

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE**

**REVIEW APPLICATION NO.170/64/2019 IN ORIGINAL APPLICATION
NO.170/01872/2018**

DATED THIS THE 20th DAY OF DECEMBER, 2019

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER

Parvesh Dahiya
S/o Sri Randhir Singh
Aged 29 years,
Working as Tax Assistant
Accounts (HQRS)
Office of the Commissioner of Central Tax
Bengaluru North Commissionerate
No.59, Ground Floor, H.M.T.Bhavan
Bellary Road, Bengaluru-560 032.
Residing at MIG-A-18-54
Departmental Quarters, 5th Phase
Yelahanka New Town
Bengaluru-560 064.

.....Applicant

(By Advocate Shri A.R. Holla)

Vs.

1. Union of India
By Secretary
Department of Revenue
North Block, New Delhi – 110 001
2. The Chairman
Central Board of Indirect Tax and Customs
North Block, New Delhi – 110 001.
3. The Principal Chief Commissioner of Central Tax
GST Bengaluru Zone
C.R. Building, Queen's Road
Bengaluru – 560 001.
4. The Commissioner of Central Tax
Bengaluru North Commissionerate
No.59, Ground Floor, H.M.T.Bhavan
Bellary Road
Bengaluru-560 032.

5. The Additional Commissioner of Central Tax
Delhi Zone, C.R.Building
I.P.Estate
New Delhi-110 002.

.....Respondents

(By Shri Vishnu Bhat, Sr.CGSC)

O R D E R

(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN.))

This review application has been filed by the applicant seeking review of the order dated 28.6.2019 passed in OA.No.1872/2018 by this Tribunal(Annexure-RA1). The only contention of the applicant is that he is a Tax Assistant and not Inspector of Income Tax and therefore, the Recruitment Rules of 2016 which have been cited and wherein the inter-commissionerate transfers have been found to be invalid cannot apply to him and therefore, his application for inter-commissionerate transfer should be considered. Apart from the question of Recruitment Rules of 2016 and the communication sent by the respondents on 20.9.2018, in our detailed order in OA.1872/2018, we had considered the question of the private interest of the persons like the applicant and the public interest involved in providing efficient service to the public with the available staff in the respondent organisation. The respondents in their reply to the RA have pointed out that even as per the guidelines relating to the inter-commissionerate transfer, the applicant has to complete 3 years period in the station and the applicant in this case has just completed his probation period and further as per the draft guidelines of the Board vide letter dtd.2.1.2017, the vacancy position in the Commissionerate where the applicant is working should not be more than 35% whereas the present vacancy position of Tax Assistants is about 60% and the same has been furnished vide Annexure-R1. They have also stated that once

the vacancy position is reduced to less than 35%, requests for inter-commissionerate transfers may be considered. Therefore, the plea that the Recruitment Rules of 2016 and the communication dtd.20.9.2018 will not apply in the case of Tax Assistants and therefore, the order in the OA needs to be reviewed cannot be accepted since the main point considered in the OA is not only with respect to the particular position of the Inspectors but with respect to the vacancy position arising in the respondent organisation and the need for efficient public service. We have discussed at length the various orders in this regard including those of the Hon'ble Apex Court and have come to the conclusion that public interest will have to play a larger role with respect to requests for transfer and the respondent organisation has every right not to consider any inter-commissionerate transfer applications when they do not have adequate staff at the level of the Tax Assistants and other such similar posts. Therefore, our orders in the OA are not merely based on the recruitment rules relating to the Inspector of Income Tax but also with respect to other posts like those of the applicant who have to necessarily subsume their private interests to the larger public interest of maintaining efficient service. Having accepted the terms of employment under which they are liable for efficient service as per the guidelines of the respondent department, the applicant cannot demand transfer as a matter of right as has been upheld by the Hon'ble Apex Court in any number of decisions.

2. The RA is therefore dismissed. No costs.

(C.V.SANKAR)
MEMBER (A)

/ps/

(DR.K.B.SURESH)
MEMBER (J)

Annexures referred to by the applicant in RA.No.64/2019

Annexure-RA1: Copy of the order dtd.28.6.2019 in OA.1872/2018

Annexures with reply:

Annexure-R1: MVR in r/o Tax Assistant as on 21.10.2019
