

100
**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No..... 250/2005

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FORM NO. 4.
(SEE RULE 42)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 250/05

Mise. Petition No. _____

Contempt Petition No. _____

Review Application No. _____

Applicant(s): A. K. Larson

Respondent(s): U. O. T. Govt.

Advocate for the Applicant(s):- J. L. Sarkar, S. Naith

Advocate for the Respondent(s):- Chakraborty

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C. F. for Rs. 50/- deposited v.d.c. P.C./D.D. No. 206/1316/167 Dated 24.6.05	20.9.2005 NS 19.9.05	Heard Mr. J. L. Sarkar, learned coun- sel for the applicant and Mr. G. Baishya learned Sr. C. G. S. C. for the respondent Order is reserved. Post on 21.9. 2005.
<i>Glenn</i> Dy. Registrar	bb	<i>Glenn</i> Vice-Chairman
<i>Glenn</i>	21.9.05	Judgment pronounced in open Court. Kept in separate sheets. Application is disposed of at the Admission stage itself.

21.9.05
Copy of the Judgment
has been sent to the
D.C.E. for viewing the
same to the applicant as
well as to the Sr. C. G. S. C. for
the Respondent.

Glenn
Sr. C. G. S. C.
5/10

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH**

ORIGINAL APPLICATION NO. 250 OF 2005

DATE OF DECISION: 21-09-2005.

Shri Aditya Kumar Pawar

APPLICANT(S)

Mr. J.L.Sarkar & Mr.S.Nath

ADVOCATE(S) FOR THE
APPLICANT(S)

- VERSUS -

Union of India & Ors.

RESPONDENT(S)

Mr G.Baishya, Sr.C.G.S.C.
THE

ADVOCATE FOR
RESPONDENT(S)

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether the judgment is to be circulated to the other Benches?

No

.....
Judgment delivered by Hon'ble Vice-Chairman.

G. S. Sivaranjan

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 250 of 2005

Date of Order: This, the 21st day of September, 2005

THE HON'BLE MR JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

Shri Aditya Kumar Pawar
Commissioner (Appeals)
Central Excise
Guwahati.

.. Applicant.

By Advocates S/Shri J.L.Sarkar, S.Nath.

- Versus -

1. The Union of India
Represented by Secretary (Revenue)
Ministry of Finance
Department of Revenue
North Block
New Delhi - 110 001.

2. Central Board of Excise and Customs
Through it's Chairman
North Block, New Delhi.

3. Chief Commissioner
Central Excise and Customs]
Shillong Zone, Meghalaya.

.. Respondents.

By Mr.G.Baishya, Sr. C.G.S.C.

ORDER

SIVARAJAN, J.(V.C.) :

The applicant is a member of the Group 'A' IRS (C & CE) Service presently working as Commissioner, Central Excise (Appeals) at Guwahati. He was promoted as Commissioner of Customs and Central Excise and posted at Mumbai w.e.f. 1.11.2002 and thereafter transferred to the present station by order dated 9.11.2002. By now he has put in two years ten months service at Guwahati.

2. According to the applicant, Central Government employees transferred to North Eastern Region are entitled to certain benefits

Spt

including a preference in the matter of posting on completion of the tenure in the North Eastern Region. It is stated that the transfer policy published by the Central Board of Excise and Customs in 2005 (Annexure-B) also inter alia provided in Clause 5.8. 'the officers after completing their tenure in North Eastern Region (Assam, Sikkim, Meghalaya, Mizoram, Manipur, Nagaland, Arunachal Pradesh and Tripura) will get preference in posting to stations of their choice.' Based on the aforesaid guidelines, the applicant had sent a representation dated 19.11.2004 to the second respondent pointing out the guidelines and sought for a choice posting to Mumbai. It is stated that though the said representation was forwarded by the Chief Commissioner, Shillong Zone, Shillong on 23.11.2004 to the second respondent no decision has been taken thereon. The communication dated 17.5.2005 with the transfer proforma and the representation made by the applicant to the second respondent are produced as Annexure-C (Series). In the transfer proforma, as required, the applicant has given five places of choice posting - (1). Mumbai, (2). Pune, (3). Ahmedabad, (4). Surat and (5) Kandla. It is the grievance of the applicant that the first respondent has now issued a transfer order dated 12.9.2005 (Annexure-E) by which the applicant has been transferred from Guwahati to Kolkata Customs (Sl.No.6 in Annexure-E). According to the applicant, this transfer is against the norms laid down by the second respondent itself in Annexure-B.

3. Mr.J.L.Sarkar, learned counsel for the applicant submits that one of the benefits available for an officer of the Central Government who is transferred from outside region to North Eastern Region is that if the transferred officer's family is residing in the outside region station, the transferred officer is allowed to retain the

Lpt

residential accommodation so long as the officer continues in the North Eastern Region. Counsel submits that the applicant's wife and his only son are residing at Mumbai in the residential accommodation provided and the son is undergoing his third year studies in Engineering in Mumbai. The counsel submits that the present transfer order is not to a place of his choice and that Kolkata being an outside region the applicant has to vacate the residential accommodation provided at Mumbai which will adversely affect the studies of his son at Mumbai. Counsel also submits that this transfer order is made in September contrary to the norms as per which the annual transfers have to be effected by the end of May each year. Counsel submits that the respondents have not considered the aforesaid circumstances while transferring the applicant from Guwahati in the North Easter Region to Kolkata an outside region station. The counsel has relied on the decision rendered by a Division Bench of this Tribunal on 15.6.2005 in O.A. No.140 of 2005 (Annexure-F) in similar circumstances.

4. I have also heard Mr. G. Baishya, learned Sr. C.G.S.C. for the respondents. He took me to Para 4.4 of the application and submitted that the applicant's son is pursuing his B.E. (Mechanical) course in K. J. Somaiya College of Engineering, Mumbai and that having become major he can be accommodated in hostel. He further pointed out that the decision of this Tribunal in O.A. No.140 of 2005 was rendered in the context of the education of the children of the officer who were in the high schools and therefore the said decision is not applicable to the present case.

5. After considering the contentions of the counsel for the parties I am of the view that this application can be disposed of with directions at the admission stage itself. The applicant is a



Commissioner of Central Excise presently working at Guwahati. He had completed two years of service at Guwahati in November, 2004. As per the concessions given to the officers posted to North Easter Region and also as per the transfer policy of the officers in the Customs and Central Excise department issued by the Central Board of Excise and Customs (Clause 5.8) the officer on completing two years tenure in the North Easter Region will get preference in posting to stations of his choice. The applicant in the transfer proforma has given five places in the order of preference for choice posting. He had also made representation for transfer to Mumbai or to nearby place in the absence of any vacancy at Mumbai. The second respondent has now transferred the applicant to Kolkata Customs. No reasons have been stated in the said order as to why the applicant could not be given a choice posting to any of the five places mentioned in the transfer proforma. It is seen from the transfer order dated 12.9.2005 that vacancies were available at Mumbai, Pune, Ahmedabad and Surat which have been given to other officers. The transfer guidelines (Clause 5.9) of Annexure-B also provides that when there are more persons for a particular post the officer who has served for longer period will be moved first.

6. In the instant case no reasons are discernible in the transfer order dated 12.9.2005 as to why the case of the applicant for posting either at Mumbai or to any other places of choice was not considered. Now by the transfer order dated 12.9.2005 the applicant has been transferred from Guwahati to Kolkata. Though the place is little nearer to Mumbai the applicant has been deprived of the benefit of retaining residential accommodation at Mumbai which may eventually affect the studies of the applicant's only son at Mumbai.

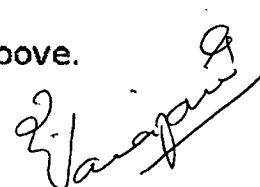
Gpt

Here it must be noted that Clause 9.1 of Annexure-B guidelines states that notwithstanding anything contained in the policy, Government may, if necessary in public interest, transfer or post any officer to any station or post.

7. Having regard to the fact that the applicant was asked to submit choice stations for transfer on completion of the tenure at North Easter Region and the fact that the applicant had given five choice stations and also made representations for giving transfer to Mumbai or in the absence of vacancy in Mumbai to any other places of his choice, respondents ought to have considered the same while passing transfer orders in September, 2005. Passing of transfer order beyond May, 2005 is against the terms of the guidelines itself. In the case of the applicant it gives some disadvantage to him since he was not given a posting to a place of his choice.

8. Considering all the aspects I direct the second respondent to consider the case of the applicant in the light of the transfer proforma and the request made by the applicant in the representation (Annexure-C) and pass a speaking order thereon within a period of two months from the date of receipt of this order. If the applicant is not relieved from the post held by him at Guwahati, he may be allowed to continue in the said post till the disposal of the representation as directed hereinabove.

The Original Application is disposed of as above.



(G. SIVARAJAN)
VICE-CHAIRMAN

19 SEP 2005

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O. A. No. 250 /2005

Shri A.K Pawar

-Vs-

Union of India and Others.

SYNOPSIS OF THE APPLICATION

Applicant was transferred from Mumbai to Guwahati as Commissioner (Appeal), Central Excise (Group 'A' Service) in November' 2002. As per entitlement of posting in N.E region he has been allowed to retain official accommodation at Mumbai where his family is residing and only son is reading in B.E (Mechanical) classes in K.J. Somaiya College of Engineering, Mumbai. After completion of tenure in N.E region he opted for choice stations in Mumbai, Pune, Ahmedabad, Surat and Kandala under the NE region posting scheme and policy, also requested for posting at Mumbai for his son's education.

By an order dated 12.09.2005 he has been transferred to Kolkata. The order violates the mandate of the transfer policy, 2005, para 5.8 of which mandates preference for choice posting. The policy also directs that transfers should be made in April/May of the year.

Applicant prays for modification of the order dated 12.09.2005 (Sl. No. 6), and refers to order of this Hon'ble Tribunal in O.A. No. 140/2005.

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Filed by the applicant
through: Subrata Nath
Akhreote
19.09.05.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH: GUWAHATI

(An application under Section 19 of the Administrative Tribunals Act, 1985)

O.A. No. 250 /2005

BETWEEN:

Shri Aditya Kumar Pawar,
Commissioner (Appeals)
Central Excise,
Guwahati.

Applicant.

-AND-

1. The Union of India,
Represented by Secretary (Revenue),
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi- 110001.
2. Central Board of Excise and Customs,
Through it's Chairman,
North Block, New Delhi.
3. Chief Commissioner
Central Excise and Customs,
Shillong Zone, Meghalaya.

..... Respondents.

DETAILS OF THE APPLICATION

1. Particulars of the order (s) against which this application is made:

This application is made against order No. 148/2005 dated 12.09.2005,
issued by the Central Board of Excise and Customs (CBEC), in violation of

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the norms and directives of the Transfer Policy, and posting in N.E. Region in particular.

2. **Jurisdiction of the Tribunal:**

The applicant declares that the subject matter of this application is well within the jurisdiction of this Hon'ble Tribunal.

3. **Limitation:**

The applicant further declares that this application is filed within the limitation prescribed under Section- 21 of the Administrative Tribunals Act' 1985.

4. **Facts of the case:**

4.1 That the applicant is a citizen of India and as such he is entitled to all the rights, protections and privileges as guaranteed under the Constitution of India. He is a member of the Group 'A' IRS (C & CE) Service.

4.2 That the applicant was promoted as Commissioner of Customs and Central Excise and posted at Mumbai with effect from 01.11.2002. Thereafter he was transferred and posted as Commissioner, Central Excise (Appeals) by order dated 9th November, 2002 in which post he is working now.

4.3 That under the Government of India's policy of posting to North Eastern Region from outside the region, the officers are entitled to certain benefits e.g. choice station posting after tenure of 2 (two) years, retention of Government accommodation at the last place of posting.

Copy of instructions for entitlement of N.E Region posting is enclosed as Annexure- A.

A. K. Pawar

4.4 That the applicant was transferred from Mumbai to Guwahati in N.E Region under the scheme and he was allowed to retain the accommodation at Mumbai where members of his family are residing.

The only son of the applicant, Shri Tarun Pawar is pursuing his B.E (Mechanical) degree course in K.J Somaiya College of Engineering, Mumbai.

4.5 That Central Board of Excise and Customs (CBEC) has formulated a Transfer Policy for Group 'A' officers effective from 01.04.2005.

Copy of Transfer Policy' 2005 is enclosed herewith as Annexure- B.

4.6 That the department called for option in Transfer proforma, and the applicant submitted the options in the proforma indicating his choice for Mumbai, Pune, Ahmedabad, Surat and Kandala. He submitted representation dated 17.05.05 enclosing the transfer proforma with the options, and also enclosing earlier representation dated 19.11.2003 requesting for posting to Mumbai.

Copies of the representation dated 17.05.05, the transfer proforma and representation dated 19.11.04 are enclosed herewith as Annexure- C (Series).

4.7 That the Annual General Transfer in May, 2005, the name of the applicant did not find place, and he submitted another representation dated 22.06.2005.

In this representation also he explained the cause of education of his son, a B.E. student in Mumbai, and requested for his posting at Mumbai.

Copy of the representation dated 22.06.05 is enclosed herewith as Annexure- D.

A. Pawar

A. I. C. J. A. I. C. J. A. I. C. J.

4.8 That the CBEC has issued an order of transfer No. 148/2005 dated 12.09.2005 by which the applicant has been posted at Kolkata Customs (A) (Sl. No. 6 of the order). The applicant has been upset by the said order. In the event of his transfer to Kolkata he shall have to vacate the official accommodation at Mumbai, disrupting the education of his son and entailing double establishment without the benefits of posting in N.E. region. It is stated that the applicant was transferred to N.E region under a special scheme, and now the order dated 12.09.2005 denied him the benefits of posting in N.E region, without any reason.

Copy of the order dated 12.09.05 is enclosed herewith as Annexure-E.

4.9 That under clause 5.8 of the Transfer Policy' 2005, after his tenure of two years in N.E. region the applicant will get preference in posting to stations of his choice, but most unfortunately the same is being denied violating the policy of the CBEC itself. Such action of the respondents is arbitrary offending Articles 14 and 16 of the Constitution.

4.10 That the Policy 2005 mandates that the transfer shall be normally issued by 30th April in any case not later than May of the year. The transfer order in September ignores that mandate without any reason.

4.11 That the applicant submitted options for choice posting under the Scheme, and representations but without any reply. He craves for the liberty to submit further representation in response to the order dated 12.09.2005. It is stated that the applicant has not yet been relieved from the present post at Guwahati.

4.12 That in an almost similar circumstances one Shri C. Rigzin, Additional Commissioner, who was transferred from Dibrugarh (in Assam) to Kolkata instead of Mumbai, where he kept his official accommodation for cause of

education of his children on his transfer from Mumbai to Dibrugarh, filed O.A No. 140/2005.

In compliance of the order dated 15.06.2005 passed in O.A. No. 140/2005 of this Hon'ble Tribunal Shri Rigzin's order of transfer has been modified by a fresh order dated 09.08.2005 and he has been posted at Pune.

Copy of the order dated 15.06.2005 in O.A. No. 140/2005, of this Hon'ble Tribunal is enclosed as Annexure- F.

Copy of the order dated 09.08.2005 posting Shri Rigzin at Pune is enclosed as Annexure- G.

4.13 That the Hon'ble Tribunal has been pleased to pass orders in a number of cases of transfer orders by the respondent department and as a consequence, thereof, a good number of orders of transfer have been modified by the respondents.

4.14 That this application is made bonafide and for the cause of justice.

5. Grounds for relief (s) with legal provisions:

5.1 For that the order of transfer has been issued in violation of the directive of posting and transfer of the applicant, who has completed mandatory tenure of posting in NE region.

5.2 For that the order has been issued totally ignoring the consideration of the "choice station" posting admissible to the applicant on his return posting from the North Eastern Region.

5.3 For that the order has been issued ignoring the hardship of the family who have been staying separately for the last years and the academic interest of the child of the applicant.

5.4 For that the transfer order has been issued totally bypassing/ignoring the policy of transfer 2005.

A. Iyer

5.5 For that the transfer order is not in public interest nor in exigency of service or reasonable administrative ground.

5.6 For that the order of transfer being arbitrary and whimsical is violative of the Article 14 and 16 of the Constitution of India.

5.7 For that the order of transfer is not just and fair.

5.8 For that malice in law and malice in fact is explicit in the facts and circumstances of the case.

5.9 For that the impugned transfer order, if implemented, will cause irreparable harm and loss to the applicant as his family is already separated for the last two years and his son is pursuing BE course at Mumbai.

5.10 For that the order of transfer is result of colourable exercise of power.

5.11 For that in any view of the matter the applicant is entitled to the relief sought for.

6. Details of remedies exhausted.

That the applicant declares that there is no remedy under any rule, and the Hon'ble Tribunal is the only forum now for cause of justice. However, he has filed representation/option without any result.

7. Matters not previously filed or pending with any other Court.

The applicant further declares that he had not previously filed any application, Writ Petition or Suit before any Court or any other Authority or any other Bench of the Tribunal regarding the subject matter of this application nor any such application, Writ Petition or Suit is pending before any of them.

Ali Qasim

8. Relief (s) sought for:

Under the facts and circumstances stated above, the applicant humbly prays that Your Lordships be pleased to grant the following relief(s):

8.1 The order of the applicant (Sl. No. 6) in the impugned transfer order dated 12.09.2005 be modified.

8.2 The applicant may be allowed to be posted to his choice of posting i.e. Mumbai where his family is retained.

8.3 Any other relief or reliefs as the Hon'ble Tribunal may deem fit and proper.

The above reliefs are prayed for on the grounds in para 5 above.

9. Interim order prayed for:

During pendency of the case, the applicant prays for the following interim relief: -

9.1 The transfer order dated 12.09.2005 of the applicant (Sl. No. 6) be suspended/stayed and he may be posted to his choice place of posting i.e. Mumbai.

9.2 Any relief or reliefs as the Hon'ble Tribunal may deem fit and proper.

10. The application is filed through Advocates.

11. Particulars of the I.P.O

i) I.P.O No.	: 206 J 34 J 67
ii) Date of issue	: 24.06.05
iii) Issued from	: G.P.O, Bangalore
iv) Payable at	: G.P.O, Bangalore.

12. List of enclosures:

As given in the index.

At. 10/2005

VERIFICATION

I, Shri Aditya Kumar Pawar, S/o- Shri Hari Singh Pawar, aged about 49 years, resident of Guwahati, do hereby verify that the statements made in Paragraph 1, 4 and 6 to 12 are true to my knowledge and those made in Paragraph 2, 3 and 5 are true to my legal advice and I have not suppressed any material fact.

And I sign this verification on this the 19th day of September, 2005.

A. Pawar

Signature.

Annexure - A.

23

**Concessions when posted to
North-Eastern Region, etc.**

[Swamy's — FR & SR, Part - I]

Certain special concessions and service benefits are admissible to officers transferred to the North-Eastern Region and Union Territories listed below and to officers posted to North-Eastern Council when they are stationed in the North-Eastern Region. These concessions are also admissible to those on deputation to State Governments of Manipur and Tripura.

1. Assam	6. Arunachal Pradesh
2. Meghalaya	7. Mizoram
3. Manipur	8. Andaman and Nicobar Islands
4. Nagaland	9. Lakshadweep (L & M) Islands
5. Tripura	10. Sikkim

1. T.A. and Joining Time

(a) **On first appointment.**—For journeys to take up initial appointment, T.A. will be admissible to the Government servant and his family for the total distance as below—

For journey by rail	...	Second Class fare.
For journey by road	...	Ordinary bus fare.
For journey to take up appointment in A & N/L & M Islands	...	Free sea passage <i>plus</i> rail/bus fare as above for journey within mainland up to the port of embarkation.

(b) **On transfer.**—If the family does not accompany the Government servant, he will be paid T.A. on tour for self only for the transit period and will be permitted to carry personal effects up to $\frac{1}{3}$ rd of his entitlement at Government cost; or can have the cash equivalent of carrying $\frac{1}{3}$ rd of his entitlement or the difference in weight of the personal effects he is actually carrying and $\frac{1}{3}$ rd of his entitlement, as the case may be, in lieu of the cost of transportation of baggage. Composite Transfer Grant will be admissible in any case.

If the family accompanies him, he can draw the existing T.A., including the cost of transporting personal effects to his maximum entitlement irrespective of the actual weight carried.

After
S.H.
Avenue

These provisions apply also for the return journey on transfer back from the North-Eastern Region/Union Territory.

This concession is admissible only in cases of transfer from a station outside to a station in the N-E. Region and vice versa. It is not applicable from one station to another within the region.

(c) **Road mileage for transportation of personal effects.**— Higher rate of allowance as for 'A' class cities, limited to the actual expenditure, will be admissible to all Government servants for transportation of personal effects on transfer between two different stations in the North-Eastern Region/Union Territory not connected by rail irrespective of the fact whether they are having All India transfer liability or not.

(d) **Joining time while proceeding on/returning from leave.**— Government servants proceeding on leave from the place of posting in the Region to a place outside the Region are entitled for the joining time as follows:—

(a) *If the place of posting in the Region is not a remote locality.*—

(i) When the journey time between the place of posting and the place outside the Region is 2 days or less.	No joining time is admissible.
(ii) When the journey time referred to in (i) above is more than 2 days.	Journey time in excess of 2 days is allowed as joining time.

(b) *If the place of posting in the Region is a remote locality.*—

(i) Period of travel from the remote locality to the specified station.	Journey time as prescribed is allowed as free joining time.
(ii) Period of travel from the specified station to a place outside the Region.	Journey time in excess of 2 days is allowed as additional joining time.

This concession is also admissible when the Government servants return from leave.

2. Leave Travel Concession

(a) Government servant who leaves his family behind and does not avail transfer T.A. for the family will have the option to choose—

Either: The existing LTC to Home Town once in a block of two calendar years;

Or: The concession for himself once a year from the station of posting to his Home Town or place where the family is residing, and in addition concession for the family (restricted to the spouse and two dependent children only) also to travel once a year from the place of residence to the employee's station of posting.

(b) In addition, Government servants and families posted in the Region will be entitled to LTC on two additional occasions during their entire service career as "Emergency Passage Concession" and intended to enable them and families (spouse and two dependent children) to travel to their Home Town or station of posting in an emergency. These additional passages will be admissible by the entitled mode and class of travel as for normal LTC.

(c) **Travel by air.**— Officers drawing pay of Rs. 13,500 and above and their families (spouse and two dependent children — up to 18 years for boys and 24 years for girls) may perform the above LTC journeys by air as below—

Officers posted in	Between stations
(i) North-Eastern Region	Imphal/Silchar/Agartala/ Aizwal/ Lilabari and Kolkata
(ii) Andaman and Nicobar Islands	Port Blair and Kolkata/ Chennai
(iii) Lakshadweep	Kavaratti and Kochi.

3. Tenure

(a) Fixed Tenure—

- (i) For staff with service of 10 years or less Three years
- (ii) For staff with more than 10 years of service Two years

Period of leave, training, etc., in excess of 15 days per year will be excluded in counting the tenure period. However, the period may be extended in exceptional cases in exigencies of public service or when the employee concerned is prepared to stay longer. Deputation allowance will be admissible during the extended period also.

(b) **Station of choice on completion of tenure.**— On completion of the fixed tenure, officers may be considered for posting to a station of their choice as far as possible.

4. Weightage for promotion, etc.

(a) Eligible officers shall be given due recognition in the matter of—

- (i) promotion in cadre posts;
- (ii) deputation to Central tenure posts; and
- (iii) courses of training abroad.

(b) The general requirement of at least three years' service in a cadre post between two Central tenure deputations may be relaxed to two years in cases of meritorious service.

(c) **Entry in CR.**—A specific entry shall be made in the CR of all employees who render full tenure of service.

5. Children's Education Allowance/Hostel Subsidy

If the children do not accompany the employee, CEA will be admissible up to class XII to children studying at the last station of posting or any other station where they reside. If such children are put in hostels, Hostel Subsidy will be admissible without other restrictions. The concession is admissible to the officials transferred from one place to another within the North-Eastern Region also.

6. Benefit of Two HRAs

Central Government employees posted to the specified States/Union Territories from outside the N-E Region who are keeping their families in rented houses or in their own houses at the last place of posting outside the N-E Region, will be entitled to HRA admissible to them at the old station, and also at the rates admissible at the new place of posting in case they live in hired private accommodation irrespective of whether they have claimed transfer T.A. for family or not subject to the condition that hired private accommodation or owned house at the last station of posting is put to bona fide use of the members of the family. These concessions are admissible also to those posted to Andaman and Nicobar Islands and Lakshadweep.

Those employees who have not been posted to the N-E Region *from outside the N-E Region* are not entitled to this benefit.

7. Retention of Quarters/Telephone

(a) **Government accommodation.**—The facility of retention of Government accommodation will continue to be available. Licence Fee will be charged at normal rates whether the accommodation retained is the entitled type or below the entitled type. The facility of retention will be admissible for three years beyond the normal permissible period of retention.

(b) **Residential telephone in the last station.**—Residential telephone at the last station will be allowed to be retained on the condition that the rental and all other charges are paid by the officer concerned.—*Appendix-9*.

8. Special Allowances

(a) **Special Compensatory (Remote Locality) Allowance.**—Please see Section 6.

(b) **Special (Duty) Allowance/Island Special Allowance.**—Employees who have All India Transfer Liability on posting to (i) any station in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland, Tripura, Arunachal Pradesh, Sikkim and Mizoram will be granted Special (Duty) Allowance, and (ii) any station in the Island Territories of Andaman, Nicobar and Lakshadweep will be granted Island Special Allowance. (For rates and conditions governing the grant of these allowances see under 'Compensatory Allowances' in Section 6).

AP/CS for Admit

2005

Annexure - B

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**TRANSFER/ PLACEMENT POLICY FOR GROUP 'A' OFFICERS OF
THE INDIAN REVENUE SERVICE (C & CE)**

INTRODUCTION

1.1 The Ministry of Finance has taken major initiatives for tax reforms, including reform of tax administration with an emphasis on reducing inter-face between the tax payers and administration; imparting greater transparency and minimizing discretion so as to ensure efficiency and recognition of merit and honesty.

1.2 The successful implementation of tax reforms depends on the efficiency of the delivery system. A significant contributor to the effectiveness of the administrative machinery is a credible human resource development policy, which offers opportunities for excellence and career advancement through a proper placement strategy.

1.3 The existing placement policy has been in place for over a decade. Based on the experience of its implementation, a review of the present system of transfers and postings was carried out. Accordingly, a new Transfer/ Placement Policy (herein after referred to as the Transfer Policy) for Group 'A' Officers of IRS (C&CE) has been formulated. The new transfer/placement policy shall come into effect from 1st April, 2005.

SALIENT FEATURES OF THIS TRANSFER POLICY

2.1 a) The salient features of this Transfer are as follows: a) All transfer and postings of Group 'A' officers of IRS (C&CE) shall be effected by the Board/Placement Committee or on their recommendation as stated hereinafter;

b) The Transfer policy has been formulated for officers at different levels;

c) All stations have been categorized in three classes and tenure of stay in different classes of station has been prescribed;

d) All posts have been divided into two categories, namely, Sensitive and Non-Sensitive;

e) All posts have been categorized as field and non-field posts.

f) Guidelines for dealing with different types of "compassionate grounds" cases have been laid down.;

g) All annual transfer orders shall be normally issued by 30th April and,

*Affected
for Advocate*

2.2 A correct and complete database is a sine qua non for operationalising the Placement Policy. CBEC shall ensure that the database containing the profiles of all Group 'A' officers is regularly updated.

2.3 All grievances arising out of the implementation of This Transfer Policy shall be addressed in accordance with the guidelines issued by the Department of Personnel & Training, only after the officer has joined his new assignment.

2.4 This Transfer Policy shall not be applicable to the transfer of Chief Commissioners /Directors General.

3.0 THE BOARD/ PLACEMENT COMMITTEE:

3.1 The Board will recommend proposals for posting of Chief Commissioners /Directors General and Commissioners for approval of the Government i.e. Finance Minister through Revenue Secretary and Minister of State (Revenue). Joint Secretary (Administration), CBEC will serve as Secretary to the Board for this purpose.

3.2 The Placement Committee will be the final authority for transfer of officers below the rank of Commissioner, provided the case falls within the purview the existing guidelines. After the proposals are drawn up and approved by the Board, the Chairman shall consult MOS (R) before giving effect to the annual transfers proposals. Approval of the Government will be required in case a deviation from the existing guidelines has to be made.

3.3 The Placement Committee shall consist of the following:

- a) Chairman;
- b) Member (Personnel and Vigilance);
- c) One Member of CBEC to be nominated, in rotation, by the Chairman of the Board for a period of six months; and
- d) Joint Secretary (Admn.) posted in CBEC as its Member-Secretary

3.4 The minutes of the meeting of the Board/Placement Committee shall be drawn up and approved by all Members within 24 hours in a meeting (not by circulation). These must be approved by the competent authority within thirty days.

4.1 In case of Commissioners and Chief Commissioners/ Directors General, the Board will recommend both the station of posting and the specific charge.

4.2 Officers below the rank of Commissioner will be placed at the disposal of the Chief Commissioner/ Director General concerned, for further deployment. While considering the officers for further deployment, the Chief Commissioner/ Director General shall keep in mind the old cycle of posting of the said officer considering which Board has placed that officer at their disposal.

4.3 The normal practice is transfer on promotion. In individual cases this may give rise to hardship. Hence, this may be decided by the Board/Placement Committee. For this purpose, the grant of Senior Time Scale/Non Functional Selection Grade shall not be treated as promotion.

4.4 Directly recruited / newly promoted Group 'A' officers shall be given intensive training in accountancy for a period of 2-3 months during the period of probation / upon promotion. Upon completion of training, directly recruited officers shall be normally posted to a class 'A' station, whereas the officers promoted from Group 'B' to Group 'A' shall, on promotion, be transferred out of the station in which they were previously working, unless the balance service is less than three years. Further, in view of the sensitive nature of the job, Appraisers, on or after promotion to the post of Assistant Commissioner, will not continue to remain posted in the Commissionerate which exercised jurisdiction over the Customs House on whose cadre they were originally borne.

4.5 As far as possible, an officer shall spend the first nine years of his service on field posts. All posts in the Commissionerates of Customs, Central Excise, Service Tax and the Directorates of Revenue Intelligence and Central Excise Intelligence have been categorized as field posts. Officers upto and including the rank of Commissioners shall ordinarily be posted on field assignments for at least 5, 3 and 2 years respectively, in each of the first 3 decades of their career respectively. During the first six years, the officer shall not ordinarily be given a posting outside the department or sent on a deputation, and should be given exposure in Central Excise, Service Tax and Customs branches, as far as possible. After completing

4.6 six years of service, an officer may be posted to the Board as an Under Secretary.

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As far as possible, the senior most officer may be posted as the Executive Commissioner. However, once posted, a commissioner will not be moved out of the executive charge merely because an officer senior to him has replaced the hitherto junior non-executive Commissioner at that station.

4.7 The officers will, as far as possible, be rotated between the Customs and Central Excise branches every two years and adequate experience in Service Tax branch will also be ensured as far as possible. This shall be done after the Annual Transfers have been effected. At stations where there are separate Chief Commissioners of Central Excise and Customs, a committee of all such Chief Commissioners shall collectively decide on the rotation between the two branches at that station. At other stations, local rotation will be done jointly by the Chief Commissioners who exercise control over the posts located at that station.

5.0 CLASSIFICATION OF STATIONS, FIXATION OF TENURES OF POSTING AND ROTATION BETWEEN THEM

5.1 The various stations where Group 'A' officers may be posted have been categorized as Class 'A', Class 'B' and Class 'C' [Annexure I-III]. Such categorization is based on the twin criteria of revenue collection and the number of Commissioner level posts at a station.

5.2 The categorization of stations may be changed by the Board with the approval of the Government.

5.3 The States in the country have been divided into 4 areas viz. East, West, North and South [Annexure-IV]. An officer shall not serve in an 'area' for more than a total of 14 years (hereinafter referred to as a cycle) during his entire tenure up to and including the rank of Commissioner of which tenure in an 'A' station shall be for a maximum of 6 years. The tenure shall not be less than four years in a Class 'B' station and not less than two years in a Class 'C' station. The maximum total tenure of an officer in all Class 'A' stations during his service upto and including the rank of Commissioner shall be 16 years. The tenure of posting in Customs Overseas Intelligence Network shall not exceed three years. A stay of more than nine months in a station (to be computed as on 31st December of the previous year) will be treated as a complete year, and the length of the period of stay

shall be counted from the date of joining. An officer posted in Class 'A' or 'B' station can opt to move to a lower category station after he has completed at least half his tenure in that station.

5.4

An officer shall be rotated between the three different classes of stations. After completing one cycle of posting, the officer shall be moved to another area. Further, as far as possible, an officer shall serve in at least two areas of the country viz. North, South, East, and West, during his career upto and including the rank of Commissioner.

It may be clarified that an officer can be posted from a Class 'A' station to a Class 'B' or Class 'C' station (not necessarily in that order) in any other area and vice versa, provided that if he had been posted in that area earlier, a minimum period of 2 years should have elapsed before he can be posted again to the same area (called cooling off period).

5.5

All postings in the Board and deputation to technical posts in the Department of Revenue, Central Economic Intelligence Bureau (CEIB), Enforcement Directorate, Authority for Advance Rulings (AAR), Competent Authorities (CAs), Appellate Tribunal for Forfeited Property (ATFP), Customs, Excise and Service Tax Tribunal (CESTAT) and Settlement Commission shall not count towards calculation of stay at a particular station/area but may be so counted at the option of the officer. However, an officer who has been on deputation to any one of the aforesaid bodies shall not ordinarily be considered for another deputation to any of the aforesaid organizations. When an officer applies for clearance for a posting on deputation, his previous history of postings will be considered while giving cadre clearance. An officer shall invariably be transferred out of the station in which he was on deputation on his return.

5.6

In order to encourage officers to seek postings in Class 'C' station, the Government shall sanction:

- a) At least one vehicle for office use in every Class 'C' station irrespective of the level of the officer heading the office; and
- b) 100 per cent housing facilities at the Officer level to the extent possible.
- c) The starting point for

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computing the stay in Class 'A', 'B' or 'C' station shall be the date of joining at the station.

5.8

Joint Secretary (Admn.) posted in CBEC as its Member-Secretary

The officers after completing their tenure in North Eastern Region (Assam, Sikkim, Meghalaya, Mizoram, Manipur, Nagaland, Arunachal Pradesh and Tripura), Jammu and Kashmir, NACEN and its RTIs and Vigilance Directorate and CESTAT will get preference in posting to stations of their choice.

5.9

When a certain number of officers are due for moving out of a station to a new station or by local rotation to new postings in the same station for the reason of having completed their tenure, but cannot be so moved due to inadequate number of vacancies available, the officer who has served for longer periods will be moved first.

5.10

The station of the posting will be taken as the actual place where an officer is posted and not head quarters of Commissionerate/ Directorate to which the officer is posted.

6.0 CATEGORISATION OF POSTS INTO SENSITIVE AND NON-SENSITIVE

6.1

All posts in CBEC have been classified into sensitive and non-sensitive with the approval of the Government: [Annexure-V]

6.2

Ordinarily, the tenure of an officer on a sensitive post shall be two to three years at one stretch.

7.0 POSTINGS IN DIRECTORATES OF REVENUE INTELLIGENCE, CENTRAL EXCISE INTELLIGENCE, VIGILANCE AND SYSTEMS (CBEC)

7.1

In the Directorates of Revenue Intelligence, Central Excise Intelligence, Vigilance and Systems, the respective Director General will propose a panel of names for the consideration of the Board/Placement Committee. Individual officers will be selected by the Board/Placement Committee, which will also indicate their station of posting.

7.2

The maximum length of tenure in the Directorates of Revenue Intelligence, Central Excise Intelligence and Vigilance will be three years, subject to the condition that no officer shall spend more than six years in these Directorates during his entire service career.

8.0 POSTING ON COMPASSIONATE GROUNDS

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In case an officer seeks a posting to a particular station on medical grounds, the Board/Placement Committee is empowered to take a decision on his plea. However, if required, the Board/Placement Committee may refer the case to a Medical Board.

8.2 In case of working couples, if the spouse of an officer is working outside the Department, posting in the same station may be allowed subject to the instructions issued by the Department of Personnel & Training on this issue.

8.3 In case where the spouse is also an officer of the Department, both the officers should be posted to the same station, if they are otherwise eligible, provided that, jointly, they do not occupy more than 50 per cent of the posts in that station.

9.0 TRANSFER ON ADMINISTRATIVE GROUNDS OR IN PUBLIC INTEREST

9.1 Notwithstanding anything contained in this policy, Government may, if necessary in public interest, transfer or post any officer to any station or post;

9.2 An officer against whom the CVC has recommended initiation of vigilance proceedings, should not normally be posted or remain posted at the station where the cause of the vigilance proceedings originated. He shall also not be posted on a 'sensitive' charge. This restriction will remain in operation till such time the vigilance matter is not closed.

10.0 AVAILMENT OF EARNED OR STUDY LEAVE AFTER ISSUANCE OF TRANSFER ORDERS

An officer under orders of transfer shall be granted Earned Leave or Study Leave only after he has joined his new place of posting. The period spent on Earned Leave or Study Leave will not count towards computation of tenure in that station or 'cooling off' period. Officers who proceed on Earned Leave or study leave without completing the minimum tenure prescribed for the station/area will have to rejoin the same station for completing the prescribed tenure. In other cases the Board/Placement Committee will decide their posting after they rejoin on completion of the Earned leave/Study leave.

Annexure-I

CLASS 'A' STATIONS

1. Mumbai (including Thane and Belapur)
2. Delhi (including Faridabad, Gurgaon, NOIDA and Ghaziabad).
3. Chennai
4. Kolkata
5. Bangalore
6. Hyderabad
7. All posts in the Customs Overseas Intelligence Network (COIN)

Annexure-II

CLASS 'B' STATIONS

S.No.	STATION
1.	AHMEDABAD

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2. ALLHABAD
3. MANGALORE
4. COCHIN
5. BHUBANESHWAR
6. INDORE
7. RAIPUR
8. TRICHY
9. MEERUT
10. VIZAG
11. JAIPUR
12. CHANDIGARH (INCLUDING JALLANDHAR)
13. PATNA
14. LUCKNOW
15. KANPUR
16. RAIGARH
17. PUNE
18. VADODARA
19. GOA
20. SURAT
21. JAMNAGAR
22. KANDLA
23. LUDHIANA
24. NAGPUR
25. NASIK
26. RANCHI
27. RAJKOT

Annexure-III

CLASS 'C' STATIONS ANNEXURE-IV

S.No.	STATION
1.	AMRITSAR
2.	AURANGABAD
3.	BELGAUM
4.	BHAVNAGAR
5.	BHOPAL
6.	BOLPUR
7.	CALICUT
8.	COIMBATORE
9.	DAMAN

10. DIBRUGARH
11. GUNTUR
12. GUWAHATI
13. GWALIOR
14. HALDIA
15. HAZARIBAGH
16. JAMMU & KASHMIR
17. JAMSHEDPUR
18. JODHPUR
19. MADURAI
20. MYSORE
21. PUNCHKULA
22. PONDICHERRY
23. ROHTAK
24. SALEM
25. SHILLONG
26. SILIGURI
27. TRIVANDRUM
28. TIRUNELVELI
29. TIRUPATI
30. TUTICORIN
31. VAPI

REMAINING CITIES(OTHER THAN CLASS 'A' AND CLASS 'B' STATIONS)

Annexure-IV

North Zone: Jurisdictional areas of Chief Commissioners of Customs & Central Excise of Chandigarh, Delhi, Jaipur, Lucknow, Meerut (falling in the States of J&K, Himachal Pradesh, Punjab, Uttaranchal, U.P., Delhi, Haryana, Rajasthan & Union Territory of Chandigarh)

East Zone: Jurisdictional areas of Chief Commissioners of Customs & Central Excise of Bhubaneshwar, Kolkata, Ranchi, Shillong, Patna (falling in the States of Bihar, Orissa, Jharkhand, West Bengal, Meghalaya, Nagaland, Assam, Sikkim, Manipur, Mizoram & Union Territory of Andaman & Nicobar).

West Zone: Jurisdictional area of Chief Commissioner of Customs & Central Excise of Ahmedabad, Mumbai, Pune, Vadodara, Nagpur & Bhopal (falling in the States: Gujarat, Maharashtra, Goa, Madhya Pradesh, Chhattisgarh & Union Territory of Daman & Diu)

South Zone : Jurisdictional area of Chief Commissioner of Customs & Central Excise of Bangalore, Chennai, Cochin, Coimbatore, Hyderabad, Mangalore, Visakhapatnam (falling in the States of Andhra Pradesh, Karnataka, Tamil Nadu, Kerala & Union Territory of Pondicherry & Lakshadweep)

Annexure-V

Categorization of posts into sensitive and non-sensitive: The following posts have been categorized as sensitive and non-sensitive:

Customs Commissionerate

S.No.	Group 'A' post	Section/Branch	Category
1.	Commissioner		Sensitive
	Commr.(Gen.)		Sensitive
	Commr.(Appeals)		Non-Sensitive
	Commr.(Adj.)		Non-Sensitive
	Addl./Jt. Commr./DC/AD	Preventive	Sensitive
		Legal	Non-Sensitive
		Rummaging & Intelligence	Sensitive
		SIIB	Sensitive
		Air Intelligence	Sensitive
		Airport	Sensitive
		Town Intelligence	Sensitive
		All Appraising Groups	Sensitive
		Docks/Shed	Sensitive
		Statistics	Non-Sensitive
		Audit	Non-Sensitive
		Review	Non-Sensitive
		Tribunal	Non-Sensitive
		MCD	Non-Sensitive
		All other charges which do not involve regular dealings with the public	Non-Sensitive

B. Central Excise Commissionerate

S.No.	Group 'A' post	Section/Branch	Category
1.	Commissioner		Sensitive
	Commr.(Appeals)		Non-Sensitive
	Commr.(Adj.)		Non-Sensitive
	Addl./Jt. Commr./DC/AD	Anti-Evasion	Sensitive
		Legal & Adjudication	Non-Sensitive

P&V	Sensitive
Audit	Non-Sensitive
Divisions	Sensitive
Review	Non-Sensitive
Technical/Audit	Non-Sensitive
Chief Commissioner's Unit/Office	Non-Sensitive

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C. Directorates

S.No.	Group 'A' post	Section/Branch	Category
1.	All posts in DGRI		Sensitive
2.	All posts in DG (V)		Sensitive
3.	All posts in Central Bureau of Narcotics		Sensitive
4.	All posts in DGCEI		Sensitive
5.	All posts in CDR Office		Non-Sensitive
6.	All other Directorates		Non-Sensitive

OFFICE OF THE COMMISSIONER (APPEALS)
CUSTOMS & CENTRAL EXCISE, GUWAHATI
Udyog Vikash Bhawan, Bhangagarh
GUWAHATI - 781005

C.No. II(3)1/COMM(A)/PF/GHY/041/393

Date : 17-5-05

To

The Commissioner,
 Directorate of Org. & Personnel Management,
 Customs & Central Excise,
 412-A, Deep Shikha Building,
 Rajendra Place, New Delhi-8.

Please refer to the Directorate letter vide F.No. 8/11/B(Data bank)/OPM/2004 dated 25.4.05 which was circulated by the Chief Commissioner, Central Excise & Customs, Shillong vide F.No. II(3)4/CCO/SH/04 dated 26th April, 2005.

It is to bring to your knowledge that when the above letters arrived I was on medical leave and have joined my Office only on 16th May, 2005. During my absence my office filled up the desired proforma on 5.5.05 and sent the same on 5.5.05 to Chief Commissioner Unit, Shillong for onward transmission. In this connection I consider it necessary to bring to your knowledge that on 19.11.04 I had formally sent a representation to the Chairman, CBEC, New Delhi requesting for a transfer to Mumbai on completion of my tenure in the North East Region. A copy of the representation was also endorsed to the Member (P&V). My representation was later forwarded to Member (P&V), CBEC, New Delhi by the Chief Commissioner Unit, Shillong vide F.No. 1(22)6/CCO/SH/04 dated 23.11.04. No decision appears to have been taken by the Board on the said representation.

I understand that an exercise for conducting Annual General Transfer is presently under way. I am therefore once again sending a copy of my representation for taking appropriate action at your end. I am also enclosing duly filled in proforma-I for taking further action in the matter.

Enclo. 1. Copy of Representation
 dated 19.11.2004
 2. Proforma -I

A. K. Pawar
 (A. K. PAWAR)
COMMISSIONER (APPEALS)

C.No. II(3)1/COMM(A)/PF/GHY/041/393-96

Date : 17-5-05

Copy forwarded for information and necessary action to :

1. The Chairman, CBEC, New Delhi.
2. The Member (P&V), CBEC, New Delhi.
3. The Chief Commissioner, Customs & Central Excise, Shillong.

2-7-05
 (A. K. PAWAR)
COMMISSIONER (APPEALS)

o/e

*After
Jah.
Review*

PROFORMA - I
TRANSFER PROFORMA

1. (a) Name of the Officer A.K. PAWAR
 (b) Sl. No. in the Civil List 227 (Civil List of 2003)
 (c) Designation COMMISSIONER
 (d) Comm'te/Dte/Office3 in which working and/or CENTRAL EXCISE
 posted at present (APPEALS)
 (e) Date from which posted in the present Comm'te/Dte 9.11.02 (Date of joining
 in Guwahati 3.2.2003)
 (f) Date of Birth 23.01.1955
 (g) Name of the Home Town & State SOLAN (HIMACHAL
 PRADESH) ✓

2. History of Posting since entry into the Group "A" IC& CES Service in the Prescribed Proforma

Sl. No.	POST HELD	Ch. Comm'te / Dte. Gen / Dte.	Comm'te	Station	DATE	
					FROM	TO
1.	Asstt. Commr., Central Excise	Kanpur	Kanpur	Kanpur	1982	1985
2.	Asstt. Commr., Central Excise, Agra	Kanpur	Kanpur	Agra	January, 1986	August, 1987
3.	Asstt. Commr., Central Excise, Bombay	Bombay - II	Bombay-II	Bombay	August, 1987	1988
4.	Asstt. Commr., Customs, Bombay	Customs House, Bombay	Customs House, Bombay	Bombay	1988	1992
5.	Dy. Commr., Customs	Customs House, Ahmedabad	Customs House, Ahmedabad	Ahmeda bad	Sept., 1992	1994
6.	Dy. Commr., Central Excise	Ahmedabad	Ahmedabad	Ahmeda bad	1994	1999
7.	Addl. Dir., Inspection	Directorate of Inspection, West Zone, Mumbai		Mumbai	May, 1999	July 2000
8.	Addl. Dir. (DRI),	Mumbai		Mumbai	July, 2000	Dec., 2000
9.	Addl. Commr. Central Excise, Mumbai	Mumbai-VII	Mumbai- VII	Mumbai	Dec. 2000	Aug., 2002
10.	Addl. Commr., Central Excise	Chief Commr. Unit, Mumbai	C.C. unit , Mumbai	Mumbai	Aug. 2002	31-10-2002
11.	Commissioner (Appeals)	SHILLONG	Guwahati	Guwaha ti	03-02-2002	date

3. If you want posting to a particular station, name the five different stations in order of preferences and give reasons :

(i) MUMBAI (2) PUNE
 (3) AHMEDABAD (4) SURAT & (5) KANDLA ✓

REASONS : My only son is presently studying in B.E. Engineering in a College in Mumbai. He has already completed 2 years of his course and is yet to complete 2 remaining years for getting a degree. Therefore, my presence is necessary in

Attached
for reference

Mumbai or in a nearby place

4. If your spouse is employed and you seek posting to a particular station or retention at the same place give complete details of such employment, designation of spouse, pay and whether the job is transfereable or not

5. Other relevant information, if any

Not applicable

(i) I have since completed normal tenure in the North East Region on 2.2.2005. My case may be considered for posting to a station of choice i.e Mumbai, as per the Incentives granted for Serving in remote areas vide D.O.P. Instructions dated 14th December, 1983 and subsequently amended from time to time. (Chapter 23 of Swamy's FR-SR-Part-I Hand Book, 2005

(ii) Recently issued Transfer Policy of the CBEC also lays down that the officer who have completed their term in the North East Region and Jammu & Kashmir should be given preferences in posting

(iii) During my entire service of nearly 25 years I have worked in one Class 'A' city i.e Mumbai that too for a period of 8 years only. I have mostly worked in 'B' and 'C' cities only.

(iv) As per my information there is no vigilance case pending against me at present.

Note: Option only in respect of station will be entertained and requests for specific postings in a particular station will not be considered.

Station :
Date :

Controlling Officer's comments

The particulars given in Col. 1 & 2 above are verified and found correct.

Signature of the Officer
(With Designation)
Commissioner
Customs & Central Excise/Asstt. Commr.
Gurhatti

Signature of the Officer
With Designation

Annexure-C (contd)

To

The Chairman
Central Board of Excise & Customs,
Dept. of Revenue, Ministry of Finance,
North Block,
New Delhi.

Sir,

(Through proper channel)

Subject: Request for transfer to Mumbai on completion of normal tenure in the North-East Region.

In pursuance of Ministry's Office Order No. 168/2002 issued under F.No. A.32012/10/2000-AD.II(Vol.II) dated 1st November, 2002 I was promoted as Commissioner and assumed the charge of Commissioner of Customs and Central Excise at Mumbai on 1st November, 2002. Thereafter vide Ministry's Order No. 178/2002 issued under F.No.A.32012/10/2000-AD.II(Vol.II) dated 9th November, 2002 I was posted as Commissioner, Central Excise (Appeals) Guwahati. Ever since I have been working as Commissioner, Central Excise (Appeals) in Guwahati and during this period I never made any representation to the Board seeking transfer/posting. Now that I have completed my normal tenure of two years in the present charge I am making a formal request for transfer/posting to Mumbai on the following grounds :

(i) I have since completed my normal tenure of two years period as has been outlined in the Guide Lines mentioned in the Incentives For Serving In Remote Areas like North-East,[G.I, M.F, O.M No. 20014/3/83-E,IV, dated the 14th December, 1983 read with O.M No. 20014/3/83-E,IV dated the 30th March, 1984 as amended (I am enclosing a photocopy of the relevant instructions for ready reference)]. And also Ministry's Circular under F.No. C.50/60/2004-AD-II regarding Transfer Policy of Indian Customs and Central Excise Services Group 'A' officers wherein Guwahati has been shown at Serial No. 12 to be a Class 'C' station where the normal tenure is two years.

(ii) I am an officer of IRS (C&CE), 1980 batch and belong to the state of Himachal Pradesh. In view of the above mentioned North-East Incentives I was allowed to retain my official accommodation at the station of my last posting i.e Mumbai. This certainly helped me a lot in as much as I was able to put my only son in an Engineering College at Mumbai where he is presently doing B.E (Mechanical Engineering). He has still to complete two more years in the same Engineering College to complete his graduation. My presence is therefore required at Mumbai.

(iii) Maintaining two establishments has not only been economically taxing but it has been quite stressful also. The present posting for such a long time away from my family has already started taking its toll both economically as well as

Contd.....P/2.

Abhishek Jaiswal

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physically in as much as I have already become a victim of high blood pressure and other related problems. This has also started affecting not only my health but has also affected discharge of my official duties as well.

(iv) During my service of last 24 years or so I have always carried out my functions with utmost efficiency and sincerity wherever posted. It will not be out of place to mention that I have some personal obligations as well to fulfill as a dutiful husband and as a caring father for my only son. Now that I have since completed my normal tenure period in Guwahati I surely deserve and expect a change. I expect that the Govt. will fulfill its commitment as spelled out in the North-East Incentives by considering my representation favourably by transferring/posting me to Mumbai. I am looking forward to a positive and early decision in the matter. For this act of kindness, I shall ever be grateful to the Board.

Yours faithfully,

A.K. PAWAR
 (A.K. PAWAR)
 COMMISSIONER(APPEALS)
 CUSTOMS & CENTRAL EXCISE
GUWAHATI

Copy for information and necessary action to :

The Member (P&V), Central Board of Excise & Customs, Deptt. of Revenue,
 Ministry of Finance, North Block, New Delhi.

A.K. PAWAR
 (A.K. PAWAR)
 COMMISSIONER(APPEALS)
 CUSTOMS & CENTRAL EXCISE
GUWAHATI

To,
The Chairman
Central Board of Excise and Customs,
Dept. Of Revenue, Ministry of Finance,
North Block,
New Delhi.

Date: -22/06/2005

Sir,
(Through proper channel)

Subject:-Request for transfer to Mumbai on completion of normal tenure in
the North-East region.

In pursuance of Ministry's Office Order No. 168/2002 issued under F.No. A.32012/10/2000-AD.II (Vol.II) dated 1st November, 2002 I was promoted as Commissioner and assumed the charge of Commissioner of Customs and Central Excise at Mumbai on 1st November, 2002. Thereafter vide Ministry's Order No. 178/2002 issued under F.No. A.32012/10/2000-AD.II (Vol.II) dated 9th November, 2002 I was posted as Commissioner, Central Excise (Appeals) Guwahati. It is a mater of record that in the month of November 2004 I had made a formal representation to the board seeking transfer/posting to Mumbai. Since no reply to the said representation was received from the board I sent another formal request in the month of May 2005 (in proforma-1).

Annual general transfers in the grade of Commissioner were affected vide office order No.83/2005 dtd. 31.5.05. I am not aware as to why my request was not considered for transfer by the board as my name was not there on the list. This has certainly resulted in a feeling of frustration and depression.

In the present circumstances I am again making another formal request for transfer/posting to Mumbai in the following grounds: -

- (i) I have since completed my normal tenure of two years posting on 03/02/2005. I would like to invite the attention of the board to certain guidelines mentioned in the Incentives for Serving in Remote areas like North-East, [G.I; M.F, O.M No. 20014/3/83-E, IV, dated the 14th December, 1983 as amended.] And also Ministry's Circular under F.No. C.50/60/2004-AD-II regarding Transfer Policy of IRS Group 'A' officers wherein Guwahati has been shown at Serial No.12 to be a class 'C' station where the normal tenure is two years. The said policy further indicates that officers who have completed their tenure in places like North-East, J&K etc... will be given preference in transfers/postings.
- (ii) I am an officer of IRS (C & CE), 1980 batch and belong to the state of Himachal Pradesh. In view of the above mentioned North-East

After 2nd review

	Levendra Mishra	V.P.I.C.A	ADG (Vig.) Delhi
13.	Gautam Ray	Settlement Commission Kolkata	Kolkata Customs (Airport)

Incentives I was allowed to retain my official accommodation at the station of my last posting i.e. Mumbai. This certainly helped me a lot as my only Son is currently pursuing his third year of B.E. (Mechanical Engineering) course, in a college in Mumbai. He has still two more years to complete his graduation.

(III) Maintaining two establishments has not only been economically taxing but it has been quite stressful also. The present posting for such a long time away from my family has already started taking its toll both economically as well as physically.

During my service of the last 24 years or so, I have always carried out my duties with utmost sincerity and efficiency, wherever posted. It will not be out of place to mention that I have some personal obligations as well to fulfill as a dutiful husband and as a caring father for my only son. Now that I have completed my tenure in Guwahati, I surely deserve and expect a change. I expect that the board will fulfill its commitment as spelled out in the North-East Incentives by considering my representation favourably by transferring/posting me to Mumbai.

I would also like to invite the attention of the Board to some orders recently passed by the CAT, Guwahati Bench. The CAT has taken serious note of the recent AGT affected in the cadre of Additional Commissioner where some officers were transferred out of North-East in sheer violation of the North-East/Board Transfer Policy. If my said request is not favourably considered I will also be left with no option but to approach the CAT, Guwahati Bench for justice.

I am looking forward to a positive and early decision in the matter. For this act of kindness, I shall be ever grateful to the Board.

Yours faithfully,

F. No. Commr (A)/PF/Ghy/04



(A.K. Pawar)

COMMISSIONER (APPEALS)
CUSTOMS & CENTRAL EXCISE
GUWAHATI.

Copy for information and necessary action to:

- (i) The Member (P&V), Central Board of Excise and Customs, Deptt. Of Revenue, Ministry of Finance, North Block, New Delhi.
- (ii) The Commissioner, Directorate of Org. & Personal Management Customs & Central Excise, New Delhi.
- (iii) The Chief Commissioner, Customs & Central Excise, North-East Zone, Shillong, Meghalaya. He is requested to kindly forward my representation to the CBEC for taking necessary action in the matter.



(A.K. PAWAR)
COMMISSIONER (APPEALS)
CUSTOMS & CENTRAL EXCISE
GUWAHATI.

Annexure - E

F.No.A.22011/08/2005-Ad.II
Government of India
Ministry of Finance
Department of Revenue
(Central Board of Excise & Customs)

North Block, New Delhi

Dated: September 12, 2005

OFFICE ORDER NO.148/2005

The following transfers and postings in the grade of Commissioner of Customs & Central Excise are hereby ordered with immediate effect :-

S.No.	Name S/Shri/Ms.	Present Posting	Posted to
1.	Rasheeda Hussain	Delhi-CX-IV (Faridabad)	Mumbai CX-V
2.	K.K. Jha	ADG(Vig.), Delhi	Delhi CX-IV (Faridabad)
3.	C.S. Prasad	Delhi Customs- II(A)	ADG, Vig., Delhi
4.	K. Umesh	Bangalore ST	Vapi CX (A)
5.	S.S. Lenka	Kolkata Customs (A)	Bangalore Service Tax
6.	A.K. Pawar	Guwahati CX(A)	Kolkata Customs(A)
7.	Asif Iqbal	Surat CX-II(A)	Guwahati CX(A)
8.	Ranjit Singh	Ludhiana CX(A)	Surat CX(A)-II
9.	Anoop Swaroop	On reversion from deputation	Daman CX(A)
10.	K.R. Bhargava	Customs ACC (Export) Delhi	Ahmedabad CX-I(A)
11.	Y.S. Saharawat	On reversion from COIN posting	Coimbatore CX
12.	Devendra Mishra	Vapi CX	ADG (Vig.) Delhi
13.	Gautam Ray	Settlement Commission Kolkata	Kolkata Customs (Airport)

*Affixed
for Admistrative*

14.	Ms. R. Shakuntala	UOP Aurangabad CX(A)	ADG (Audit) Hyderabad
15.	B.P. Singh	UOP ADG (Audit) Hyderabad	Hyderabad CX(A)
16.	V.T.K. Nayanar	Jt. CDR CESTAT Chennai	Service Tax Chennai
17.	J.P. Gregory	Service Tax Chennai	Jt. CDR CESTAT Chennai
18.	M. Ponnuswamy	UOP Madurai CX	Bangalore Customs (A)
19.	N. Sasidharan	ADG Valuation, Mumbai	Mumbai Customs-I (Gen.)
20.	S.D. Majumdar	Pune Customs(P)	ADG Valuation Mumbai
21.	Lalitha John	Bangalore-CX-III	Pune Customs
22.	Joy Kumar Chander	Bangalore CX-II (Adj.)	Bangalore CX-III
23.	D.K. Datta	Haldia CX	Bangalore-II CX (Adj.)
24.	Kamal Jyoti	Service Tax Kolkata	Haldia CX
25.	Chander Bhan	Siliguri CX	Service Tax Kolkata
26.	C.P. Arya	Settlement Commission, Mumbai	Siliguri CX
27.	P.K. Sirohi	Panchkula CX	Settlement Commission Mumbai
28.	Shobha L. Chary	Jt. CDR, Bangalore	Panchkula CX
29.	Ramesh Kumar Singla	Vadodara CX-I(A)	Jt. CDR, CESTAT Bangalore
30.	Mala Srivastava	On reversion from deputation	Vadodara CX (A)
31.	Subash Chander	ADG Audit Bangalore	Allahabad CX
32.	M.C. Thakur	Mumbai Airport Customs	Tirupati CX
33.	C.M. Mehra	Kandla Customs	Settlement Commissioner, Kolkata

2. All the officers mentioned above should be relieved immediately under intimation to the Board. No representations whatsoever will be entertained before the officers join at their new places of postings. The Chief Commissioners should send compliance reports regarding relieving and joining of the above officers to the Board by 20.09.2005 and 27.09.2005 respectively.

3. All representations/requests received regarding posting/transfers in the grade of Commissioner of Customs & Central Excise stand disposed of.

(R. K. Kalia)
Deputy Secretary to the Government

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No. 140 of 2005.

Date of Order: This, the 15th Day of June, 2005.

THE HON'BLE MR. JUSTICE G. SIVARAJAN, VICE CHAIRMAN.

THE HON'BLE MR K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Chaten Rigzin
Working as Additional Commissioner
Central Excise Commissionerate
Dibrugarh. Applicant.

By Advocates S/Shri J. L. Sarkar & S. Nath.

- Versus -

1. Union of India
Represented by the Secretary (Revenue)
Ministry of Finance
Department of Revenue
North Block, New Delhi.
2. Central Board of Excise & Customs
(through its Chairman)
North Block, New Delhi.
3. Chief Commissioner
Customs & Central Excise
Shillong Zone
Crescens Building
M.G.Road, Shillong-1.
4. Commissioner of Central Excise
Lane F, Milan Nagar
Dibrugarh - Assam.

... Respondents.

By Mr. A. K. Chaudhuri, Addl.C.G.S.C.

ORDER (ORAL)

SIVARAJAN, J.(V.C.):

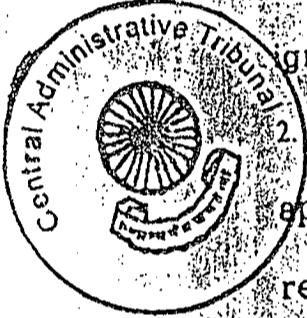
The applicant is working as Additional Commissioner, Central Excise Commissionerate, Dibrugarh from 6.1.2003 on his transfer from Mumbai. The applicant is presently aggrieved by his transfer from Dibrugarh to Kolkata as per order dated 10.6.2005 (Annexure-D). According to the applicant, when he was transferred

Signature

Attn: Mr. Adarsh

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from Mumbai to N. E. Region he was allowed to retain the residential accommodation provided to him in Mumbai to enable his family members to reside there; the children of the applicant are studying in Class VIII and XII at Guru Nanak Khalsa College, Mumbai under the Maharashtra Board of Education, Mumbai; if the applicant has to relinquish the quarter in Mumbai that would jeopardize the academic careers of his children. It is also stated that the present transfer order has been issued only to help a few persons who made representations before the respondents. It is stated that transfer have been effected pursuant to the representations filed by some of the officers to the detriment of this applicant and similarly situated persons. It is also stated that the applicant having completed two years of service in the N. E. Region had applied for choice posting i.e. to Mumbai and that ignoring the said request he has been transferred to Kolkata.



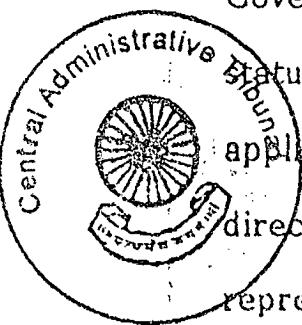
2. We have heard Mr. J. L. Sarkar, learned counsel for the applicant and Mr. A. K. Chaudhuri, learned Addl. C. G. S. C. for the respondents. Similar cases in regard to transfer and posting of Superintendent in the Custom and Central Excise Department have come up before us wherein the parties submitted that transfers are effected in the month of June against the well accepted norms for which it is stated that transfer and posting will be effected only during March/April of each year. It is also pointed out that transfers are effected to the detriment persons by issuing transfer orders based on the representation made by other officers. We have disposed of the said O.A.s directing the applicants therein to make representations before the concerned authorities pointing out the irregularities.

3. In this case also it is seen that transfer order (Annexure-D) has been issued mainly considering the representations made by

One

certain Additional Commissioners and Joint Commissioners of Custom and Central Excise (paragraph 3 of Annexure-D). We are not sure as to whether the respondents have afforded opportunity to all the Additional Commissioners/Joint Commissioners to make representations seeking for transfer by obtaining option for choice posting or otherwise.

4. According to the applicant, he had completed requisite period of service in the North Eastern Region for getting choice posting and had made a request in that behalf. Why his request was not considered is not known. That apart, if the transfer of the applicant to Kolkata as per the impugned order is sustained, he will have to vacate the residential accommodation provided to him in Mumbai which would result in adversely affecting the education of his children at Mumbai. Keeping in mind the limited jurisdiction of this Tribunal in the matter of interfering with the transfer and posting of Government officers except in case where there is violation of statutory rules or allegation of malafide, we are of the view that this application can be disposed of at the admission stage itself with directions. Accordingly, we direct the applicant to make a detailed representation before the Secretary (Revenue), Ministry of Finance, Department of Revenue, Central Board of Excise & Customs within a period of two weeks from today. If such a representation is received, the said authority will consider the same and pass appropriate orders keeping in mind the observations made hereinabove and in accordance with law within a period of two months thereafter. Since we are *prima facie* satisfied that the transfer of the applicant from Dibrugarh, N. E. Region to Kolkata will adversely affect the education of the children of the applicant studying at Mumbai if the applicant is



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asked to vacate the residential accommodation provided to him on account of this transfer, we direct the respondents to retain the applicant in the present station until a decision on the representation is taken.

The Original Application is disposed of as above. The applicant will produce this order along with the representation before the Government for compliance.

sd/ VICE CHAIRMAN
sd/ MEMBER (A)



TRUE COPY

.....

N. Sahoo 17-6-02
Section Officer (J)
C.A.T. GUWAHATI BRANCH
Guwahati - 781005

BS 17/6

F.No.A.22012/10/2005-Ad.II(Pt.)

Government of India

Ministry of Finance

Department of Revenue

Central Board of Excise & Customs

Dated : August 9, 2005

OFFICE ORDER NO.127/2005

Following transfer & posting in the grade of Joint/Additional Commissioner of Customs & Central Excise are hereby ordered with immediate effect and until further orders:-

S.No.	Name of Officer	UOP/Present Posting	New Place of Posting
1.	L RAMAKRISHNA RAO	AHMEDABAD CX	HYDERABAD CX
2.	S C VERMA	VIZAG CX	DGICCE, DELHI
3.	A K MONDAL	COIMBATORE CX	DTE. OF VIGILANCE, KOLKATA
4.	B ACHARYA	KOLKATA CUSTOMS (WEST BENGAL (P)	BHUBANESHWAR CX
5.	K S BHATT	VADODARA CX	CESTAT BANGALORE
6.	C SONGATE	KOLKATA CUSTOMS	SHILONG CUSTOMS(P)
7.	K. ASHI KHIEYA	KOLKATA CUSTOMS	SHILONG CUSTOMS(P)
8.	SHUBH CHINTAN	NACEN MUMBAI	AHMEDABAD CUSTOMS
9.	R.S. CHANDEL	VIZAG X	Dte. of Systems, DELHI
10.	D.P. NAGENDRA KUMAR	NAGPUR CX	BANGALORE CUSTOMS
11.	C. JULIAN ANDREW	SHILLÖG CUSTOMS(P)	CHENNAI CX

*After
for
reference*

12.	R. MOHANDASS	RANCHI CX	CHENNAI CUSTOMS
13.	P.K. SUMAN	KOLKATA CX	VADODARA CX
14.	M. SRINIVAS	AHMEDABAD CUSTOMS	MUMBAI CX-II
15.	C. RIGZIN	KOLKATA CUSTOMS	PUNE CX
16.	C.K. GOYAL	BHOPAL CX	DELHI CX

2. All officers mentioned above should be relieved by 12.08.2005 and a compliance report to this effect should be sent by the Chief Commissioner concerned by 16.08.2005. This should be followed by a report containing status regarding assumption of charge by the transferred officer against the new post which should reach the Board by 26th August, 2005.

3. With this order, all representations for posting & transfers in the grade of Joint/Additional Commissioner of Customs & Central Excise received till date stand disposed off.

(K. KIPGEN)

Under Sec. to the Govt. of India