner indicated below:—

- (i) Promotee
- (ii) Direct Recruit
- (iii) Promotee
- (iv) Direct Recruit and so on

This in effect means that regular appointments to the Income-tax Officers (Class I) cadre, by direct recruitment and by promotion, is to be in equal proportions from 16-1-59 onwards.

13. Officers, whether appointed directly or promoted from the lower grades are put on probation for two years. After the period of probation, they are considered for confirmation in the grade if they satisfy the prescribed conditions laid down in regard to the satisfactory completion of probation depending on the availability of permanent vacancies for confirmation. The

vacancies for confirmation arise by creation of fresh permanent posts, confirmation of officers, in higher grades who hold liens in the lower grades retirement, resignation etc. of confirmed officers. The confirmation of officers of the grade of Assistant Commissioner of Income-tax and Income-tax Officer (Class I) was held up for quite some time due to prolonged litigation regarding the seniority of officers.

It has not been possible to make confirmations against more than 100 permanent vacancies in Assistant Commissioner's grade because the Seniority of officer is to be refixed after the judgement of the Supreme Court. Unless Assistant Commissioners are confirmed, they do not release vacancies for confirmation in the grade of Income-tax Officer (Class I). Even so, permanent vacancies arising in the grade of Income-tax Officer (Class I) were filled by the confirmation of 100 direct recruits and 212 promotees by a notification issued in September, 1973.

14. Confirmation of Income-tax Officers (Class II) has been done by the Commissioners of Income-tax against the available permanent vacancies.

Para-Wise Comments

15. *Para 1:* The Income-tax Department is a subordinate organisation of the Department of Revenue & Insurance of the Ministry of Finance and not of the Department of Revenue and Expenditure as stated in the para. The Income-tax Department is responsible for the detailed execution of the policies of the Government of India in regard to direct Taxes Laws and the administration of these laws. The Income-tax Department functions directly under the administrative control of the Central Board of Direct Taxes.

The Commissioner of Income-tax is Head of Department in each charge. The Commissioner of Income-tax has under him Inspecting Assistant Commissioners of Income-tax, the Appellate Assistant Commissioners of Income-tax and Income-tax Officers (both Class I and Class II). Commissioner of Income-tax, Inspecting Assistant Commissioner of Income-tax, Appellate Assistant Commissioner of Income-tax, Income-tax Officers, Class I and Income-tax Officers, Class II are mentioned as Income-tax authorities in the Income-tax Act, 1961.

16. *Para 2:* The statement that the Income-tax Class II Cadre is partly filled by direct recruitment made through the U. P. S. C. and partly by promotion of Inspectors of Income-tax is not wholly correct. In accordance with the statutory recruitment rules for the posts of Income-tax Officers Class II, which are in force at present, appointments to the grade of Income tax Officers, Class II are made by promotion on the basis of selection of Inspectors of Income-tax who have put in not less than three years service in the grade and have qualified in the Departmental Examination for Income-tax Officers (Class II) recruitment through I.A.S. etc. Examination may be made after consultation with the Union Public Service Commission, if it is considered that sufficient number of qualified Inspectors are not available for promotion. Direct recruitment to the grade of Income-tax Officer, Class II was made in the past. Some officers were recruited on the results of the IAS etc. Examination held upto the year 1954. *ad hoc* recruitment was resorted to in 1947, 1954 and 1969. Since then there has been no direct recruitment to the grade of ITO, (Class II).

1970	.	.	.	.	.	.	56
1971	.	.	.	.	.	.	78
1972	.	.	.	.	.	.	74
1973	.	.	.	.	.	.	75
TOTAL							660

21. *Para Nos. 7 & 8* : Promotions to Class I were regulated in accordance with the prescribed quota and other relevant decisions. If vacancies in existence cannot be earmarked for promotion, it is not possible to order promotion as it would be violative of the rules. The provision that only Income-tax Officers, Class II with not less than 5 years service will be eligible for promotion to Class I, is a restrictive condition so that experienced officers only are considered for promotion to Class I. However, the number of officers to be considered for promotion has necessarily to be related to the vacancies falling in the promotion quota. The rules do not provide that all the Income-tax Officers, Class II, who have completed 5 years service in the grade will be promoted to Class I.

The Income-tax Officers, Class II, have to wait longer than 5 years for promotion to Class I, also because although the sanctioned strength of Income-tax Officers, Class I, increased rapidly during the last 10 years or so direct recruitment to Class I and, therefore, promotion to Class I, could not keep pace with it. In order to run the administration, it became necessary to fill the gap by accommodating Class II officers against vacancies in Class I. There was thus a consequential expansion of the working strength in the grade of Income-tax Officers, Class II, involving large-scale promotion of Inspectors to that grade. The result was that the Inspectors got all the vacancies of Income-tax Officers, Class II, and a sizeable number of vacancies in Class I also, for their promotion as Income-tax Officer, Class II. The promotion of Income-tax Officers, Class II to Class I is linked with direct recruitment to Class I in fixed proportions. While for promotion to Class II, the Inspectors got more than their share of vacancies. Class II Income-tax Officers had to get only 33-1/3% vacancies, upto 15-1-59 and 50% vacancies from 16-1-59 onwards for promotion to Class I. The result was that they got abnormally quick promotion to Class II but they had to wait longer for further promotion to Class I.

22. *Para 9* : On 1-7-1974, there were 1219 Income-tax Officers in Class I (including 354 Income-tax Officers, Class II promoted to Class I on purely *ad hoc* and provisional basis) and 1826 in Class II. It is true, that about 1000 Income-tax Officers, Class II, have put in five years service in the grade and have become eligible to be considered for promotion to Class I. However, promotion itself has to depend on availability of vacancies which can be clearly earmarked for promotion.

23. *Para 10* : Mere existence of vacancies is not the deciding factor. Promotion can be made only against such of the vacancies as are earmarked for promotion in a particular year. Regarding Class II officers who were working against vacancies in Class I, Government have already filled most of such vacancies by promoting 300 officers in November, 1973 and 54 in March, 1974 on a purely *ad hoc* and provisional basis.

24. *Para 11* : The officers are considered for confirmation in accordance with their seniority and only after putting in two years' service in the grade. The confirmations are ordered on the recommendations of duly constituted D.P.Cs. The D.P.C. meets when vacancies become available by creation of permanent post, retirement of permanent officers or by confirmation of officers in higher grades. The position in regard to confirmation of income-tax Officers, Class I, is indicated below :—

- (i) All direct recruits who were recruited upto 1969 and who were found fit for confirmation have already been confirmed by a notification issued in *September, 1973*. The question of confirmation of direct recruits, who joined in 1970 and 1971 is under consideration.
- (ii) Income-tax Officers who were promoted from Class II to Class I upto the year 1966 and who were found fit, have already been confirmed in Class I, by a notification issued in *September, 1973*.

The confirmation of Income-tax Officers, Class II, is ordered by each Commissioner of Income-tax in his own charge. The confirmation of Income-tax Officers, Class II, has been ordered in all the charges of Commissioners of Income-tax against the available permanent vacancies.

25. *Para 12* : Promotion to the grade of Assistant Commissioners of Income-tax is made on the basis of selection on merit from among Income-tax Officers, Class I. An officer who is in Class II is not eligible to be considered for promotion as Assistant Commissioner of Income-tax. As the two grades of Income-tax Officers, Class II and Class I, are distinct in status, pay scale, duties etc., they cannot be equated for the purpose of promotion to the grade of Assistant Commissioners of Income-tax. However, it is not as though an Income-tax Officer (Class II) cannot look forward to promotion as Assistant Commissioner of Income-tax. He becomes eligible for such promotion, in accordance with the rules and the prescribed procedure, after he is first promoted as Income-tax Officer (Class I).

26. *Para 13* : As stated in para 3 of this note, the question has been carefully considered in the past but it has been considered advisable not to abolish the grade of Income Tax Officers, Class II.

27. *Para 14* : The position in regard to the recommendations of the various Committees and Commissions on the question of abolition of Class II has been stated in para 2 of this note. The Public Accounts Committee itself had not made any recommendation for the abolition of the Class II.

The question concerning the existence of various grades in the different Services is primarily an organisational and management problem and is, therefore, one for the Government to deal with. The existence of two Classes of officers deriving powers, equally, from the law which they administer, is not a feature which is peculiar to the Income-tax Department. Since it cannot be denied that there are comparatively simpler types of cases which require to be handled by the Department, it would necessarily add to the burden on the tax-payer if officers belonging to the

Class I Service, which is contlier, are employed to deal with such cases. Moreover, one consequential and far reaching effect of abolition of the grade of Income-tax Officers (Class II) and its conversion to Class I, will be the complete stoppage of the avenue of promotion now available to Inspectors of Income-tax and the consequential diminution of the promotion prospects of the Class III officials in the lower grades.

28. *Paras 15 & 16* : It is true that a former Chairman of the Central Board of Direct Taxes had put forth certain suggestions before the P.A.C. One such suggestion was for the abolition of the Class II Service of Income Tax Officers and for all Income-tax Officers to be in Class I. The Government, however, after making a careful examination, had decided not to abolish Class II. Extracts from the relevant Report of the P.A.C. and the suggestions of the former Chairman, Central Board of Direct Taxes, are enclosed as Annexure VIII and IX.

29. *Para 17* : No comments. The relevant extract from the address by Shri Morarji Desai, the then Finance Minister (copy attached at Annexure X) may be referred to for its full intent and meaning. He had, *inter alia*, stated that the matter was already before the (Second) Pay Commission.

30. *Para 18* : The suggestion implicit in this paragraph has been discussed adequately in para 72, Vol. II, Part I, of the Report of the Third Central Pay Commission. The Commission had held that the posts of Income-tax Officers (Class II) should continue as a separate cadre on the ground, *inter alia*, that there are differences in the nature of work.

31. *Para 19* : No comments, as they relate to matters of opinion. The Governments views on these opinions have been explained in paras 2 to 7 of this note.

32. *Paras 20 & 21* : The position in regard to the suggestion for abolition of the Class II and with regard to confirmations, has already been explained in previous paragraphs.

Annexure I to Appendix II

ANNEXURE I

EXTRACT FROM THE REPORT OF THE DIRECT TAXES ADMINISTRATIONS ENQUIRY COMMISSION, 1958-59

8.48. Prior to 1944, there was only one grade of income-tax Officers. Consequent on the formation of the central Class I and Class II Services the assessing officers were classified under three cadres viz., Class I Grade I, Class I Grade II and Class II. It has been represented to us that the statutory functions and duties of the various grades of assessing officers under the different direct taxes Acts are similar. There is no specific classification or demarcation of the work to be performed by the different grades of officers. In some cases, a Class II Officer is made to man a post as important as the one in which a Class I Grade Officer should normally be posted. It has, therefore, been urged that this division into two Classes is inequitable and unjustified and should be done away with.

8.49. We find that though generally speaking the duties and functions of the assessing officers are more or less the same, having regard to the different types of charges in the respective territorial units, there is certainly a difference in the nature of work and the responsibility to be shouldered by various officers. The assessment work in important cities is more onerous and difficult as compared to that in the mofussil offices. The categorisation of the cases in different standard units for the purpose of evaluation of work clearly shows that a classification of the nature of assessment work is possible. Even at present Class II assessing officers are generally entrusted with cases of comparatively low revenue potential and are posted to easier charges like Salary, Refund and Mofussil Circles. Cases in Special, Central and Company Circles as well as those of important businesses in big cities and assessments involving multiple tax liability would normally have to be dealt with the senior officers with sufficient experience and merit. The scheme for dealing with a small income group cases discussed by us in the Chapter on Assessments also envisages a clear classification of work involving comparatively less labour and responsibility.

8.50. An Important consideration in favour of the retention of Class II cadre is that it provides an avenue for promotion of the non-gazetted staff to the higher executive cadres. The previous Committees and Commissions, which considered this question, expressed themselves in favour of the retention of the Class II service. The quality and efficiency associated with the Class I service which is largely manned by persons who have qualified in competitive examinations of the Union Public Service Commission have to be maintained at the highest degree and this cannot be done if Class II cadre is merged with it. Considering the pros and cons of the question we recommend that the Class II cadre should continue. There is, however, no justification in maintaining the two grades in Class I service. In our view, the broad categorisation of posts into two classes viz. Class I and Class II, having regard to the nature of work, is sufficient and there is no justification for further bifurcation of Class I into two grades. We would therefore, recommend the abolition of the present two grades and introduction of an integrated pay scale for the entire Class I service combining Grade I scale as well as that of Grade II.

8.51. It has been pointed out to us that the prospects of promotion of officers in Class II to Class I are very meagre with the result that these officers suffer from a sense of frustration. This problem has also assumed particular importance in view of the fact that whilst a majority of direct recruits have been taken in Class I Grade II, there were ad hoc direct recruitments to Class II service in 1947 and in 1954. There are at present over 800 Class II assessing officers and nearly 50 per cent of them have put in the minimum service of five years which qualifies them for promotion to Class I. This figure includes over 200 direct recruits to Class II referred to above. The number of vacancies available in Class I to be filled up every year by promotion is very small. In this context we have examined the nature of work and the responsibilities to be shouldered by the assessing officers in the different charges. In our opinion, cases involving multiple tax liability, estate duty cases and category I cases, which are mainly concentrated in Central and Special Circles and Group Charges should be dealt with by Class I officers. Officers doing special work in headquarters Charges of Commissioners Public Relations Offices, Foreign Sections and Special Investi-

gation Branches should also be from the Class I cadre. Officers who are deputed to act as Departmental Representatives before the Income-tax Appellate Tribunal are doing important and responsible work and these posts should also be in Class I cadre. We have suggested in the Chapter on Collection and Recovery that officers of the Department should be entrusted with recovery work instead of depending on the State officers. This work is also important and should be entrusted to Class I Officers. Some of the new direct recruits in Class I should in the beginning of their service be posted to Circles dealing with small income group cases as a part of their training Charges like Salary Circles, Refund Sections, Special Survey Officers as well as those having small income group cases and assessments other than category I could be dealt with by officers in Class II cadre. Leave reserves to the extent of ten per cent of the total strength of officers should all be in Class II cadre. On a detailed analysis we find that there should be about 727 charges which should be dealt with by Class I officers as against the present sanctioned strength in this cadre of 623 officers. Hence, we suggest that the number of Class I posts should be increased by about 100. These increased posts along with about half of the existing vacancies should all be filled by promotion of the most efficient and deserving Class II Officers by selection on the basis of merit.

Annexure II to Appendix II

ANNEXURE II

Extract from Para 7.30 (a) of the Report of the Working Group on Central Direct Taxes Administration, Administrative Reforms Commission January, 1968.

(a) Rationalisation of the Class I and Class II Strength—

One of the major difficulties which the Department has faced is the direct recruitment to Class I and Class II of the Cadre of Income-tax Officer and the absence of any distinction in the matter of works, assessment responsibilities, Jurisdiction and powers as between these two classes of officers. There are no posts clearly earmarked for Class I and Class II in the Income-tax Department. We have found that many officers of Class II are manning important charges, whereas many officers in Class I are in charge of less important circles.

This has led to a clamour by the Class II officers for equality of status and pay with the Class I Officers and the Class I officers to contend that Class II officers should get no weightage on their promotion to Class I. The official witnesses before the two Pay Commissions, we find, did not, it appears present a true picture of the situation obtaining in the Department and the version that they gave, namely, that the Class II officers were put to less important work did not truly reflect the position then existing. In the circumstances obtaining in the Income-tax Department and in view of the importance of the duties of assessments performed, we consider that this anomaly of two classes for doing the same type of work should go. We, therefore, suggest that all posts of assessing officers should be in Class I and 75 per cent of the existing posts of assessing Income-tax Officers, in Class II should be converted into that of Class I. The residual portion of 25 per cent in

Class II should be reserved for promotion from the non-gazetted ranks, and the officers so promoted should be assigned non-assessment type of duties, such as administrative Officers, Chief Accounts Officers, and Examiners.

To the 75 per cent of the posts converted to Class I, selections should be made from the existing Class II officers on the basis of merit and their seniority vis-a-vis the direct recruits should be determined on the Roster system on a ratio to be determined by Government.

Annexure III to Appendix II

EXTRACT FROM CHAPTER VII OF THE REPORT OF ADMINISTRATIVE REFORMS COMMISSION ON CENTRAL DIRECT TAXES ADMINISTRATION

(d) Income-tax Officers:

7. The primary assessing authorities are the Income-tax Officers. They are in Class I as well as Class II. Staffing of Class I is through direct recruitment as well as by promotion from Class II. During the past several years, the Class II used to be filled through the promotion of Inspectors. Recently, however, the Central Board of Direct Taxes has made arrangements for direct recruitment to Class II. We are not in favour of this move. Direct recruitment to junior posts at two levels, viz., Class I and Class II creates difficult administrative problems and also creates a cadre of officers in Class II many of whom may have to stagnate therein for a long time. We, therefore, agree with the Working Group that the Class II should be filled up entirely through promotion of Inspectors. We however do not agree with the Group that officers in Class II should not be given assessment work. They should be put on assessment work on comparatively simpler types of cases. The strength of the Class II cadre may, however, be reduced over a period of years.

Annexure IV to Appendix II

EXTRACT FROM THE REPORT OF THE ADMINISTRATIVE REFORMS COMMISSION ON PERSONNEL ADMINISTRATION

Special opportunities for advancement to those who are in Class II and Class III.

17. In most of the Class I Services, 75 per cent of the vacancies are reserved for direct recruitment from fresh university graduates in their early twenties. There are of course a few cases where direct recruitment is made to the extent of 80 or even 100 per cent of the vacancies. In some cases, it is restricted to 50 per cent. These are, however, exceptions and the quota of vacancies in Class I available for promotion is generally 25 per cent. The number of vacancies filled up each year in all the higher services would be roughly around 800. So, the number of vacancies in Class I to which promotions are made from Class II would be roughly about 200 which is far too inadequate having in view the number of Class II officers awaiting promotion. We would, therefore, suggest that the promotion quota be increased to 40 per cent where it is now less than that percentage.

into Class I. Having regard to all the factors we are led to the conclusion that the posts of Income Tax Officers Class II should continue as a separate cadre as, apart from the differences in the nature of work, they provide opportunities for promotion to the non-gazetted staff. We would, however, suggest that charges normally to be held by Officers in the Class I senior scale and by Class II Officers should be clearly demarcated as such, and barring unforeseen contingencies, there should be little or no interchangeability.

रजिस्ट्री सं० डी० 221

Annexure VII to Appendix II
REGISTERED No. D. 221

भारत का राज पत्र

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (i)

Part II—Section 3—Sub Section (i)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग एकलन के रूप में रखा जा सके ।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF FINANCE

(Department of Revenue and Insurance)

Income-tax Establishments

NOTIFICATION

New Delhi, 9th February 1973

G.S.R. 54(E).—In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the seniority of persons directly recruited or promoted to Income-tax Officers (Class I) Service, namely:—

1. **Short title and commencement.**—(1) These rules may be called the Income-tax Officers (Class I) Service (Regulation of Seniority) Rules, 1973.

(2) They shall be deemed to have come into force on the 16th day of January, 1959.

2. Definitions.—In these rules, unless the context requires otherwise—

- (a) "date of commencement" of these rules means the 16th day of January, 1959;
- (b) "direct recruit" means an Income tax Officers recruited to the Income-tax Officers (Class I) Service on the basis of any competitive examination held by the Union Public Service Commission;
- (c) "promotee" means an Income-tax Officer promoted to Class I Service on the basis of selection and includes—
 - (i) any Income-tax Officer, Grade III (Class II) Service who had been promoted to Income-tax Officers (Class I, Grade II) Service before the 1st day of July, 1959;
 - (ii) any Income-tax Officer in Class II Service, who is promoted to Income-tax Officers (Class I) Service, on or after the 1st day of July, 1959; and
 - (iii) any Income-tax Officer in Grade III (Class II) Service, who had been promoted to Income-tax Officer (Class I, Grade II) Service before the 16th day of January, 1959, in excess of the quota fixed for promotion in terms of the directions contained in letter No. 24(2) Adm. IT/51 dated the 18th October, 1951 of the Government of India, in the Ministry of Finance (Revenue Division).

3. Seniority of officers.—The seniority of the Income-tax Officers in the Class I Service shall be regulated as from the date of commencement of these rules in accordance with the provisions hereinafter contained namely:—

- (i) the seniority among the promotees *inter se* shall be determined in the order of selection for such promotion and the officers promoted as a result of any earlier selection shall rank senior to those selected as a result of any subsequent selection;
- (ii) the seniority among the direct recruits *inter se* shall be determined by the order of merit in which they are selected for such appointment by the Union Public Service Commission and any person appointed as a result of an earlier selection shall rank senior to all other persons appointed as a result of any subsequent selection; and
- (iii) the relative seniority among the promotees and the direct recruits shall be in the ratio 1:1 and the same shall be so determined and regulated in accordance with a roster maintained for the purpose, which shall follow the following sequence, namely:—
 - (a) promotee;
 - (b) direct recruit;
 - (c) promotee;
 - (d) direct recruit; and so on.

4. Interpretation.—If any question arises as to the application of these rules or interpretation thereof, such question shall be referred to the Central Board of Direct Taxes, who shall give a decision thereon.

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5. **Repeal.**—Any rule relating to fixation of seniority and other conditions of service of Income-tax Officers Class I (whether they are direct recruits or promotees), shall, in so far as they relate to those officers who are governed by these rules, stand repealed to the extent they are inconsistent with any of the provisions contained in these rules.

[No. F.10/1/73-Ad.VI]

M. M. SETHI, Dy. Secy.

वित्त मंत्रालय

राजस्व और बीमा विभाग

आय-कर स्थापन

अधिसूचना

नई दिल्ली, 9 फरवरी, 1973

सा० का० नि० संख्या 54 (अ).—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए आय-कर अधिकारी (वर्ग 1) सेवा में सीधे भरती या प्रोन्नत किए गए व्यक्तियों की ज्येष्ठता को विनियमित करने वाले निम्नलिखित नियम एतद्द्वारा बनाते हैं, अर्थात् :—

1. **संक्षिप्त नाम और प्रारम्भ** :—(1) इन नियमों का नाम आय-कर अधिकारी (वर्ग 1) सेवा (ज्येष्ठता का विनियमन) नियम, 1973 है।

(2) ये जनवरी, 1959 के 16वें दिन को प्रवृत्त हुए समझे जायेंगे।

2. **परिभाषाएँ** :—इन नियमों में, जब तक कि सन्दर्भ में अन्यथा अपेक्षित न हो,—

(क) “इन नियमों के प्रारम्भ की तारीख” से जनवरी, 1959 का 16वां दिन अभि-प्रेत है,

- (ख) "सीधी भरती" से आय-कर-अधिकारी (वर्ग 1) सेवा में सब लोक सेवा आयोग द्वारा ली गयी किसी प्रतियोगी परीक्षा के आधर पर भरती किए गए कोई आय-कर अधिकारी अभिप्रेत हैं,
- (ग) "प्रोन्नत" से चयन के आधर पर (वर्ग 1) सेवा में प्रोन्नत किए गए कोई आय-कर अधिकारी अभिप्रेत है और इस में,
- (i) कोई आय-कर-अधिकारी, श्रेणी III (वर्ग 2) सेवा, जो जुलाई, 1959 के प्रथम दिन से पूर्व आय-कर अधिकारी (वर्ग 1, श्रेणी 2) सेवा में प्रोन्नत किया गया है ;
- (ii) वर्ग 2 सेवा का कोई आय-कर अधिकारी, जो जुलाई 1959 के प्रथम दिन को या उस के पश्चात् आय-कर अधिकारी (वर्ग 1) सेवा में प्रोन्नत किया गया है ; तथा
- (iii) श्रेणी 3 (वर्ग 2 सेवा) का कोई आय-कर अधिकारी, जो जनवरी 1959 से 16वें दिन से पूर्व आय-कर (वर्ग 1, श्रेणी 2) सेवा में भारत सरकार के वित्त मंत्रालय (राजस्व प्रभाग) के पत्र संख्या 24(2) प्र० आय-कर/51, तारीख 18 अक्तूबर, 1951 में अन्तर्विष्ट निदेशों के अनुसार प्रोन्नति के लिये नियत कोटा से आधिक्य में प्रोन्नत किया गया है । सम्मिलित है ।

3. अधिकारियों की ज्येष्ठता :—वर्ग 1 सेवा के आय-कर अधिकारियों की ज्येष्ठता, इन नियमों के प्रारम्भ होने की तारीख से इसमें इस के पश्चात् अन्तर्विष्ट उपबन्धों के अनुसार विनियमित की जायेगी, अर्थात् :—

- (i) प्रोन्नतों की पारस्परिक ज्येष्ठता ऐसी प्रोन्नति के लिये चयन के क्रम में अवधारित की जाएगी और किसी पूर्वतर चयन के परिणामस्वरूप प्रोन्नत किए गए अधिकारी किसी पश्चात्वर्ती चयन के परिणामस्वरूप चयनित अधिकारियों से ज्येष्ठ होंगे ;
- (ii) सीधे भरती किए गए व्यक्तियों की पारस्परिक ज्येष्ठता योग्यता के उस क्रम में अवधारित की जाएगी जिस में ऐसी नियुक्ति के लिये संघ लोक सेवा आयोग द्वारा उनका चयन किया गया है और किसी पूर्वतर चयन के परिणामस्वरूप नियुक्त कोई व्यक्ति किसी पश्चात्वर्ती चयन के परिणामस्वरूप नियुक्त अन्य सभी व्यक्तियों से ज्येष्ठ होगा ; और
- (iii) प्रोन्नत तथा सीधे भरती किए गये व्यक्तियों की सापेक्ष ज्येष्ठता 1:1 के अनुपात में होगी और वह इस प्रयोजन के लिये रखे गए ऐसे रोस्टर के अनुसार

भवधारित और विनियमित की जाएगी, जिस में निम्नलिखित क्रम अपनाया जाएगा, अर्थात् :—

- (क) प्रोन्नत,
- (ख) सीधे भरती किया गया व्यक्ति,
- (ग) प्रोन्नत,
- (घ) सीधे भरती किया गया व्यक्ति, और इस प्रकार

4. निर्वाचन :—इन नियमों के लागू होने या उन के निर्वाचन के सम्बन्ध में यदि कोई विवाद उठता है तो ऐसा विवाद केन्द्रीय प्रत्यक्ष कर बोर्ड को निर्दिष्ट किया जाएगा, जो उसका विनिश्चय करेगा ।

5. निरसन :—प्राय-कर अधिकारी वर्ग 1 (भले ही वे सीधे भरती किए गए हों या प्रोन्नत हों) की ज्येष्ठता नियत करने और सेवा की अन्य शर्तों के सम्बन्ध में कोई भी नियम जहां तक उसका सम्बन्ध इन नियमों द्वारा शासित अधिकारियों से है इन नियमों में अन्तर्विष्ट किन्हीं भी उपबन्धों से जहां तक वह उन से असंगत है उस सीमा तक निरसित हो जाएगा ।

[फाइल संख्या 10/1/73—प्र० VI]

एम० एम० सेठी,

उप-सचिव, भारत सरकार ।

Annexure VIII to Appendix II

EXTRACT FROM THE 29TH REPORT OF THE PUBLIC ACCOUNTS COMMITTEE (1967-68) (FOURTH LOK SABHA)—Page 29—

241. The Committee feel that one of the reasons for declining standards of output in the Department is due to an imbalance in the service conditions of employees of the Income-tax Department. A note has been submitted by the Chairman of the Board of Direct Taxes which is appended to the Report (Appendix V). The Committee is sure that the Government will examine the suggestions contained in the note and take suitable action on it.

EXTRACT FROM APPENDIX V TO THE 29TH REPORT OF THE
PUBLIC ACCOUNTS COMMITTEE (1967-68)—(FOURTH LOK
SABHA)—Page 80.

3. The following proposals are made for improving the conditions of service of officers of the Income-tax Department so as to improve efficiency and to combat the temptation to leave the Department :—

- (i) Class II Service of the Income-tax Officers should be abolished. All Income-tax Officers should be in Class I. A new but small cadre of Examiner of Accounts may be created to absorb such Class II Officers who are not considered suitable for absorption in Class I. Income-tax Officers, both Class I and Class II perform the same type of duties. No distinction is generally made when posting officers. The promotion prospects of Income-tax Officer, Class II, are not bright, and some of the officers have to wait for years before they get promoted to Class I.

Annexure X to Appendix II

क्लास 1 और क्लास 2 की आपने जो बात कही है वह ठीक है। मैं भी मानता हूँ कि असूल के तौर पर इन में कुछ फरक नहीं होना चाहिए और मैं यह करने की कोशिश भी कर रहा हूँ कि लेकिन इस में कठिनाइयाँ भी हैं, यह भी समझना चाहिए। नहीं है, ऐसा नहीं है। तो आप कहें कि इन्स्पेक्टर भी वही काम करता है जो इन्कम टैक्स आफिसर, तो दोनों एक ही क्यों न बन जायें। आगे चल कर हर एक बात में हो सकता है। मगर एक काम करने के लिए कोई फरक नहीं होना चाहिए, वह जरूर मैं मानता हूँ। एक ही किस्म की जवाबदारी है, एक ही किस्म का काम करना है, इसमें दो हिस्सा रखना, दो विभाग करना, वह मुझे पसंद नहीं, ऐसा होना नहीं चाहिए। पे-कमीशन के पास बात गई हुई है। आगे मैं कह नहीं सकता इस में क्या होगा, क्या नहीं होगा, और पहले से इसका सोचना मेरे लिए ठीक भी नहीं, बराबर नहीं, मुनासिब नहीं है। तो इस बारे में मैं कोई ज्यादा नहीं कह सकता, मगर मेरी सिम्पैथी आपके साथ है, यह मैं जरूर कहता हूँ।

APPENDIX III

[See para 2.10 of the Report]

[Note received from the Ministry of Finance (Deptt. of Revenue and Banking) *vide* their O.M. No. 6/17/74/Ad. VI, dated 28th November, 1975.]

(i) The Direct Taxes Administration Enquiry Committee (Tyagi Committee) had issued a questionnaire on 30-8-1958. A Supplementary Questionnaire was also subsequently issued. The Central Board of Revenue had sent replies to both. The two files from which replies on administrative matters were issued, were weeded out on 2-6-1971.

(ii) A copy of the note recorded on 9-8-1974 by Shri K. R. Ganes h then Minister of State in the Ministry of Finance, is sent herewith. (Annexure I) In that note, which was recorded after the Government had announced their decisions on the recommendations/observations made in the report of the Third Central Pay Commission, the Minister had desired Chairman, C.B.D.T., to take a view in the Board on his suggestion for creation of a new cadre of Examiners of Accounts/Auditors/Inspecting Officers in a gazetted Class II cadre and prescribing of a running scale for the post of Income-tax Officer cadre in Class I with provision for advance increment at the Efficiency Bar stages. The suggestion was examined and it was decided that the whole matter concerning the pay-scale, etc. for Income-tax Officers (Class I) and Income-tax Officers (Class II), should be treated as having been finally settled by the report of the Third Central Pay Commission and Government's decisions thereon announced in the Resolutions dated 1-11-1973 and 1-5-1974.

(iii) Prior to the 20th November, 1963, recruitment to the posts of Income-tax Officers (Class II) was governed by executive instructions which provided for direct recruitment to the grade to the extent of 50 per cent of the vacancies. Despite this provision, however, no direct recruitment was made after 1956. The statutory Recruitment Rules issued *vide* Ministry of Finance (Department of Revenue) notification No. 63, dated the 20-11-1963, which superseded the earlier instructions, provided that the posts would be filled by promotion, provision was also included that *ad hoc* recruitment by selection through the U.P.S.C. may be made, if in the opinion of the Board there was need for which such a recruitment. A copy of the notification is sent herewith (Annexure II). The only occasion when *ad hoc* recruitment was resorted to in pursuance of the provision included in the statutory rules was in 1969 when 192 posts of Income-tax Officers (Class II) were filled by direct recruitment.

(iv) The existing sanctioned strength of I.T.O., Class II is 1972 carrying the scale of pay of Rs. 650—1200. If all these posts are upgraded and merged with the posts of I.T.O., Class I (Junior Scale)—Rs. 700—1300—the additional expenditure to be incurred in one year would come to Rs. 19.40 lakhs. However, allowance has to be made for upgradation, of the bulk of these posts to the Class I (Senior Scale)—Rs. 1100—1600—after 4 years because by then the incumbents would become entitled for promotion to the Senior Scale. In accordance with the generally accepted norms, two-thirds of the posts of I.T.O.s., (Class I) are to be in the Senior Scale.

On this basis, 1314 posts will have to be converted into the senior Scale after 4 years. At that point of time, there will be a further addition to the annual expenditure, of Rs. 58.50 lakhs. Thus, the additional annual expenditure would ultimately come to Rs. 77.90 lakhs.

Annexure I to Appendix III

COPY

This file was discussed sometime back with Chairman (DT.)

The problem faced by the Central Board of Direct Taxes in connection with the abolition of cadre of Class II Income-tax Officers is well-known. Time and again this problem has been raised by the various M.Ps. in Parliament. The All India Federation of Income-tax Gazetted Services Association have also agitated that Class II Cadre of ITOs should be abolished and there should be only Class I cadre. It has not been possible to abolish Class II Cadre, as the abolition will take away the promotional avenues for Income-tax Inspectors.

(F.N.02/21/74-Ad.VI.)

The present proposal envisages creation of three cadres of Income-tax Officers *viz.* Class II in the scale of Rs. 650—1250, Class I junior in the scale of Rs. 700—1300 and Class I senior in the scale of Rs. 1100—1600. All the three cadres of ITOs will draw similar powers from Income-tax Act. It would be very difficult to prescribe separate job requirement for the three cadres. For the purposes of promotion from junior Class I to Senior Class I also there are going to be difficulties, since there will be always wire-pulling by the promotees and the direct recruits. Already the Federation has raised the issue of weightage for Class II Service for promotion to Senior Grade.

In view of the position indicated above, I would suggest that certain jobs which are not very important for ITOs and those jobs which are considered to be of sufficient importance for Inspectors could be taken from these two cadres and a new cadre of Examiners of Accounts/Auditors/Inspecting Officers in a Gazetted Class II cadre could be created. This cadre could be mainly concerned for checking up accounts of assessee, completion of summary assessments, assist the ITOs in the investigation cases etc. This new cadre could serve as a ground for training the promotees for taking higher responsibilities as ITOs.

The scale for the post of ITO cadre in Class I could be a running one with provision for advance increments at the Efficiency Bar stages.

I would like Chairman to discuss this matter in the Board for taking a view.

Sd/- (K.R. GANESH)

9-3-74

Ch (DT).

GOVERNMENT OF INDIA
 MINISTRY OF FINANCE
 (Department of Revenue)

New Delhi, the 20th November, 1963
 29th Kartika, 1885

NOTIFICATION

No. 63—In exercise of powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules regulating the method of recruitment to the posts of Income Tax Officers in the Central Service, Class II, namely :—

1. *Short title.*—These rules may be called the Income-tax Service (Class II posts) Recruitment Rules, 1963.

2. *Application.*—These rules shall apply to recruitment to the posts specified in column 1 of the Schedule hereto annexed.

3. *Classification and scale of pay.*—The classification of the post and the scale of pay attached thereto and the nature of the posts, shall be as specified in columns 2 to 4 of the said Schedule.

4. *Method of recruitment, age limit, period of probation and other qualifications.*—The method of recruitment, age limit, qualifications, the period of probation and other matters connected therewith, shall be as specified in columns 5 to 11 of the said Schedule.

5. *Disqualification.*—(a) No person who has more than one wife living or who, having a spouse living, marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse shall be eligible for appointment to the post; and

(b) No woman whose marriage is void by reason of the husband having a wife living at the time of such marriage or who has married a person who has a wife living at the time of such marriage, shall be eligible for appointment to the post.

Provided that the Central Government may, if satisfied that there are special grounds for so ordering, exempt any person from the operation of this rule.

6. *Interpretation.*—If any question arises as to the meaning or application of these rules or any of them to any person, the matter shall be referred to the Central Government, whose decision thereon shall be final.

7. *Power to relax.*—Where the Central Government is of opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of these rules with respect to any Class or category of persons.

Sd/- (S.P. PANDE)

Deputy Secretary to the Government of India.

Notification No. 63/F.No.22/27/59-Ad.VI.

Copy forwarded to :—

1. All Commissioners of Income-tax.
2. All Accountants General.
3. The Secretary, Union Public Service Commission, New Delhi (with 8 spare copies) with reference to their letter No. F.3/8(7)-60-R(A) dated the 30th May, 1962.
4. The Appellate Controller of Estate Duty, New Delhi.
5. The Ministry of Home Affairs, New Delhi, with reference to their Office Memorandum No. 558/63-Estt(D), dated the 7th February, 1963.
6. The Ministry of law, New Delhi, with reference to their U.O. No. 3442/63-SRO, dated the 24th September, 1962.
7. The Director of Inspection (Income-tax)/The Director of Inspection (Investigation)/The Director of Inspection (Research, Statistics & Publication), New Delhi.

Sd/- (M.G. THOMAS)

Under Secretary to the Government of India.

SCHEDULE

Name of Post	Classification whether gazetted or non-gazetted	Scale of pay (Rs.)	Whether selection post or not	Age for direct recruits	Educational qualification for direct recruits	Whether age and educational qualification also apply in case of recruits by promotion	Period of probation, if any, & mode of confirmation	Method of recruitment i.e., whether by direct recruitment or by transfer of service from which promotion etc. are to be made	In case of promotion/transfer, grades or service from which promotion to be made	If Departmental promotion committee exists for recruitment by promotions	Circumstances in which Public Service Commission is to be constituted making recruitment
I	2	3	4	5	6	7	8	9	10	11	12
Income Tax Officer	Class II, (Gazetted)	350-25-500-30-590-EB-30-800-EB-830-35-900	Selection applicable	Not applicable	Not applicable	Not applicable	Two years. Confirmation in the service will be considered by the Departmental Promotion Committee at the completion of their probation period. Officers who are considered suitable for confirmation will be confirmed in the service, if permanent vacancies are available.	By Promotion. <i>Ad hoc</i> recruitment through the UPSC may be made, if in the opinion of the Central Board of Revenue there is need for such a recruitment.	Income Tax Inspectors Service Class III. (Inspectors who have passed the departmental examination for Income Tax Officers and have put in at least 3 years service in the grade.)	Class II As required under Promotion the Commission rules.	

APPENDIX IV

(See para 2.45 of the Report)

[Classification of charges of Income-tax Officers as suggested by the Indian Revenue Service (Income-tax) Association]

Having regard to criteria like onerousness of administrative responsibility, quantum of revenue and requirements of investigation, charges of Income-tax Officers can readily be classified according to the following three-tier pattern in conformity with the three-tier cadre divisions and pay scales as recommended by the Third Pay Commission and accepted by the Government of India.

Major Charges (to be held by Class I ITOs in Senior Scale)	Medium Charges (To be held by Class I ITOs. in Junior Scale)	Minor Charges (To be held by Class II I.T. Os.)
1. I. T. O. Headquarters (in CIT's charge where there is no I.A.C., H.Q.)	1. I.T.O. Headquarters (in CIT's charge where there is an IAC, HQ.)	1. I.T.O. Summary Assessment Circle.
2. I.T.O., Judicial	2. Public Relations Officer.	2. I.T.O., Ordinary Assessment Circle (having scrutiny cases of income of less than Rs. 25,000.)
3. I.T.O., Central Circle.	3. I.T.O., Foreign Section.	3. I.T.O., Salary Circle.
4. I.T.O., Company Circle.	4. 1st ITO/A-Ward ITO (in multi-ITO circle having less than 5 ITOs).	4. I.T.O., Refund Circle.
5. 1st ITO/A-Ward ITO (in multi-ITO circle having 5 or more ITOs.)	5. I.T.O. Security circle having cases of Income of Rs. 25000 to 1 lakhs).	5. I.T.O., Survey Circle.
6. ITO, Special Circle (having high income cases, e.g., Rs. 1 lakh and over, search and seizure cases, etc.)	6. Assistant Controller of Estate Duty.	6. I.T.O., Central Information Branch.
7. Chief Auditor.	7. I.T.O., Internal Audit.	7. Tax Recovery Officer.
8. Assistant Director of Inspection (in Directorate of Investigation and O & M Services and in Training College and Training Institutes).	8. Assistant Director of Inspection (in Directorates of Income-tax, RSP and Vigilance).	
9. Junior Authorised Representative (Income-tax Appellate Tribunal).		

NOTE.— After a demarcation of duty posts is done as per the above type of classification, if an when and officer of the lower cadre is posted to a higher category post on account of any exigencies of service, he should be paid a special allowance for assumption of duties involving higher responsibility.

APPENDIX V

(See Para 2.47 of Report)

[Salient features of the Cadre Management Plan for the Indian Revenue Service (Income-tax)]

The Plan formulated in June, 1975, covers the period 1-4-1975—31-3-1979. It takes into account prospective work-load and corresponding manpower, restructuring of the cadres in the context of changes in the situation, and stagnation due to inadequacy of promotional prospects. The important proposals emerging from the Plan are as under :—

- (a) In order to match manpower with current and prospective work-load, 626 new posts of Class I Income-tax Officers, 29 new post of Assistant Commissioners and 7 new posts of Commissioners should be created in the period 1-4-1975—31-3-1979.
- (b) As the number of vacancies due to normal retirement and new posts etc. in the cadre of Class I Income-tax Officers in the period 1-4-1975—31-3-1979 comes to as many as 1231, 355 direct recruits should be appointed through two special competitive examinations. The remaining vacancies would be filled in through the normal channels of promotion from the ranks of Class II Income-tax Officers and yearly competitive examinations for Central Services.
- (c) In order to re-structure the appellate machinery with a view to bringing it in line with the numerous changes in law made since 1941—the year when the appellate machinery was restructured last—and removing chronic stagnation in the ranks of Assistant Commissioners, the existing 201 posts of Appellate Assistant Commissioners should be upgraded as Appellate Commissioners. This proposal would involve some changes in law relating to the jurisdiction over first appeals now lying to the Commissioner, Central Board of Direct Taxes, and the Appellate Tribunal. The proposed restructuring of the appellate machinery aims at achieving better speed and justice in the disposal of appeals filed by tax-payers.
- (d) Considering the stagnation in the ranks of Assistant Commissioners, the strength of selection grade in this cadre should be fixed at 20% of the total number of senior duty posts—senior scale Income-tax Officers, Assistant Commissioners, and Commissioners.
- (e) The span of control of Range Inspecting Assistant Commissioners should be redetermined in the light of the additional duties given to these functionaries in the last few years including those arising out of the changes made in the recent Direct Taxes (Amendment) Act, 1975.
- (f) The manpower requirements of Inspecting Assistant Commissioners (Audit) should also be redetermined.

- (g) The ratio of Class I posts to Class II posts in the Department should be 3:2 instead of 2:3. In order to correct this imbalance, all new posts should be placed in Class I till this imbalance is removed.

2. Keeping in view the vacancies in the grade of Income-tax Officers Class I, as on 1-4-1975, future vacancies arising out of retirements, resignations, promotions to higher grades, and the addition of new posts, the Plan contemplates the promotion of 717-160 promotions have already been made since the Plan was formulated. Class II officers to Class I during the period 1-4-1975 to 31-3-1979. This would have the effect of removing stagnation from the ranks of Class II Income-tax Officers substantially.

APPENDIX VI

(See para 2.47 of the Report)

[Job classification proposed by the Central Board of Direct Taxes]

In identifying and demarcating the posts to be manned by ITOs (Class I) senior scale, ITOs (Class I) junior scale and ITOs (Class II), the following guidelines are proposed to be broadly followed :—

A. ITOs (Class I)—Senior Scale

Following types of wards/circles/jobs will be entrusted to ITOs (Class I)—Senior Scale :—

- (i) Central Circles.
- (ii) Company Circles.
- (iii) Special, Important Revenue Circles } dealing with high income groups, and cases involving searches & seizures.
- (iv) Estate Duty Circles.
- (v) ITO, Head Quarters @ 1 for every 3 Commissioners in multi-Commissioner charges } where the number of Commissioners is 3 or less, one post each of ITO, Head Quarter and ITO, Judicial is only to be provided.
- (vi) ITO, Judicial @ 1 for every 3 Commissioners in multi-Commissioner charges. }
- (vii) Junior Authorised Representatives.
- (viii) Chief Auditors.
- (ix) Assistant Directors of Intelligence.
- (x) Assistant Directors in the Directorates and IRS (DT) Staff College, including regional training institutes.

B. ITOs (Class I)—Junior Scale

These officers will man the following types of posts :—

- (i) First ITO in multiple Circle/Ward/District (excluding First ITOs in Central Circles, Company Circles, special, important Revenue Circles and Estate Duty Circles—who will be in senior scale).
- (ii) Scrutiny Circles other than those referred to in 'A' above and 'C' below.
- (iii) ITOs, Internal Audit.

C. ITOs (Class II)

These officers will be in charge of the following types of work :—

- (i) Central Information Branches.
- (ii) Public Relations Officer/Welfare Officer.
- (iii) Foreign Section.
- (iv) Tax Recovery Officer.
- (v) General Circles.
- (vi) Salary Circles.
- (vii) Refund Circles.
- (viii) Survey Circles.
- (ix) Summary Assessment Circles.
- (x) Ordinary Scrutiny Circles.