

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH, CHANDIGARH**  
**ORIGINAL APPLICATION NO.60/00501/2020**  
**AND**  
**MISCELLANEOUS APPLICATION NO.60/00954/2020**

ORDER RESERVED ON 14.07.2021

DATE OF ORDER: 03.09.2021

**CORAM:**

**HON'BLE SHRI SURESH KUMAR MONGA, MEMBER (J)**

(On video conference from Central Administrative Tribunal, Chandigarh Bench at Chandigarh)

**HON'BLE SHRI RAKESH KUMAR GUPTA, MEMBER (A)**

(On video conference from Central Administrative Tribunal, Bangalore Bench at Bangalore)

Annu Saini aged 31 years w/o Sh.Hardeep Saini, working as Inspector, Central Goods & Services Tax (CGST), Chandigarh Zone, resident of House No.1106-DMC Sector 38-West, Chandigarh (Group-C).

....Applicant

(By Advocate Shri G.S.Bal, Sr.Advocate with Ms.M.K.Madahar – through video conference)

Vs.

1. Union of India  
through the Secretary  
Government of India  
Ministry of Finance  
Department of Revenue  
Nehru Place, New Delhi-110019.  
(defsecy@nic.in)
2. The Secretary  
Central Board of Excise & Customs (CBEC)  
Government of India, Ministry of Finance  
Secretariat Building  
New Delhi-110001.  
[cbic@icegate.gov.in](mailto:cbic@icegate.gov.in)
3. The Chief Commissioner  
Goods & Service Tax  
Chandigarh Zone

Central Revenue Building  
Plot No.19, Sector 17-C

Chandigarh-160017.  
cgstdirschd@gmail.com

4. Assistant Commissioner  
Central Goods & Service Tax Division  
SCO 47-51, First Floor, Fauji Complex  
Sai Road, Baddi, District Shimla  
[baddidivision@gmail.com](mailto:baddidivision@gmail.com)

....Respondents

(By Advocate Shri Sanjay Goyal, Sr.CGSC – through video conference)

### **ORDER**

#### **PER: RAKESH KUMAR GUPTA, MEMBER (A)**

1. The applicant has filed the present Original Application under Section 19 of the Administrative Tribunal's Act 1985 seeking the following relief:

- i. Impugned order-Annexure A1 dated 30.10.2019 and Annexure A-2 dated 12.05.2020 being patently illegal, arbitrary and against the mandatory Leave Rules be set aside and
- ii. Consequently, the applicant may be permitted to rejoin her duties in Chandigarh Zone with all consequential benefits including the continuity of service etc. from 21.03.2020 onwards till she is actually permitted to re-join.
- iii. Respondents be also directed to release the pending salary for the period of maternity leave from 01.12.2019 to 20.03.2020, which stands illegally withheld by the respondents.

2. The facts of the case as pleaded by the applicant are as follows:

- a. The applicant was initially appointed as Inspector in Central Excise Department and posted in Chennai Zone where she joined on 27.12.2013. The Central Excise Department has since been converted into Central Goods and Service Tax Department.

- b. The applicant, amongst several others, requested for Inter-Commissionerate transfer from Chennai Zone to Chandigarh Zone. The request was accepted and she was relieved from Chennai on 20.04.2017 and joined Chandigarh Zone at Chandigarh on 21.04.2017. In June, 2017 she was transferred to Shimla Commissionerate and she remained posted at Shimla till June, 2018. She was then transferred to Baddi in Himachal Pradesh where she joined in June, 2018.
- c. The Central Board of Excise & Customs (CBEC) issued a Circular dated 20.09.2018 inter-alia stating that all inter-Commissionerate transfers in the grade of Inspectors issued on or after the date of enforcement of new Recruitment Rules, 2016, would be non-est. In case any officer had joined other Zone in pursuance of any such order, his/her transfer would be deemed to be on loan basis w.e.f. 26.12.2016. It would continue to be so until 31.03.2019 and thereafter such transferred officers shall stand relieved and reverted to their parent Zones i.e. where they were initially appointed and joined. Pursuant thereto, circular dated 03.10.2018 was issued implementing the said decision.
- d. The applicant along with 12 other similarly situated officers, aggrieved by this order challenged it vide OA No.063/01240/2018 before this Tribunal. This Tribunal directed the official respondents to maintain status-quo qua the applicants pending OA, vide interim orders dated 22.10.2018. This OA was finally dismissed on 24.09.2019.

- e. The applicant challenged the dismissal by filing CWP No.30890 of 2019 before the Hon'ble High Court. This CWP was disposed of on 24.10.2019 permitting the applicants to withdraw the CWP with liberty to file a Review. Consequently, the applicant filed a Review Application No.36 of 2019 along with MA No.1729 of 2019 for grant of status quo before this Tribunal. The Review Application was allowed vide orders dated 09.01.2020 and consequently the OA stands restored to its original position.
- f. In the meantime, the applicant was ordered to be relieved vide orders dated 30.10.2019.
- g. The applicant had applied for maternity leave which was duly sanctioned and granted to her from 23.09.2019 to 20.03.2020 i.e. for 180 days. By the time maternity leave of the applicant expired on 20.03.2020, the order of status-quo was revived.
- h. It was under these circumstances, the applicant submitted a representation, permitting her to resume her duties under Chandigarh Zone. However, the Department vide their impugned order dated 12.05.2020(Annexure-A2), rejected the claim of the applicant.
- i. The applicant also filed MA.No.471 of 2020 in her previous OA No.1240 of 2018 (Annu Saini and others vs. Union of India and others), inter-alia praying as under:-

*“It is, therefore, respectfully prayed that in view of the submissions made above, a direction may kindly be issued to the respondents to permit the applicant to continue at Shimla*

*Commissionerate in Chandigarh Zone by virtue of the order dated 09.01.2020 restoring the above noted OA to its “original position” and direct the respondents to treat her to be on duty from 21.03.2020 onwards;*

*Or in the alternative to sanction her leave of the kind due till she is permitted to actually resume her duties in Chandigarh Zone; Or*

*Issue any other appropriate order or direction which this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”*

- j. The prayer of the applicant was rejected vide orders dated 12.06.2020. Thereafter, the applicant filed CWP No.8834 of 2020 in the Hon’ble Punjab and Haryana High Court against the order dated 12.06.2020. The Hon’ble Division Bench observed that passing of the order has given a fresh cause of action to the applicant which could be challenged by way of filing a fresh OA. The said CWP was permitted to be withdrawn to assail the order dated 30.10.19 (Annexure-A1).
- k. The applicant has challenged the impugned order dated 30.10.2019 (Annexure-A1) relieving the applicant while on maternity leave, as well as the subsequent order dated 12.05.2020 rejecting her request to permit her to rejoin her duties at the place from where she proceeded on maternity leave
- l. The CCS (Leave) Rules, 1972, govern the case in hand. A bare perusal of Rule 24(1) clearly shows that an employee while on leave cannot return back on duty before the expiry of the period of leave granted to him unless he is permitted to do so by the Authority which granted leave.

- m. In the instant case, the applicant neither applied for cancellation of her leave before it expired on 20.03.2020, nor was she re-called on duty under the provisions of Rule 23 of the Leave Rules. Thus, the case of applicant is covered under Rule 24(4) (a) and (b), which inter-alia provide that on return from leave, the employee cannot insist that he/she should be permitted to resume duty at the place from where he/she proceeded on leave, but will have to await orders for fresh posting.
- n. The applicant was never re-called back to duty, nor she applied for resuming her duties on 30.10.2019 nor did the said order direct the applicant to join her duty at a particular place in consonance with Rule 24(4) of the Leave Rules.
- o. When the OA No.063/01240/2018 was restored to its original position, the order of status quo also automatically got revived, as far as present applicant was concerned. Thus, respondents cannot enforce the impugned relieving order Annexure A-1 in view of the specific order (Annexure-A8).
- p. The applicant sought permission to re-join, at a place from where she had proceeded on leave vide representation (Annexure A-9) followed by reminders. This representation has been rejected vide impugned order (Annexure-A2), without assigning any cogent reason, but by merely stating that applicant already stands relieved and her service record transmitted to Chennai Zone.

- q. When maternity leave was duly sanctioned to the applicant from 23.09.2019 to 20.03.2020, the respondent No.2 and 3 were duty bound to pay full salary to the applicant for the aforesaid period of leave. However, in the instant case, the applicant has been paid her salary upto 30.11.2019 only. A direction is also liable to be issued to the respondents to release the remaining part of the salary for the period of sanctioned maternity leave.
- r. The applicant is having a child just 7-8 months old and thus it would otherwise be not practically possible for her to go and join her duties at Chennai Zone. The matter, thus, is also required to be considered in a sympathetic manner. The applicant should be permitted to continue in Chandigarh Zone, particularly when her parents and parents-in-law are stationed at Chandigarh, who can look after the small baby, while applicant can perform her official duties. Otherwise also, due to COVID-19 pandemic, it is not possible for the applicant to reach Chennai to join her duties.
3. The respondents have filed their written statement wherein they have averred as follows:
- a) On dismissal of the OA No.1240/2018 by this Tribunal vide order dated 24.09.2019 and in absence of any stay on the said order, the applicant was rightfully relieved on 30.10.2019 from the Office of CGST Baddi Division under the jurisdiction of CGST Commissionerate, Shimla of CGST Chandigarh Zone for joining at her parent Zone i.e. CGST Zone, Chennai.

- b) The applicant's Service Book and the Last Pay Certificate were also transferred to her parent Zone Chennai on 4.12.2019 after drawing her salary for the month of Nov'2019. However, the above facts could not be placed before the Court nor were brought on record by the applicant before the order dated 9.1.2020 was passed in the RA for restoring the OA No.1240/2018 to its original position. Hence for all purposes, the present status of the applicant is that she is relieved from the Office of CGST Commissionerate, Shimla on 30.10.2019 and is presently with her parent Zone i.e. CGST Zone, Chennai on their cadre strength and she had to communicate with her parent Zone, Chennai for any grievance on extension of leave or drawl of salary or transfer to Chandigarh Zone.
- c) The applicant has not made any representation to her jurisdictional Zone Chennai and thus has not exhausted the available remedies. Further, as Chennai CGST Zone comes under the jurisdiction of the Chennai Bench of this Tribunal, this OA may be dismissed for want of not exhausting remedies and for want of jurisdiction.
- d) The applicant had earlier filed MA No.741/2020 for retention in Shimla Commissionerate in view of order dated 09.01.2020 passed in the RA No.36/2019 ordering that status quo has to be maintained in the OA No.1240/2018, which was restored to its original position by re-calling the order dated 24.09.2019 vide which the OA No.1240/2018 was dismissed.



- e) This Tribunal had examined the issue in detail and rightly dismissed the said MA No.741/2020 vide order dated 12.06.2020 (A-11). The applicant agitated the matter before the Hon'ble High Court by filing a CWP there. She withdrew the CWP on her own, when the Hon'ble High Court was ready to hear the matter, and the respondents were ready to file reply in the CWP to bring the matter to an end.
- f) The other similarly placed officers who are party in the OA No.1240/2018 have also been relieved from the Chandigarh Zone for joining at their respective parent Zones. Retaining the applicant at Shimla or Chandigarh would be violative of Article 14 against similarly placed officers, who have been relieved already and they have joined at their parent Zones. In case the applicant's request for retention at Shimla/Chandigarh is accepted by this Tribunal, it would open a pandora's box and all the similarly placed officers would also make request for retention at Chandigarh flooding this Tribunal with similar OAs when the matter is already sub judice with the Hon'ble Apex Court who has not given any stay against the earlier court decisions as per the order dated 3.2.2020 in SLP (D) No.23430/2019(Annexure-R1). The Apex court has directed to adjourn the proceedings in the pending cases on ICT and await the decision of the Hon'ble Apex Court.
- g) The applicant was relieved of her duties from CGST Division, Baddi vide the impugned order dated 30.10.2019 in compliance to EO No.47/2018 dated 3.10.2018 (A-4) issued pursuant to the Board's instructions dated 20.09.2018(A-3) wherein it is clearly stated that the

tenure of the officer in the zone shall be deemed to be on loan basis till 31.03.2019 and thereafter the service records shall be transferred to their parent Zone (CGST Zone, Chennai in the case of the petitioner). She was aware of the above said Board's instructions and EO before proceeding on maternity leave w.e.f. 23.9.2019 to 20.3.2020.

- h) The assertion of the applicant that the relieving order is illegal and arbitrary because the parent Zones name is not mentioned is mere technical objection and has no legal fall out when copy of the relieving order is endorsed to her parent Zone Chennai from where she had come on ICT. The technicalities should not be allowed to override the substance of the relieving order. The mention of the EO supra in the relieving order and endorsement of the relieving order to her parent Zone Chennai is sufficient to construe that she was relieved for joining at Chennai Zone even if the station is not mentioned in the relieving order more so when the applicant was aware of the contents of EO as highlighted above and has requested in her representations for retention in Chandigarh than to be relieved for Chennai Zone.
- i) That the applicant has averred at Para 5(ii) in the OA that "on return from leave the employee cannot insist that he/she should be permitted to resume duty at the same place from where she proceeded on leave but will have to await orders for fresh posting". Hence, the applicant has accepted that Rule 24(4)(a) clearly mandates that on return from leave the employee cannot, as a matter of right, insist that he/she should be permitted to resume duty at the post from where he/she

proceeded on leave. The respondents are also saying the same thing. The applicant is not entitled as a right to join back after leave at the same place under Rule 24(4a). Further in terms of Rule 24(4b), she has been conveyed the same by the competent authority vide relieving order dated 30.10.2019 and letter dated 27.11.2019 duly received by her which she has accepted instead of challenging them. There is no violation of Rule 24(4)(b) as well since the leave sanctioning authority i.e. HOO of Baddi Division has clearly mentioned in the impugned relieving order dated 30.10.2019 the authority i.e. Chennai Zone to whom the applicant had to report by endorsing the copy of the relieving order to her. Hence, the applicant has no right to join back at the same post in Shimla. Further, the extension of leave after expiry of her maternity leave on 20.3.2020 was also not sought by her from the parent zone despite being informed about it vide letter dated 27.11.2019 by the competent authority which fulfils the requirement of Rule 24(4)(b).

- j) The Rules nowhere bound the employer to allow the applicant to join back at Baddi once laid down rules is followed and transfer is done on administrative grounds in the interest of the Government as per the instructions after the dismissal of the OA filed there against. However, in defiance of the order dated 30.10.2019 and 27.11.2019, the applicant persistently kept writing to the wrong authority i.e. Chandigarh Zone, who was not competent to sanction or extend her leave after she was relieved and her service book/LPC forwarded to her parent Zone Chennai. Further, there are no instructions or rules

which bar an administrative authority to relieve an employee from a post to join at another post when the employee is on leave of some kind.

- k) It is the administration's prerogative to run the administration smoothly in compliance of the Govt's policies to allow her to join at the same place or direct her to join on the post at another place. And, in bona fide exercise of the administrative powers, she has been rightfully relieved while on leave, without cancelling her sanctioned maternity leave, to join at her parent zone after availing her leave. The bona fide intent is apparent from the fact that the leave of the applicant has not been curtailed by the relieving order as it is specifically mentioned therein that the maternity leave is sanctioned for 180 days w.e.f. 23.9.2019 and copy of the order has been endorsed to her parent Zone Chennai to make them aware of her being on sanctioned leave upto 20.3.2020.
- l) The submission of the applicant that she was relieved while on sanctioned leave does not merit consideration or in any case affect the outcome of the petition as there is no restrictions imposed on the administration not to relieve any staff in absentia or while being on any kind of sanctioned leave, to comply with any administrative order pursuant to any judicial order.
- m) There was no stay in favour of the applicant when she was relieved on 30.10.2019. The OA No.1240/2018 was restored to its original position by this Tribunal vide order dated 09.01.2020 whereas the

applicant had been relieved on 30.10.2019 and her service book along with LPC sent to her parent Zone on 4.12.2019 after her request dated 14.11.2019 for retention in Chandigarh was rejected. The applicant's leave was not required to be cancelled for serving on her the relieving order dated 30.10.2019 directing her to join at Chennai. The order can be served by any mode viz. mail, post or even whatsapp these days as held by various Courts or even the knowledge of the relieving order is sufficient once the same is acknowledged by the applicant transferee.

- n) The applicant failed to bring to the notice of this Tribunal, the changed circumstances before the order for restoration was passed on 9.1.2020. Moreover, the understanding of the applicant that the stay stood revived in her favour after the restoration of OA to its original position and applicant is deemed to have been continuing in Chandigarh Zone is fallacious and without basis. The OA may have been restored to its original position but the interim orders passed therein earlier did not automatically stand revived as no prayer was made in the RA in that regard.
4. Heard the learned counsels for the parties.
5. As far as the issue of Inter-Commissionerate transfers is concerned, the matter is pending consideration before the Hon'ble Apex Court in SLP (C) No.23430/2019. In the said SLP, the Apex Court has given the following directions:

*Permission to file the Special Leave Petition granted.*

*Issue notice.*

*In view of the pendency of the proceedings before this Court where the issue of inter-commissionerate transfers is being addressed, we request the Tribunals or the High Courts, as the case may be, where the proceedings are pending, to adjourn the proceedings so as to await the decision of this Court.*

*List the Special Leave Petitions on 16 March 2020.*

*Service be completed in other Special Leave Petitions, in the meantime.*

6. Keeping in view the above directions, the proceedings before this Tribunal in OA No.063/01240/2018 concerning the matter of Inter-Commissionerate transfer of the applicant from Chandigarh and Chennai, are adjourned till the matter is decided by the Apex Court.
7. In the present OA, the applicant has challenged the validity of the orders dated 30.10.2019 vide which the applicant has been relieved from her post in Baddi Shimla. The applicant had been relieved in compliance of the directions issued by the Chief Commissioner vide EO.47/2018 dated 3.10.2018. This relieving order has been challenged in the present OA.
8. The primary contention of the applicant is that as per Rule 24(1), an employee while on leave shall not return back to duty before the expiry of the period of leave granted to him, unless permitted to do so, by the authority which granted him/her leave. The second contention of the applicant is that under Rule 24(4)(a)&(b), an employee on returning from leave is not entitled, in the absence of specific orders to that effect, to resume as a matter of course the post which he/she held before going on leave. Her contention is that she is supposed to return to duty to the authority which granted him leave and await orders. The prayer of the applicant is that as per these rules, she should be permitted to resume duty at the place of posting from where he/she proceeded on leave i.e Baddi.

9. A careful perusal of the leave rules indicates that there is no provision under these Rules, that an employee cannot be transferred while he/she is on leave. In cases of administrative exigency, there is no bar on transferring an individual from the post which was held by him/her before he/she proceeded on leave.
10. Rule 24 (4) (a) clearly specify that '*a Government servant returning from leave is not entitled, in the absence of specific orders to that effect, to resume as a matter of course the post which he/she held before going on leave*'. It is clearly implied by this rule, that, subsequent to the grant of maternity leave to the applicant for a period of 180 days from 23.09.2019 to 20.03.2020, she could not, as a matter of right, claim to join back on the post which she held before going on leave.
11. Rule 24(4)(b) specifies that '*a Government servant shall report his return to duty, to the authority which granted him leave, or to the authority, if any, specified in the order granting him the leave, and await orders*'.
12. In this particular case, the relieving order issued by the respondents in pursuance of the transfer orders issued vide its Establishment No.47/2018 dated 03.10.2018, clearly stated that the applicant had been relieved from her duties in the afternoon of 30.10.2019. This relieving order was in compliance of the order No: EO 47/2018 dated 3.10.2018 issued by the Chief Commissioner, Chandigarh Zone. This order dated 3.10.2018 had stated that the officers listed therein (which include the applicant) shall be treated as a deemed case on loan basis w.e.f. 26.12.2016 till 31.03.2019. Thereafter, the officers shall stand relieved and be reverted to their parent zone. The parent zone of the applicant

indicated in this order is Chennai Zone. Hence it is obvious that she had been relieved from Chandigarh Zone on 30.10.2019 in order to join at Chennai Zone.

13.It was also mentioned in the relieving order that she has been sanctioned maternity leave for 180 days w.e.f. 23.09.2019. The implication of this line in the relieving order was that she would have to join at Chennai Zone consequent to her return from maternity leave and await further orders of posting in Chennai Zone. This is as per the Rule 24(4)(b) which clearly states that *'subsequent to the expiry of leave, the Government servant has to report to the authority specified in the order granting him the leave'*. In this particular case, the applicant had to seek further orders regarding her posting within Chennai Zone, from the authority to which she had been transferred, i.e. Chennai Commissionerate and not from Chandigarh zone from where she had been relieved already.

14.There is no merit in the contention of the applicant that since she was on leave, hence she has to first join back at Chandigarh zone, before she is relieved to join at Chennai Zone. There is no such import or implication in the relieving order where it is categorically stated that the applicant is relieved on 30.10.2019. The contention of the applicant that this order is illegal or against the leave rules, is not borne out by a careful reading of the Rules themselves.

15.There is, therefore, no illegality or violation of the rules as far as the order dated 30.10.2019 is concerned and the plea of the applicant that she should be allowed to join back in Chandigarh Zone after expiry of her maternity leave is not maintainable.



16.The applicant had filed an MA.No.471/2020 before this Tribunal seeking permission for her to continue in Shimla Commissionerate of CGST, Chandigarh Zone, by reviving the stay order dated 22.10.2018. This MA has been dismissed by this Tribunal for the reason that after dismissal of the OA on 24.09.2019, the order recalling the indicated order was passed on 9.1.2020 in a Review Application filed by the applicant. But prior to that, she stood relieved on 30.10.2019 and as submitted by the respondents, all the service documents belonging to her like service book etc. have already been transferred to new place of posting. Hence, the situation has undergone a drastic change between 24.09.2019 and 9.1.2020 in as much as applicant stood relieved of her duties from her earlier place of posting and her service documents have also been transferred to the new place of posting. Hence, this Tribunal had observed, while disposing the MA No.471/2020, that no grounds are made out for revival of status-quo order in the peculiar facts of the case. The MA was accordingly dismissed being devoid of any merit.

17.Keeping in view the above observations made by this Tribunal in the MA.No.471/2020, it is clearly established that the applicant's plea to allow her to rejoin at her last place of posting i.e. Shimla Commissionerate at Chandigarh Zone by reviving the stay order, is also without any merit and deserves to be dismissed.

18.Keeping in view the above points, there is no merit in the present OA filed by the applicant, challenging the relieving order, and it deserves to be dismissed.

19.The OA is accordingly, dismissed. Consequently, the MA.No.954/2020 filed by the applicant praying for grant of interim relief is dismissed having been rendered infructuous.

20.However, there shall be no orders so as to costs.

**(RAKESH KUMAR GUPTA)**  
**MEMBER (A)**

**(SURESH KUMAR MONGA)**  
**MEMBER (J)**

/ps/