

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORDERS SHEET

1. Original Application No. 181/06
2. Miscellaneous No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(s) Pradip Kr. Roy

Respondant(s) U.O.I. Joke

Advocate for the Applicant(s) J. L. Sarkar.....
...S.N. Tamuli.....

Advocate for the Respondant(s) Mr. G. B. Barik.....
Sx. Case.....

Notes of the Registry

Date

Order of the Tribunal

Application is in F.F.

is in F.F. Rs. 10/-

Case No. PC/80

26.6.350773

Date 23.7.06

Dy. Registrar

Steps not taken.

Asst.

27.7.2006

Present: The Hon'ble Shri K.V. Sachidanandan
Vice-Chairman.

The applicant is a member of Indian Revenue Service and after working in so many places under the respondents he is now working as Commissioner of Income Tax in Guwahati w.e.f. 25.8.2003. Vide order dated 31.5.2006 applicant has been transferred to Varanasi. Dr. J. L. Sarkar, learned counsel has drawn my attention to Annexure-A, Appendix-9 which deals in *Incentives for Serving in Remote Areas* under the heading *Tenure of posting/ deputation* which is quoted below: -

"There will be a fixed tenure of posting 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training etc., in excess of 15 days per year will be excluded in counting the tenure period 2/3rd years. Officers, on completion of the fixed tenure of service mentioned above may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employee to the States/Union. Territories of the North-Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the

Contd
27.7.2006

employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended."

It is clear from therein that an officer with 10 years of service working on tenure posting for two years is entitled to have choice posting as far as possible. This is also reiterated by the Departmental Circular at Annexure-H issued by the Central Board of Direct Taxes with special reference to para 5.7 which reads as under:-

"Officers who complete 3 years of tenure at National Academy of Direct Taxes, Nagpur, Regional Training Institutes and the Vigilance Directorate, and whose performance has been excellent, will get preference, as far as possible, in posting to stations of their choice. Officers who have served in the North Eastern Region and J&K would get preference in posting to stations of their choice."

This rule is very clear that the Officers who complete tenure posting at N.E. Region and J&K would get preference in choice station posting. The applicant has completed two years of service and he also exercised his option as evidenced by Annexure-C wherein he had opted Kolkata as first priority and Guwahati next. Therefore, the contention of the applicant is that he should have been transferred to Kolkata where there are number of vacancies if at all transfer is required or he should have been retained at Guwahati itself. Contrary to that vide Annexure-D order at Sl. No.54 he has been transferred to CIT Varanasi which is being challenged in this O.A.

When the matter came up for consideration, Dr. J. L. Sarkar, learned counsel for the applicant also brought my notice to the order dated 9.6.2006 issued by the Chief Commissioner of Income Tax,

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Contd
27.7.2006

Guwahati, relevant paragraph of which is reproduced below:-

"Shri P.K.Ray currently holding charge of office of CIT, Guwahati-I has completed a quarter short of 3 (three) years in the NER. He is entitled to a posting of his choice in terms of Government of India's decisions communicated under GI, MF, OM No.20014/3/83-E IV dated 14.12.83 and subsequent instructions on the subject. While taking over charge in NER on 25.08.03 he left behind his family comprising of wife and two daughters, both of whom are yet to complete their studies. Shri Ray is a patient of Diabetes and Glaucoma. He had served in 'B' & 'C' class cities in the post. Option exercised by him was retention in the NER or posting at Kolkata if covered by A.G.T. There are, till date unfilled vacancies in West Bengal in the cadre of Commissioners. Transfer of Shri Ray to Varanasi ignoring the overriding instructions of the Government of India thus appears to be an inadvertent omission."

The Chief Commissioner of Income Tax himself observed that the transfer of the applicant ignoring the overriding instructions, provisions and rules of the Government of India appeared to be an inadvertent omission.

Mr.G.Baishya, learned Sr.C.G.S.C. representing the respondents, on the other hand, submits that all the grounds that the applicant has taken of his illness and that of his children's education are not good grounds to challenge the transfer order.

Considering the facts and circumstances of the case and rule position I am of the view that the O.A. has to be admitted. Therefore, the O.A. is admitted. Six weeks time is given to the respondents to file written statement. Post the case on 12.9.2006.

By way of an interim order this Tribunal directs the respondents to keep the transfer order dated 31.5.2006 (Annexure-D) in abeyance, in so far as the

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fb comply order
dated 27.7.06.

28.7.06.

Notice & order sent
to D/Section for
issuing to resp.
nos. 1, 2 & 3 by
regd. A/D post.
18/06. D/No-779 to 78/
DF 2/8/06.

Service report awaited.

22
11.9.06.

No Wls has been
billed.

22
30.10.06.

No Wls has been
billed.

22
21.11.06.

No Wls has been
billed.

22
12.12.06.

Contd

27.7.2006

applicant is concerned and in any
applicant shall be retained in any of
post available at Guwahati till further
orders. It is further made clear that
the respondents are considering the
applicant's case for choice posting, they
are at liberty to decide accordingly.

Vice-Chairman

12.9.2006

Mr.G.Baishya, learned Sr.C.G.S.C.
seeks for further time to file reply
statement. Post on 31.10.2006.

Vice-Chairman

31.10.2006

Mr.G.Baishya, learned Sr.C.G.S.C.
C. is granted three weeks time to
file reply statement.
Post on 22.11.2006.

Vice-Chairman

bb

22.11.2006 Present: Hon'ble Sri K.V. Sachidanandan.
Vice - Chairman.

Learned Counsel for the
Respondents submitted that he would
like to file reply statement within a week.
Let it be done. Learned Counsel for the
Respondents specifically directed to serve
a copy of the reply statement to the
learned Counsel for the Applicant and on
receipt of the same, the applicant shall
file rejoinder, if any, within ten days
thereafter. Post on 13.12.2006.

Vice-Chairman

/mb/

13.12.06.

Learned counsel for the respondents wanted time to file written statemnt. One week time is granted to file written statement as a last chance. Post the matter on 22.12.06.

lm

Vice-Chairman

No W/S has been filed

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21.12.06.

~~22.12.2006 Post on 2.2.2007 for filing of rejoinder as requested by learned counsel for the applicant.~~

~~BB~~

~~/bb/~~

~~Vice-Chairman~~

26.12.06

W/S filed by the Respondents. Page No. 4 to 18.

BB

22.12.2006 Learned counsel for the Respondents submits that reply statement is being filed today. Registry is directed to receive it if it is otherwise in order.

Post on 24.1.2007. In the meantime applicant is at liberty to file rejoinder, if any.

BB

Vice-Chairman

/bb/

Rejoinder to the W/S submitted by the Applicant.

BB

The case is ready for hearing.

23.1.07.

The case is ready for hearing.

12.2.07.

24.01.07

Counsel for the respondents wanted further time to verify the rejoinder as to whether the rejoinder is necessary or not. Let it be done.

Post the matter on 13.2.07.

BB

Vice-Chairman

lm

Rejoinder

0. A 181 of 06

13.2.07

Counsel for the respondents wanted to file reply statement to the rejoinder. Post the matter on 7.3.07.

lm

Vice-Chairman

13.2.07

Counsel for the respondents wanted to file reply statement to the rejoinder. Post the matter on 7.3.07.

lm

Vice-Chairman

07.03.07

Let the case be listed on 26.3.07. Liberty is given to the counsel for the applicant to file rejoinder if, any.

lm

Vice-Chairman

30.3.07.

Counsel for the respondents wanted time to file objection to the rejoinder. let it be done. post the matter on 12.4.07.

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Vice-Chairman

9.5.07.

Mr.G.Baishya learned Sr.C.G.S.C. has submitted that he would like to some more time to file reply to the rejoinder. Ten days time is granted as a last chance. No further adjournment will be granted. post the matter on 22.5.07.

lm

Vice-Chairman

22.5.2007

Heard Dr.J.L.Sarkar, learned counsel for the Applicant. Mr.G. Baishya, learned Sr. C.G.S.C. requested for a short adjournment.

Let the case be posted on 24.05.2007 as part heard for argument of Sr.C.G.S.C.

Vice-Chairman

/bb/

6.3.07

pleadings complete.

No rejoinder has been filed.

7.5.07.

8.5.07.

No rejoinder has been filed.

21.5.07.

21.5.07.

24.5.2007

Heard learned counsel for the parties. Hearing concluded. Judgment is reserved.

Vice-Chairman

/bb/

31.5.07 Judgment delivered in open court.

Kept in separate sheets. Application is allowed. No costs.

Vice-Chairman

lm

Amend
Subj. for
5.06.07
8.06.07

Rev
JL
21/6/07

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CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.181 of 2006

DATE OF DECISION: 31 May, 2007

Shri Pradip Kumar Ray

.....APPLICANT(S)

Dr J.L. Sarkar

ADVOCATE(S) FOR THE
APPLICANT(S)

- versus -

Union of India & Ors.

.....RESPONDENT(S)

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

ADVOCATE(S) FOR THE
RESPONDENT(S)

CORAM:

The Hon'ble Mr. K.V.Sachidanandan, Vice-Chairman

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|----|--|--------|
| 1. | Whether reporters of local newspapers may be allowed to see the Judgment ? | Yes/No |
| 2. | Whether to be referred to the Reporter or not? | Yes/No |
| 3. | Whether to be forwarded for including in the Digest Being compiled at Jodhpur Bench and other Benches? | Yes/No |
| 4. | Whether their Lordships wish to see the fair copy of the Judgment ? | Yes/No |

Vice-Chairman

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31/5/07

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**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

Original Application No.181 of 2006

Date of Order: This the 31st May, 2007

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman

Pradip Kumar Ray,
Commissioner of Income-tax, Guwahati-1
Saikia Commercial Complex,
G.S. Road, Guwahati 781 005

Applicant

By advocate Dr. J.L. Sarkar

Versus

1. Union of India
Represented by the Secretary [Revenue]
Ministry of Finance,
Department of Revenue,
North Block, New Delhi 110 001
2. The Central Board of Direct Taxes
Through Chairperson
North Block, New Delhi 110 001
3. Chief Commissioner of Income -tax
Guwahati,
Saikia Commercial Complex,
G.S.Road, Guwahati 781 005

Respondents

By Advocate Mr. G. Baishya, Sr. CGSC


ORDER

K.V.Sachidanandan, Vice-Chairman:

The applicant who is a member of the Indian Revenue Service joined the Income-tax Department in 1977 as Group 'A' Income-tax Officer. He was promoted as Commissioner of Income-tax on 25.6.2001 but was transferred to Guwahati in the NER where he has been working since 25.8.2003 and has completed a stay of 2 years and 11 months in the NER when the O.A. was filed on 25.6.2006. Recognizing the hardships of NER posting, the Central

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Government has fixed the tenure in the NER at 3 years and has provided by way of incentives that a Central Government employee, on completion of 2 years tenure in the NER, he should be given a posting of his/her choice to the extent possible. These instructions were communicated vide OM dated the 14th December 1983 followed by various other subsequent OMs issued from time to time. The applicant has rendered 29 years of service in the Income-tax Department and was posted in various places like Mussories, Nagpur, Kolkata, Coochbehar, Delhi, and Guwahati. The respondents called for options for postings and the applicant opted for Kolkata. In the transfer form dated 21.2.2006 the applicant referred to the Government of India's instructions dated 21.2.2006. Further, he has made a representation on 4.1.2006 and requested for posting in Kolkata. The applicant in his representation has submitted that he was living alone in Guwahati for almost three years which was proving stressful for him as he was suffering from Diabetes and Glaucoma. He also mentioned in his representation that he had the fatherly obligation of addressing the educational problems and career planning of his younger daughter who is admitted in professional course in Kolkata. The applicant is entitled to posting to the place of his choice after having served in the NER for more than 2 years. In his representation, he further averred that he might be retained in Guwahati for some time more if his request for a posting in Kolkata could not be acceded to for the time being. The applicant in his representation submitted that a transfer to a third station after 3 years of stay at Guwahati would not solve his problems, which would mean great hardships for him and his family. The Central



Board of Direct Taxes, Department of Revenue, New Delhi vide order dated 31.5.2006 has passed orders transferring the applicant to Varanasi without considering his option. The applicant had never opted for Varanasi. The impugned order dated 31.5.2006 is enclosed as Annexure-D. Aggrieved by the said order, he has filed this OA seeking the following reliefs:

[I] The order of transfer of the applicant by Order No.,67 of 2006 dated 31.5.2006[Annexure-D, serial no.54] be set aside and quashed.

[ii] His posting be made at Kolkata according to his option under the incentive scheme assured by the Government of India for all Central Government employees on completion of tenure of 2 years in NER [Annexure-A].

[iii] After his transfer, he be allowed to continue in Kolkata at least for a period of 2 years which is the minimum tenure of a post.

[iv] Till such time he is posted at Kolkata, he be allowed to continue at Guwahati.

[v] Para 10 of the Transfer Policy 2005 [Annexure H] with the clause denying scope of representation before joining the new place of posting be set aside and quashed.

2. The respondents have filed a detailed reply contending that there is no tenure of posting in North Eastern Region in the transfer policy applicable to Indian Revenue Service. The policy provides that officers who have served in NER and J&K would get preference in posting to stations of their choice. The applicant belongs to Indian Revenue Service. For IRS, the competent authority in consultation with IRS Association has formulated a transfer policy keeping in view the functional and administrative requirements of the Department. The policy was notified on 26th April 2005, and as per the policy, the applicant's claim cannot be

considered. The applicant has 22 years of stay in the East Area, Bihar, West Bengal and NER. Out of this, his stay in Class A was 19 years and as per para 5.3.7, the maximum total tenure in Class-A stations during service up to and including the rank of Commissioner is 16 years. Further, para 5.3.8 provides for a maximum stay of 16 years and the applicant having done more than 16 years in Class-A stations as well in Eastern area hence, the applicant is liable to be transferred out of East area and posted to B&C stations in another area. It is stated by the respondents that there is a mismatch between the numbers CIT post in Class A stations and those in Class B & C stations. The number of posts available in Class B & C stations available are less than the number of posts required for placing such officers who cannot be posted to Class A station. This has been kept in mind while transferring the applicant by the competent authority. The applicant was transferred out of NER and, therefore, he request for retention Guwahati or posting at Kolkata was not valid. During August 2005, more than 300 of large number of officers would have resulted in mass dislocation and revenue collection affected and, therefore, the applicant has been transferred during August 2006 to Varanasi, a place nearer to East area according to availability of vacancy as the options given by him was invalid. As regards the case of Ms. Bharati Mandak cited by the applicant, the respondents have stated that she was posted to Kolkata as per her request and keeping in view her retirement in August 2007 and 82 years old ailing mother, on compassionate ground in relaxation of stay in Class-A station and East Area duly approved by the Government. The applicant belongs to IRS with all India transfer liability. When

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a person accepts a job, which is transferable and transfer is accidental to the service, the order of transfer should not be interfered with in the normal circumstances. As per Rule 13 of the IRS, such officers have all India transfer liability. Therefore, the applicant is liable for transfer anywhere within India. Even if the guidelines provide for a particular period, the transfer can be effected hardship is not a ground for avoiding transfer. The applicant was not eligible for posting either to Kolkata or retention at Guwahati. The applicant has defied the orders and approached the Tribunal without availing the avenues as provided in para 10 of the policy. Transfers were effected after consideration of options/requests given by each Officer, Having a large it has not been practicable to reply to each individual whose request has not been acceded to. Therefore, it is submitted that the applicant has no case and the OA is fit to be dismissed.


3. The applicant has filed a lengthy rejoinder, enclosing certain rules and some of the judgments of the Tribunal to substantiate his case. The counsel for the parties submitted that this being a transfer matter, there is urgency in the matter. However, the respondents were granted time for filing reply to the rejoinder on many occasions and the last opportunity was granted on 22.11.2006 but till date the respondents have not filed reply. But the counsel appearing for the respondents rebutted the allegations made in the rejoinder. The counsel for the applicant submitted that the rejoinder consists mainly orders of this Tribunal and copies of rule-position, which is within the reach/knowledge of the respondents. When the case came up on 9.5.2007, a further chance was given to file reply to the rejoinder and the case was posted for

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22.5.2007 for hearing. The respondents did not file reply to the rejoinder this time too. It is even after six opportunities, the matter was posted for 22.5.2007 when counsel for both the parties were heard.

4. The counsel for the respondents submitted that his main objection to the rejoinder is with reference to para 12 of the rejoinder where the applicant has stated that many other officers posted in the same area have been reposted in same area. Since these officers are not made party to the OA this is not germane to rely on such pleadings for proper adjudication of this case.

5. Heard Dr. J.L.Sarkar, learned counsel for the applicant and Shri M.G.Baishya, learned Senior Standing Counsel appearing for the respondents. The learned counsel for the parties have taken me various pleadings and materials placed on record. The counsel for the applicant would submit that incentives have been given to the employees placed in the NER after completion of tenure period of two years of three years respectively, which is very hard station and this has to be strictly followed. The counsel for the applicant submitted that even if there is rule mentioned/ or a transfer policy, that the applicant did not come under the purview of the that rules. The counsel appearing for the respondents argued that transfer is an incident of service and the applicant cannot expect to be posted at a particular place of his choice and now the new transfer policy has been adopted by the Government of India in consultation with the IRS Association and the applicant has already completed more than 16 years in a particular area, he cannot now be posted in the same area as per the said policy.



6. I have given due consideration to the arguments placed on record. It is admitted that the applicant was transferred to Guwahati on 25.8.2003 and he is continuing so. It is also an admitted case that by way of incentives to Central Government employees, on completion of two year tenure in the NER, the employee should be given posting of his/her choice to the extent possible. These instructions have been communicated vide GI MF OM No.0014/3/83-E.IV dated 14th December 1983 followed by various other subsequent OMs issued from time to time are applicable to all Central Government Departments and are printed in Appendix 9 at pages 540 to 559 of Swamy's Compilation of FRSR, Part I. For better appreciation, the said Rule is reproduced below:-

"[i]Tenure of posting/deputation:

There will be a fixed tenure of 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc. in excess of 15 days per year will be excluded in counting the tenure period 2/3rd years. Officers, on completion of the fixed tenure of service mentioned above may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended."

Vide Annexure-B, the Chief Commissioner of Income-tax has forwarded the representation of the applicant to the Chairperson, Central Board of Direct Taxes, recommending

the transfer of the applicant from Guwahati to Kolkata. Further, the Chief Commissioner has strongly recommended the case of the applicant vide letter dated 31.10.2005, which is reproduced below:

"OFFICE OF THE CHIEF COMMISSIONER OF INCOME-
TAX, GUWAHATI
F.No.Pr.188/PKR/CCT/GHY/2003-04/9808 dated 31.10.2005

To
The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.

Subject: Request for Transfer-Regarding.

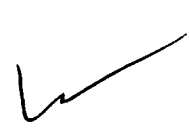
Sir,

Shri P.K. Ray, CIT, Guwahati [77023] working in the N.E. Region, has submitted an application soliciting transfer to Kolkata.

Shri Ray in his prayer submitted that both his daughters are studying at Kolkata. The elder one is studying MBBS and the younger one is in Class XII and it is not possible for him to shift his family at Guwahati at this critical juncture. The reason cited by him is genuine and deserves sympathetic consideration so as to provide him opportunity to impart proper guidance and career-planning to his daughters.

Shri Ray joined the N.E. Region on 25.08.2003 and already completed two years period. It is in recognition of the unfavourable working conditions prevailing in the North Eastern Region that the Government of India decided to restrict the tenure of service in the North Eastern Region of any Central Govt. irrespective of the Department he belongs to or the transfer policy he is governed by, to a maximum period of two years. As per the policy a Govt. servant becomes entitled for choice posting once he completes the tenure of 2 years in the North East.

In view of the above fact the representation made may kindly, therefore, be favourably considered for posting to Kolkata in the light of the policy adopted and followed."



7. Thereafter the applicant has himself given a letter to the Chairperson, Central Board of Direct Taxes, wherein he has stated that "I would, however, like to clarify that in case I cannot be accommodated in Kolkata for the time being, I would rather like to continue in Guwahati for a few months more. A transfer to some other station at this stage will inconvenience me further and add to my problems." The applicant has also submitted his difficulties stating that he is suffering from Hyperglycemia and Glaucoma for which he has to follow a strict regimen of medications and dietary restrictions.

Annexure-C is Option Form dated 21.02.2006 in which he has given option for his transfer to Kolkata and second option to Guwahati. Annexure-D dated 31st May 2006 is transfer/posting orders of officers in which the applicant is at Serial No.54, in which in the last para it is stated:

"With this order, all representations for posting and transfers in the grade of Commissioners/Directors of Income Tax stand disposed of. Henceforth representations for transfer/posting from officers of this rank shall be entertained only after they are received through the concerned CCIT[CCAs] after the concerned officer has joined the new place of posting in terms of para 10 of the Transfer Policy. The CCIT[CCAs] shall consolidate all such representations relating to their respective Regions and forward the same to the Board with specific recommendations on a monthly basis only. No direct representations shall be entertained whatsoever."

8. The applicant submitted that such clause in the transfer order is violative of Articles 14 and 16 of the Constitution of India and against the principles of natural justice and, therefore, he was constrained to approach this Tribunal directly, which cannot be faulted. A twist has been taken by the respondents while admitting

the provisions of choice posting on completion of tenure posting in NER since it is a hard place by way of incentives to the Central Government employees. The respondents' specific case is that the applicant cannot be posted now in NER on the basis of the transfer policy adopted by the Department, which governs the filed.

9. Annexures XB and I filed along with the rejoinder and Annexure-H in this OA are the documents referred to in the reply statement. The relevant portion of the Transfer Rule is quoted below:

"TRANSFER GUIDELINES FOR GROUP 'A' AND
GROUP 'B' OFFICERS

In supersession of existing orders on the subject, it has been decided that transfer in the Income Tax Department will hereafter be made as far as practicable in accordance with the guidelines indicated below:

1. All Group 'A' Officers will be liable for transfer at the commencement of the next financial year if they have completed 8 years of continuous stay in any cadre controlling Chief Commissioner/Commissioner's Region/Charge. This may be relaxed by the Board on compassionate and administrative grounds in appropriate cases. Periods spent on training and study leave at the same place or in the same Region/Charge. The period spent by an officer on deputation basis outside the IRS cadre either in Central Board of Direct Taxes in the Department of Revenue or Central deputation or deputation to other Departments /Organizations will be excluded for reckoning the period of stay of 8 years/14 years in a particular Region/Charge. A break of less than two years will be considered as continuous stay, in the same Region or Charge. For counting continuous stay, service in a lower grade shall also be taken into account.
2. Stay at a station will not exceed 8 years in respect of the metropolitan cities of Mumbai, Calcutta, Delhi, Chennai and Ahmedabad. This period may be restricted to 5 years in respect of the cities of Hyderabad and Bangalore. At other stations, the stay will normally be 3 three years.

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3. In metropolitan and other big cities, the officers will be rotated once in three years in such a way that they are not only transferred from one CIT charge to another but they are required to perform different functions on transfer.

4. These principles will, also apply to the transfer of Group 'B' officers within the Region/Charge.

5. The total stay of an officer during the course of his entire career, in all grades [in Group 'A'] in a particular Region/charge should not exceed fourteen years.

6. The officers at any level having rendered more than 3 years in any of the charge like Tamil Nadu, West Bengal, Kerala, North-East, Bihar and the State of Jammu and Kashmir [NWR] will get preference in getting foreign training and also in getting preference for the place of their choice when they have completed their tenure in these regions.

7. The Assistant/Deputy Commissioner of Income Tax posted in the Board from the field as Under Secretaries will get preference for foreign trainings and the place of their choice after their tenure in the Board has been over. Similar incentives shall also be admissible to the officers posted in the various Directorates of Income Tax at Delhi.

8. The cooling off period for being posted again to the same Region/Charge will be at least three years.

9. An officer is liable to be transferred to any part of the country at any time at short notice on administrative grounds.

10. I] On promotion officers will normally be transferred irrespective of their period of stay except where they have come to that Region less than two years earlier.

iii] Group 'B' officers on promotion to the grade of ACIT would also be transferred out of the Region except in those cases where the officer has less than three years of total service left at the time of promotion.

These exceptions will, however, be subject to the availability of vacancies in the Region concerned at the relevant time of promotion.

11. An officer may opt for a transfer one year before he is due on stay or in Persons who have less than two

years service left anticipation of promotion if it suits his convenience.

12. Persons who have less than two years service left may not be transferred on stay basis or after promotion if it is practicable to retain them in the same Region/Charge.

13. Officers who have got less than 3 years of service to retire may be posted to their Home Town/State at their own request provided that they have not been so posted at any time during the last 10 years.

14. Husband and wife will be retained at the same station to the extent possible.

15. Subject to the availability of vacancies, two Principal Office Bearers[viz. President, Secretary and Treasurer] of the recognized Associations/Federations may be allowed to continue at the Headquarters of that Association/Federation till the next general transfers.

16. As far as possible, transfers from one region to another in the same State should not be made e.g. Lucknow Region to Kanpur Region and vice versa and Bombay Region to Pune Region and vice-versa.


17. Officers at the level of CIT should not be posted on transfer from a metropolitan city to a nearby station.

18. On completion of their training at NADT, the probationers may not be posted to their Home State, except on extreme compassionate grounds.

19. Attention of all officers is invited to Rule 20 of the CCS[Conduct]Rules under which no Government Servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government.

19. This is in supersession of this Department's circular letter No.35015/68/95-AD.VI dated 8.5.98."

10. The case of the respondents is that the applicant is liable to be transferred out of NER by the implementation of the new transfer policy guidelines. An officer maximum tenure at Class A in a cycle will be 8 years whereas



maximum tenure at Class B plus C stations in each cycle is 6 years. Therefore, the applicant cannot claim that he is entitled to remain in a Class A station or Class A Stations continuously up to 8 years without serving a minimum period of 6 years in B plus C Stations.

11. In this context my attention has been taken by the counsel appearing for the applicant to a decision of the of the Tribunal in OA No.1520/06 and [other cases] dated 13th October, 2006 [Annexure-XG] in which this transfer guidelines has been dealt with in detail. The facts of that case are almost similar to the present case were same contentions were taken and the relevant portions of the Guidelines are reproduced below:

Transfer Guidelines for Group 'A' and Group 'B' Officers

1.1 The salient features of the Transfer/Placement Policy for Group 'A' officers of the service][hereinafter referred to as the Placement Policy are as follows;

2. Salient features

The policy shall come into effect from the date of issue.

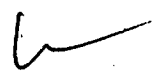
All annual transfer orders shall normally be issued by 30th April and, in any case, not later than 31st May of the year.

All transfers and postings of Group 'A' shall be effected by the Placement Committee or on its recommendations, as stated hereinafter.

2.1 A posting policy has been formulated for officers at different levels.

2.2 All stations have been categorized in three classes and tenure in different classes of stations have been prescribed.

2.3 All posts have been divided into two categories, namely, sensitive and non-sensitive.



- 2.4 Guidelines for dealing with different types of compassionate ground cases have been laid down.
- 2.5 The transfer guidelines shall not be applicable to the transfer and posting of Chief Commissioners/Directors General.
- 2.6 A correct and complete data base is a sine qua non for operationalizing the policy. The Board shall ensure that a data base containing the profiles of all Group 'A' officers is created and regularly updated.
3. xxxxxxxxxxxxxxxx
4. .xxxxxxxxxxxxx
5. Classification of stations, fixations of tenures and rotation between them.

The various stations where Group 'A' officers can be posted have been

Categorized as Class 'A', Class 'B' and Class 'C'. Such categorization is based on the twin criteria of revenue collection and the number of Commissioner level posts at a station.[Appendix I].

- 5.1 All suburbs of metro towns have been clubbed with the respective metro town in this classification.
- 5.2 The categorization of stations may be changed by the Board with the approval of the Government.
- 5.3 1] The country will be divided into four areas, viz. East, West, North and South.

The existing CCIT regions will be divided into the four areas as under

North- NWR, Delhi, UP[E],UP[W], Rajasthan

East- West Bengal, Bihar, Orissa, NER.

West- Gujarat, MP, Maharashtra, Mumbai, Nagpur.

South- AP, Kerala, TBN, Karnataka.

- 2] A total posting period of 16 years in a region shall be counted as a 'cycle'. In Mumbai and Delhi regions, since there are no Class 'B' and Class 'C' stations, one cycle will be of 8 years.
- 3] An officer shall not serve for more than one cycle in a region during the entire service upto and including the rank of Commissioner.
- 4] An officer shall be posted to another region after he has completed one cycle of posting.

3. In metropolitan and other big cities, the officers will be rotated once in three years in such a way that they are not only transferred from one CIT charge to another but they are required to perform different functions on transfer.

4. These principles will, also apply to the transfer of Group 'B' officers within the Region/Charge.

5. The total stay of an officer during the course of his entire career, in all grades [in Group 'A'] in a particular Region/charge should not exceed fourteen years.

6. The officers at any level having rendered more than 3 years in any of the charge like Tamil Nadu, West Bengal, Kerala, North-East, Bihar and the State of Jammu and Kashmir [NWR] will get preference in getting foreign training and also in getting preference for the place of their choice when they have completed their tenure in these regions.

7. The Assistant/Deputy Commissioner of Income Tax posted in the Board from the field as Under Secretaries will get preference for foreign trainings and the place of their choice after their tenure in the Board has been over. Similar incentives shall also be admissible to the officers posted in the various Directorates of Income Tax at Delhi.

8. The cooling off period for being posted again to the same Region/Charge will be at least three years.

9. An officer is liable to be transferred to any part of the country at any time at short notice on administrative grounds.

10. I] On promotion officers will normally be transferred irrespective of their period of stay except where they have come to that Region less than two years earlier.

iii] Group 'B' officers on promotion to the grade of ACIT would also be transferred out of the Region except in those cases where the officer has less than three years of total service left at the time of promotion.

These exceptions will, however, be subject to the availability of vacancies in the Region concerned at the relevant time of promotion.

11. An officer may opt for a transfer one year before he is due on stay or in Persons who have less than two

years service left anticipation of promotion if it suits his convenience.

12. Persons who have less than two years service left may not be transferred on stay basis or after promotion if it is practicable to retain them in the same Region/Charge.

13. Officers who have got less than 3 years of service to retire may be posted to their Home Town/State at their own request provided that they have not been so posted at any time during the last 10 years.

14. Husband and wife will be retained at the same station to the extent possible.

15. Subject to the availability of vacancies, two Principal Office Bearers[viz. President, Secretary and Treasurer] of the recognized Associations/Federations may be allowed to continue at the Headquarters of that Association/Federation till the next general transfers.

16. As far as possible, transfers from one region to another in the same State should not be made e.g. Lucknow Region to Kanpur Region and vice versa and Bombay Region to Pune Region and vice-versa.


17. Officers at the level of CIT should not be posted on transfer from a metropolitan city to a nearby station.

18. On completion of their training at NADT, the probationers may not be posted to their Home State, except on extreme compassionate grounds.

19. Attention of all officers is invited to Rule 20 of the CCS[Conduct]Rules under which no Government Servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government.

19. This is in supersession of this Department's circular letter No.35015/68/95-AD.VI dated 8.5.98."

10. The case of the respondents is that the applicant is liable to be transferred out of NER by the implementation of the new transfer policy guidelines. An officer maximum tenure at Class A in a cycle will be 8 years whereas



maximum tenure at Class B plus C stations in each cycle is 6 years. Therefore, the applicant cannot claim that he is entitled to remain in a Class A station or Class A Stations continuously up to 8 years without serving a minimum period of 6 years in B plus C Stations.

11. In this context my attention has been taken by the counsel appearing for the applicant to a decision of the of the Tribunal in OA No.1520/06 and [other cases] dated 13th October, 2006 [Annexure-XG] in which this transfer guidelines has been dealt with in detail. The facts of that case are almost similar to the present case were same contentions were taken and the relevant portions of the Guidelines are reproduced below:

Transfer Guidelines for Group 'A' and Group 'B' Officers

1.1 The salient features of the Transfer/Placement Policy for Group 'A' officers of the service][hereinafter referred to as the Placement Policy are as follows;

2. Salient features

The policy shall come into effect from the date of issue.


All annual transfer orders shall normally be issued by 30th April and, in any case, not later than 31st May of the year.

All transfers and postings of Group 'A' shall be effected by the Placement Committee or on its recommendations, as stated hereinafter.

2.1 A posting policy has been formulated for officers at different levels.

2.2 All stations have been categorized in three classes and tenure in different classes of stations have been prescribed.

2.3 All posts have been divided into two categories, namely, sensitive and non-sensitive.



- 5] The maximum tenure at a Class 'A' station in a cycle will be 8 years, the remaining period will be spent in Class 'B' and class 'C' stations.
 - 6] The minimum tenure at Class 'B' + Class 'C' stations in each cycle shall be 6 years.
 - 7] The maximum total tenure in Class 'A' stations during service upto and including the rank of Commissioner shall be 16 years.
 - 8] An officer shall be posted to another 'Area' when he is promoted to the level of Commissioner of Income Tax, provided he has remained in only one 'Area' for 16 years or more till his promotion as Commissioner,
 - 9] The minimum and maximum tenures on a post shall ordinarily be 2 and 3 years respectively.
 - 10] One posted to another 'area' on promotion as Commissioner, an officer may be posted back to the same 'area' after he has served in 'areas' other than that of long stay for a minimum of 5 years.
 - 11] Exceptions on compassionate/administrative grounds may be made by the Placement Committee.
 - 12] When a certain number of officers are due for moving out of a station to new station or to new postings in the same station for reason of having completed their tenure, but cannot be so moved due to inadequate number of vacancies available, the officers who have served for longer periods will be moved as far as possible.
 - 13] The station of the posting will be taken as the actual place where an officer is posted and not headquarters of Commissionerate/Directorate to which the officer is posted.
 - 14] A stay of more than nine months at 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.
- 5.4 All postings in the Board and in the Directorate of Vigilance, systems and Administration, technical posts in the Department of Revenue, deputations/postings to Central Economic Intelligence Bureau[CEIB], Enforcement Directorate, Authority for Advance Rulings[AAR], Competent Authorities[CAs], Appellate Tribunal for Forfeited Property[ATFP], Income Tax Appellate Tribunal[ITAT] and Settlement Commission shall ordinarily 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/posting to any one of the aforesaid organizations without completing the minimum prescribed cooling off. When an officer applies for cadre clearance for

a deputation, his previous history of posting will be considered. An officer shall be transferred out of the station in which he was on deputation on his return if he has completed his tenure at that station.

5.5. In order to encourage officers to seek postings at 'C' category stations, the Government shall sanction:

[a] At least one vehicle for office use at every 'C' category station irrespective of the level of the officer heading the office; and

[b] 100 per cent facility for officers.

5.6 The starting point for computing stay at Class 'A', 'B' or 'C' Stations shall be the date of joining at the station.

5.7 Officers who complete 3 years of tenure at National Academy of Direct Taxes, Nagpur, Regional Training Institutes and the Vigilance Directorate, and whose performance has been excellent, will get preference, as far as possible, in posting to stations of their choice. Officers who have served in the North Eastern Region and J&K would get preference in posting to stations of their choice.

6. Sensitive/non sensitive posts.

6.1 Posts in Investigation and Central charges are classified sensitive.

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

7. xxxxxxxxxxxxxxxx

8. Postings on compassionate grounds.

8.1 Cases of postings on medical/compassionate ground will be examined by the Placement Committee which may refer medical ground cases to Medical Boards, if required.

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

- 5] The maximum tenure at a Class 'A' station in a cycle will be 8 years, the remaining period will be spent in Class 'B' and class 'C' stations.
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9. Transfer on administrative grounds/public interest.

9.1 Notwithstanding anything contained in this Policy the Government may, if necessary to do so in public interest, transfer or post any officer to any station or post.

9.2 In between two Annual General Transfer exercises, on administrative exigencies, the Placement Committee may shift a Commissioner from one charge to another charge in the same station. The Placement Committee may also shift officers of the rank of Additional Commissioners and below from one region to another.

9.3 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. This restriction will remain in operation till such time as the vigilance matter is not closed. However, such an officer shall under no circumstances be posted to a sensitive charge. [emphasis supplied]."

12. 'Interpreting various aspects of the transfer guidelines the Division Bench of the said Court has held that:

"25. On merits, issues which require consideration are whether impugned transfer/posting order dated 31st May, 20-06 is in consonance & accordance with para 5 of the Transfer Policy? It needs further elaboration as to whether respondents stand as reflected vide para 3 of impugned transfer order that 'Officers who had completed 8 years at class 'A' station[s] in the present cycle of 16 years have been transferred out of Delhi and Mumbai are to be posted to B/C Stations for 6 years as per Transfer Policy' is reasonable, justified, tenable or not? Similarly, the term 'irrespective of the region[s]' as projected by respondents vide reply para 4.10 and repeated time and again, in effecting the transfer order is justified? It remains an undisputed fact that Mumbai and Delhi are though 'A' stations, but a 'region' in themselves and the normal posting of 16 years 'in a region' is not applicable to such stations/cities or regions, as the cycle of tenure for the same consists of '8 years'. Similarly, emphasis has been laid down under para 5 about computing of tenure with reference to cycle 'in a region'. The term 'in region' has to be construed based on grammatical and natural meaning. In our considered view posting in Delhi and Mumbai cannot be clubbed to determine as to whether one has completed posting of '8 years'. It is not like a running account, which could be opened for all 'A' & 'C'. The emphasis on term 'shall' under Clause 5.3.4, amounts to positive mandate which cannot be breached except in circumstances enumerated under para 9. Furthermore, the aforesaid clause states an officer shall be posted to 'another region' after he has completed one cycle of posting. 'One cycle of posting' has a correlation and a relation with the term 'region'. Mumbai and Delhi are two different and distinct regions.

26. On an analysis of para 5 & its sub-pars of Policy, we find different terms have been used namely, area, region, a cycle and tenure in a cycle. In the same para 5, cycle is prefixed with word 'a', which conveys a special meaning. Similarly, the region has also been prefixed with 'a' and wherever the intention of the authority had been to club more than one cycle station or region, the grammatical word 'a' has not been employed. This in itself conveys the distinction kept in mind while framing the aforesaid Policy. If the intention of the authorities had been to club the tenure of two different stations to decide whether one has rendered the maximum tenure at a Class 'A' station, the wording would have been different than what has been presently employed under the aforesaid para. The word 'shall' mean positive and mandatory direction, which is unfettered and unrestricted. It is not disputed by the respondents that none of the applicants have rendered 8 years posting in Mumbai/Delhi exclusively. What has been emphasized by respondents is that 'taken together', they have completed 8 years posting in Delhi/Mumbai regions. The term 'taken together' is not found to be employed under para 5 anywhere. Similarly, it has not been disputed that the construction laid and the transfer order issued in earlier year, i.e. 2005 was at variance with them present construction. The posting 'in spells' at different stations and regions cannot be pooled together or taken cumulatively. Such a stand as projected by respondents, in our considered view, is not in consonance with the present policy. If the intention of the authority had been that different postings at stations as well as regions should be pooled or taken together, the language employed vide par 5 would have been totally different & distinct. In our opinion, Union of India is competent to amend, reframe & change the said policy accordingly, which certainly would have to be prospective and cannot be applied retrospectively in the given circumstances. Para 5.3.4 is an important aspect and feature of the policy, which has to play its due role particularly when a person is transferred to another region. According to said sub-para, the posting to another region is circumscribed & conditioned by completion of 'one cycle of posting'. As already noticed, a cycle is 16 years in a region with an exception in cases of Mumbai and Delhi regions where it is of 8 years. It appears that mandate of policy is that once an officer is posted to a region, he cannot be transferred to another region, though he can be shifted/posted/transferred within a region till he completes 'on cycle of posting', including different categories of stations. In other words, once a person is posted to a region, he should be allowed to complete 'one cycle of posting' except in cases under para 9 i.e. public/administrative grounds.

27. On bestowing our careful consideration to entire aspect of the matter, we do not find justification in respondents' plea that read together, the provisions contained in para 5.3.2 to 5.3.6 stipulate that the officers who had completed the maximum period of 8 years in Class 'A' station

'irrespective of the regions where their stay had been, the official is liable to be transferred'. The term 'irrespective of region', at the cost of repetition; we may say is alien to the aforesaid policy. These crucial words cannot be allowed to be inserted or read therein, as it was not the object and intent of the policy. The maximum tenure and the minimum tenure prescribed under para 5.3.5 and 5.3.6 has to be read in the context of the said sub-paras. Similarly, the emphasis under para 5.3.9 has to be read in the context of said sub-paras. Similarly, the emphasis under para 5.3.9 has to be in relation 'on a post' and not either with the region or the rank. The post and rank are two different and distinct connotations, which mean that one may hold the rank for more than a maximum and the minimum tenure prescribed under the said para. As per para 5.3.12, it is the longest stayee, who has to be moved first."

And further held:

"29. We may also note that: "The first and most elementary rule of construction is that it is to be assumed that the words and phrases of technical legislation are used in their technical meaning if they have acquired one, and otherwise in their ordinary meaning, and the second is that the phrases and sentences are to be construed according to the rules of grammar.' It is further settled that where the language is plain and admits of but one meaning, the task of interpretation can hardly be said to arise. Similarly, where, by the use of clear and unequivocal language capable of only one meaning, anything is enacted by the legislature, it must be enforced however harsh or absurd or contrary to common sense the result may be, [refer Chapter 2 General Principles of Interpretation, Maxwell on The Interpretation of Statutes].

30. Keeping in view the aforesaid discussion & analysis, we do not find justification & reasons to accept the respondents' stand & accordingly overrule their objections & contentions advanced. We may also observe that based on material placed on records, the request of S/Shri Amardeep, Harsh Prakash & S.K. Srivastava for their retention in Mumbai on medical consideration ought to have been allowed by respondents themselves.

31. In view of the discussions made hereinabove, we have no hesitation to conclude that none of the applicants have rendered 8 years in a region either in Delhi or in Mumbai exclusively and it is only when their tenure in both stations is taken cumulatively, i.e. Mumbai and Delhi put together, they complete 8 years and not otherwise. Since they had not completed 8 years posting 'in a region' exclusively, they were not liable to be transferred out in terms of existing para 5 of the aforesaid Transfer Policy.

Such being the case, respondents' action cannot be sustained in law.

32. Taking a cumulative view of the matter, and examining the contentions from all angles, as noticed hereinabove, we quash and set aside the impugned transfer order dated 31st May, 2006 qua applicants only. As far as applicants in OA Nos.1307, 1378 and 1391 of 2006 are concerned, the respondents would be at liberty to post them in some region on a non-assessment/non-sensitive post. Accordingly, OAs are allowed. No costs."

13. I am in respectful agreement with the proposition held by the Division Bench of this Tribunal. It is also submitted that the said order has become final [subject to verification]. The learned counsel for the applicant has cited the following decisions:

[1] 2000[4] SCC 245, pages 9, 12 & 14, Union of India vs. Janardhan Debanath.

[2] 2004[7] SCC 405, State of U.P. vs. Siya Ram.

[3] 2004[12] SCC 299, Kentriya Vidyalaya Sangathan vs. Damodar Prasad Pandey.

[4] 2006[9] SCC 583, S.C. Saxena vs. Union of India.

The learned counsel would canvass for a position that after completion of the tenure period, an employee is entitled for a choice posting.

14. The counsel for the applicant would argue that though he is not attributing any mala fide against the respondents but the order of transfer amounts to malign in view of the fact that the transfer guidelines enunciated by the Income Tax Department cannot have an overriding effect to that of the order passed by the



Department of Personnel & Training/Ministry by way of OM granting benefit on completion of tenure posting since such orders have been enunciated under Article 73 of the Constitution of India and I am of the view that based on the decision of the Division Bench of this Tribunal[Supra], this Court will be justified in interfering with the transfer order.

15. The learned counsel for the respondent has taken me to the decisions reported in:

[1] Gujarat Electricity Board vs. Atma Ram Sungomal Poshani, [1989 2 SCC 602].

[2] Union of India vs. S.L. Abbas [1993] 4 SCC 357].


[3] Kendriya Vidyalaya Sangathan vs. Damodar Prasad Pandey [2004] 12 SCC 299 wherein it was held that transfer of a Government servant appointed to a particular cadre of transferable post from one place to the other is an incident and a condition of service. It is necessary in public interest and efficiency in public administration and no Government servant or employee has any legal right for being posted at any particular place. I am in agreement with the dictum laid down in the above decisions. But the question involved in this case is whether a Rule/Office Memo fortified by the constitutional provisions and supported by the rulings of the Apex Court in granting transfer to a choice posting after completion of tenure posting in hard station, can it be

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overruled by a departmental guidelines? Therefore, the above decisions are not squarely applicable in this case in the facts and legal prospective.


16. The counsel for the applicant has further submitted that even if there are guidelines of the Department, the same cannot be given effect retrospectively. The rule came into force in 2005. As per Annexure 2 of the said Rule, Calcutta is being described as Class 'B' station. So, till December 2005, Calcutta was Class 'B' station and contention that the applicant has not worked in 'B' station cannot be legally correct. These criteria of 'A' and 'B' Stations has been given only from 2005. In the event the applicant has not completed 8 years in Class 'A' Station and Calcutta was Class 'B' station till 2005.

17. Taking all the facts and the legal positions and citations given above, I am of the considered view that the OM dated 14th December, 1983, granting choice posting after completion of tenure in the NER cannot be sidelined and the new transfer policy cannot have overriding effect of the said OM. I also find that provision has been given for giving a choice posting to an employee on compassionate/medical grounds. Keeping all in mind, I am of the considered view that the second respondent is not justified in transferring the applicant to Varanasi and for the said reason, the impugned order dated 31.5.2006 [Annexure-E] is set aside so far as the applicant is concerned and the applicant is given liberty to file representation to the second respondent forthwith for choice posting to Kolkata, who will verify the case of the applicant with the above observations and that of the decisions cited



Supra, within a period of three months from the date of receipt of a copy of this order. It is also made clear that the applicant's case also could be considered for his choice posting at Kolkata on merits and also on the medical/compassionate grounds as well on all relaxed standards, till then he will not be disturbed from Gauwahati.

18. With the above observations and finding, the OA is allowed to the extent mentioned above. There shall be no order as to costs.



[K.V.Sachidanandan]
Vice-Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI
(An application under section 19 of the Administrative Tribunal Act)

O.A. No. 18 of 2006

Pradip Kumar Ray,
Commissioner of Income-tax, Guwahati-I,
Saikia Commercial Complex,
G. S. Road, Guwahati 781 005

.... **Applicant**

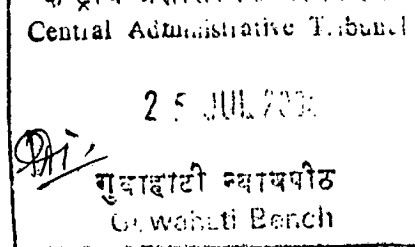
-Vs.-

Union of India and Ors.

.... **Respondents**

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

(An application under section 19 of the Administrative Tribunal Act)

O.A. No. 181 of 2006

Pradip Kumar Ray vs. Union of India & Others

SYNOPSIS

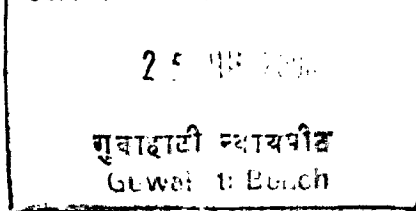
The applicant, a member of the Indian Revenue Service, joined the Income-tax Department in 1977 as a Group-A Income-tax Officer and was promoted as Commissioner of Income-tax w.e.f. 25.6.2001. He was transferred to Guwahati as Commissioner of Income-tax w.e.f. 25.8.2003. Under the scheme of incentives for serving in NE Region he has been retaining his Government accommodation at Kolkata, where his wife and two daughters are residing. The daughters have not yet completed their education. There is no other male member in the family at Kolkata.

Under the scheme of transfer and service in NE Region the applicant has completed his tenure of two years in North East, and as such is entitled to choice station posting on option. Option was called for and he exercised his option for Kolkata. He had also submitted representation requesting for a posting at Kolkata. Unfortunately by an order dated 31.05.2006 of the Central Board of Direct Taxes he has been transferred to Varanasi. Another officer who was similarly working in Guwahati has been given choice posting at Kolkata.

By the same order 25 Commissioners were transferred to Kolkata from different stations. Officers with longer working period in Kolkata and West Bengal Region have been accommodated in Kolkata. Still there are existing vacancies in Kolkata. But applicant's cause of choice posting under NE Region service scheme has not been considered. Causes of his daughter's education and his own health ground have also not been considered. He has again submitted representation dated 05.06.2006 praying for posting at Kolkata.

The scheme of transfer and service in NE Region permits extension of tenure when the employee is prepared to stay longer. The applicant also expressed his willingness to stay for further period at Guwahati till he is accommodated at Kolkata. The Chief Commissioner of Income-tax, Guwahati, by an order dated 09.06.2006 has postponed the release of the applicant for non-compliance of Government of India's instructions and also for the sake of justice in the applicant's case. The Board has not yet passed any order pursuant to the recommendations of the Chief Commissioner. The applicant has reasonable apprehensions that on the expiry of the leave of his reliever's reliever he may have to face the order of transfer to Varanasi before due consideration of his cause, even though his case is covered by Government of India's instructions under Article 73 of the Constitution and also under the declared policy of the Board.

The applicant prays for choice posting at Kolkata and for setting aside of the order transferring him to Varanasi, being discriminatory and arbitrary.



**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

(An application under section 19 of the Administrative Tribunal Act)

O.A. No. 181 of 2006

**Pradip Kumar Ray,
Commissioner of Income-tax, Guwahati-I,
Saikia Commercial Complex,
G. S. Road, Guwahati 781 005**

.... Applicant

-Vs.-

**(i) Union of India,
Represented by the Secretary (Revenue),
Ministry of Finance,
Department of Revenue,
North Block, New Delhi 110 001**

**(ii) The Central Board of Direct Taxes,
Through Chairperson,
North Block, New Delhi 110 001**

**(iii) Chief Commissioner of Income-tax,
Guwahati,
Saikia Commercial Complex,
G. S. Road, Guwahati 781 005**

.... Respondents

1. Particulars of the Order against which the Application is made:

The application is for enforcing the benefit of choice station posting granted by the Government of India to all Civilian Central Government Employees as an incentive for serving in the North Eastern Region (NER) for a

Contd to page 2

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Filed by The Appel
through Shri: D.
A. S. F.
Pradip Kumar Ray

fixed tenure of two years as also for setting aside serial No. 54 of Order No. 67 of 2006 dated 31.05.2006 issued by the Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, transferring the applicant from Guwahati to Varanasi, in contravention of the above policy of the Central Government.

2. **Jurisdiction:**

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

3. **Limitation:**

The applicant declares that the application is within the period of limitation prescribed under section 21 of the Administrative Tribunal Act.

4. **Facts of the Case:**

4.1. That the applicant is a citizen of India and as such is entitled to the rights and privileges guaranteed by the Constitution of India. He is a member of the Indian Revenue Service and joined the Income-tax Department in the year 1977 as a Group-A Income-tax Officer. He was promoted as Commissioner of Income-tax with effect from 25.06.2001.

4.2. That the applicant was transferred to Guwahati in the NER where he has been working since 25.08.2003 as Commissioner of Income-tax, Guwahati-I, having his office at Guwahati, and thus has completed a stay of 2 years and 11 months in the NER.

4.3. That recognizing the hardships of an NER posting, the Central Government has fixed the tenure in the NER at 2 years and has inter alia provided by way of incentives that a Central Government employee, on completion of the 2-year tenure in the NER, should be given a posting of his/her choice to the extent possible. These instructions communicated vide GI MF OM No. 20014/3/83-E.IV dated 14th December 1983 followed by various other subsequent OMs issued from

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time to time are applicable to all Central Government Departments and are printed in Appendix 9 at page 540 to page 559 of Swamy's Compilation of FRSR, Part-I (15th Edition, 2001).

A copy of page 540 of Swamy's Compilation of FRSR, Part-I (15th Edition, 2001) is enclosed vide Annexure A.

4.4. That the applicant has rendered 29 years of service in the Income-tax Department and on deputation outside the Department in the following places:

a)	Income-tax Officer, Class-I (on trg)	14.7.77 to 5.11.78	Mussoorie
b)	Income-tax Officer, Class-I (on trg)	24.11.77 to 10.11.78	Nagpur
c)	Income-tax Officer, Group-A	28.11.78 to 9.6.81	Kolkata
d)	Income-tax Officer, Group-A	12.6.81 to 28.8.84	Coochbehar
e)	Assistant Director (Trg), NADT	6.9.84 to 2.6.86	Nagpur
f)	Income-tax Officer, Group-A	4.6.86 to 26.12.86	Delhi
g)	Inspecting Asstt Commissioner/ Deputy Commissioner of Income-tax	26.12.86 to 23.5.88	Delhi
h)	Deputy Commissioner of Income-tax	26.5.88 to 28.4.1995	Kolkata
i)	On deputation with Andrew Yule & Co. Ltd (a Central PSU under Ministry of Heavy Industries) as Executive Director (Vigilance)	28.4.95 to 27.4.2000	Kolkata
j)	Addl Commissioner of Income-tax	6.6.2000 to 25.6.01	Kolkata
k)	Commissioner of Income-tax	25.6.01 to 22.8.03	Kolkata
l)	Commissioner of Income-tax	25.8.03 onwards	<u>Guwahati</u>

4.5. That the respondents called for options for postings and the applicant accordingly opted for Kolkata as his station of choice vide transfer option form dated 21.02.2006. He had also submitted a representation dated 4.1.2006 before the respondents. In his representation dated 04.01.2006 as well as in the transfer option form dated 21.02.2006 the applicant had referred to the Government of India's instructions mentioned above and requested for a posting in Kolkata where his family (consisting of his wife and two daughters) resides. He mentioned in the representation that living alone in Guwahati for almost 3 years was proving stressful for him as he was suffering from diabetes and glaucoma. He also

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mentioned that he had the fatherly obligation of addressing the educational problems and career planning of his younger daughter who, ^{now passed} ~~was appearing~~ at the Higher Secondary Examination ²⁰⁰⁶ ~~and had to be shortly~~ ^{long been} admitted in some academic ^{and} or professional course in Kolkata.

Copies of representation dated 04.01.2006 and transfer option form dated 21.02.2006 are enclosed vide Annexures B and C.

4.6. That the applicant is entitled to posting to the place of his choice after having served in the NER for more than 2 years. As a measure of abundant precaution, however, he had stated in his representation dated 04.01.2006 that he might be retained in Guwahati for some time more if his request for a posting in Kolkata could not be acceded to for the time being. He did so for the reason that a transfer to a third station after 3 years of stay at Guwahati would not solve his problems, rather it would mean greater hardships for him and his family. The applicant begs to submit that the scheme of service in NE Region permits such extended stay in case the employee is willing.

4.7. That the Central Board of Direct Taxes, Department of Revenue, New Delhi by its Order No. 67 of 2006 (F.No. A-22011/3/2006-AD.VI) dated 31.05.2006 passed orders by transferring the applicant to Varanasi (vide serial no.54), without considering his option for a posting in Kolkata. The applicant had never opted for Varanasi. Thus the order is violative of Government of India's instructions for posting of all Central Government employees at their respective places of choice on completion of a fixed tenure of 2 years in the NER, to the extent possible. As such, the order is discriminatory and illegal.

A copy of the Order No. 67 of 2006 (F.No. A-22011/3/2006-AD.VI) dated 31.05.2006 is enclosed vide Annexure D.

4.8. That a similar Order No. 68 of 2006 (F.No. A-22011/3/2006-AD.VI) dated 31.05.2006 was also issued for other officers, which has link with consequential postings in some cases. Shri P.K. Dev Varman, Commissioner of Income-tax (Computer Operations), Guwahati, has been posted in the place of the applicant

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vide serial no.6 of the said order. In Shri Dev Varman's place Shri A.K. Sinha, Commissioner of Income-tax from Mumbai, has been posted vide Order No. 67 of 2006 (serial no.213).

A copy of the Order No. 68 of 2006 (F.No. A-22011/3/2006-AD.VI) dated 31.05.2006 is enclosed vide Annexure E.

4.9. That it is stated that there were and still there are vacancies in Kolkata and as such it was possible to post the applicant in Kolkata. There are no cogent reasons for not accommodating the applicant in Kolkata. It will be seen from Order No. 67 referred to above that a total number of 25 Commissioners of Income-tax were transferred to Kolkata from various other stations. Apart from Ms Bharati Mandal who had come to Guwahati on transfer in 2003 along with the applicant, no other officer had a better claim than the applicant for a posting in Kolkata in view of the extant Government of India instructions referred to above. Incidentally, Ms Bharati Mandal has been accommodated at Kolkata, which was her place of choice (serial no.14 of the Order).

4.10. That even now there are a few vacant posts of Commissioner of Income-tax in Kolkata, which have been kept vacant/given to some other officers as additional charges.

4.11. That the subject matter of choice station posting has been decided by this Hon'ble Tribunal in O.A. No. 487/2001 on 1.3.2002.

Copy of the judgment in O.A. No. 487/2001 and the copy of the interim order dated 3.1.2002 are enclosed as Annexures F and G respectively.

4.12. That the Government of India had issued executive instructions for various incentives for posting in the NER as communicated vide GI MF OM No. 20014/3/83-E.IV dated 14th December 1983 followed by various other subsequent OMs issued from time to time. The applicant was transferred to Guwahati in August 2003 and has been working in Guwahati under those instructions. He is thus entitled to the benefit of posting at the place of his choice. Thereafter, transfer

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guidelines called "Transfer/Placement Policy for Group-A Officers of the Indian Revenue Service, Central Board of Direct Taxes, 2005" were formed and issued. In para 5.7 of the Policy it has been inter alia provided as under:

"...Officers who have served in the North Eastern Region and J & K would get preference in posting to stations of their choice."

The applicant states that he was transferred to Guwahati prior to the issue of the Transfer Policy. Even otherwise, the executive instructions of the Government of India prevail over such Transfer Policy, as these instructions are equally applicable to all Central Government Departments including the Income-tax Department. However, even the newly formulated Transfer Policy of the Income-tax Department also embodies the clause of preference in the matter of posting to the station of choice for officers having served in the NER. Thus the Central Board of Direct Taxes has not only violated the executive instructions of the Government of India; it has also violated its own Transfer Policy.

A copy of the Transfer Policy is enclosed vide Annexure H.

4.13. That going by the criterion of total stay in Kolkata and in the West Bengal Region also, it is apparent that injustice and discrimination has been done to the applicant. Some illustrative cases are stated. By the same Order No. 67 officers such as Shri S Chakravarty (serial no.25) and Shri A L K B Chand (serial no.59), who have spent longer periods in Kolkata than the applicant, have been accommodated in Kolkata after a one-year stint in Nashik and Rajkot respectively, while the case of the applicant who should have got preference in the matter of posting has not been considered. The Central Board of Direct Taxes has cited ground of children's education and medical ground respectively for these two officers, while no such consideration has been shown to the applicant who had both the problems as stated in para 4.5 above. There are other officers such as Shri Gautam Choudhuri who continue to be accommodated in Kolkata even after having spent a longer period in Kolkata, in West Bengal Region and in the East Area than the applicant. None of these officers has served in the NER.

For easy reference, a table is appended as per Annexure I. Copies of posting profile of the applicant as well as those of Shri S Chakravarty, Shri A L K B Chand and Shri Gautam Choudhuri are enclosed vide Annexures J, K, L and M respectively.

4.14. That it is evident that the length of service in any particular station/region has not been the sole consideration in issuing the orders of transfer. As already narrated above, there are officers whose total tenure of posting in Kolkata, West Bengal and/or East Area has been longer than that of the applicant and yet they have been accommodated in Kolkata while the applicant's case has not been considered. There are several other Commissioners in other cities/regions like Delhi and Mumbai and areas like the North and the West, in whose cases the Central Board of Direct Taxes has acted in relaxation of its guidelines as regards tenure. There are instances where a Commissioner has not been transferred out of Delhi even after having worked in that city for 21 years, or where a Commissioner has been sent to a nearby station in the same North area after having spent the entire service career of 25 years in Delhi. These are against the guidelines framed by the Board. There are Commissioners who have not been transferred out of Mumbai even after having served in that city for much longer periods than the fixed tenure of 8 years as per the guidelines of the Board. There are instances where a Commissioner has been transferred to Mumbai from some other city although he has exhausted his tenure in Mumbai. Similar instances can be found in Chandigarh, North-West Region and elsewhere also. These are only examples demonstrating the factum of postings, but the applicant does not want to pray for relief by way of comparisons with others, as he has a right to be posted to the place of his choice by virtue of the executive instructions of the Government of India under Article 73 of the Constitution of India. These illustrative cases are cited to demonstrate that the departmental guidelines are not rigid as regards total tenure in a city, in a region or in an area, as these have not been uniformly applied to all cases. On the other hand, the policy of the incentive of choice station posting on completion of the fixed tenure in the NER is a special administrative instruction of the Government of India for those posted to the NE Region from outside that region.

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4.15. That Order No. 67 dated 31.05.2006 states that representations from officers shall be entertained only after the concerned officer has joined the new place of posting in terms of para 10 of the Transfer Policy. It is stated that such a clause clogs the right and scope of the applicant for expressing his difficulties, grievances as well as the points of discrimination to the competent authority. Such a clause denies just and fair administrative play and is violative of the principles of natural justice. Para 10 of the said Transfer Policy incorporating such condition is as such arbitrary and offends Articles 14 and 16 of the Constitution of India.

4.16. That the said order dated 31.05.2006 contains a cryptic statement that all representations for posting and transfer to the grade of Commissioners stand disposed of. The applicant begs to state that his representation was never disposed of by any speaking order. Neither has he received any communication in this regard, nor has his cause for transfer on choice posting basis on completion of the fixed tenure in NER received the consideration it deserves under the executive instructions of the Government of India.

4.17. That the applicant had represented stating among others the cause of his daughter's education as also his own medical problems. But those were not taken into consideration whereas in many other cases such grounds were favourably considered.

4.18. That the applicant states that under the scheme of posting in NER he has retained his Government accommodation in Kolkata where his wife and two daughters are residing and a transfer to a third station like Varanasi would take away the roof over their heads. For this reason he had stated in his representation that he was willing to work in Guwahati for some time more if he could not be accommodated in Kolkata for the time being owing to non-availability of vacant posts. There is no other male member in his family. While the elder daughter has just started doing her medical internship in a Medical College in Kolkata, the younger who passed her Higher Secondary Examination in June 2006 has just been admitted in an Institute of Technology in Kolkata. Hence, the family of the applicant is not in a position to leave Kolkata. In fact, the applicant has been living alone in Guwahati for about 3 years now, silently suffering from diabetes and

glaucoma. All these 3 years he has been expecting that on completion of his tenure in the NER he would be transferred to his preferred station Kolkata and be united with his family in keeping with the assurance of the Government of India. The transfer to Varanasi has shattered his legitimate expectations.

4.19. That the applicant submitted a fresh representation to the Chairperson, Central Board of Direct Taxes, New Delhi on 05.06.2006 through Chief Commissioner of Income-tax, Guwahati, praying for a cancellation of his posting order as Commissioner of Income-tax, Varanasi, and for accommodating him in any post in Kolkata.

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A copy of the representation dated 05.06.2006 is enclosed as Annexure N.

4.20. That the Chief Commissioner of Income-tax, Guwahati, took the view that the order of the applicant's transfer from Guwahati to Varanasi, ignoring his option for a posting in Kolkata, was an apparent omission in view of the overriding instructions of the Government of India. In the interest of justice he decided to postpone the release of the applicant from the NER and sought further advice from the Board. By his Order dated 09.06.2006 the Chief Commissioner of Income-tax, Guwahati, released two other officers who have been transferred out of the NER, but did not release the applicant, citing detailed reasons for his action. Thus the applicant continues to hold the post of Commissioner of Income-tax, Guwahati-I.

A copy of the Order dated 09.06.2006 passed by the Chief Commissioner of Income-tax, Guwahati, is enclosed vide Annexure O.

4.21. That the Order dated 09.06.2006 of the Chief Commissioner of Income-tax, Guwahati, provided the applicant with only a temporary relief, as the Central Board of Direct Taxes has not yet passed any order on the recommendations of the Chief Commissioner of Income-tax, Guwahati. As regards incumbency there has been no problem so far, because either the applicant's reliever Shri P.K. Dev Varman or Shri Dev Varman's reliever Shri A.K. Sinha has been on leave. The applicant, being a responsible and law-abiding civil servant, begs to place the

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factual position of posts and postings in Guwahati in the event of both Shri Dev Varman and Shri Sinha (who is likely to return from leave on 31.07.2006) being on duty and states that even then there is another unfilled vacancy in Guwahati as there are unfilled vacancies in Kolkata.

4.22. That for proper appraisal of the Hon'ble Tribunal the applicant begs to demonstrate below the factual position of the postings as well as the existing vacancy in Guwahati as on date:

Pradip Kumar Ray

<u>Sl No</u>	<u>Name of Officer</u>	<u>From</u>	<u>To</u>	<u>Order No. & Sl. No.</u>	<u>Remarks</u>
1.	Shri T. Hangzo	CIT(CIB), Guwahati	DIT (Inv.), Guwahati	Order No. 68, Sl.23	Vice Ms. B. Mandal
2.	Ms. B Mandal	DIT (Inv.), Guwahati	CIT-V, Kolkata	Order No. 67, Sl.14	Released and joined Kolkata
3.	Shri A. K. Sinha (Now on leave)	CIT(A) XXV, Mumbai	CIT(CO), Guwahati	Order No. 67, Sl.213	Vice Shri P. K. Dev Varman
4.	Shri P. K. Dev Varman	CIT(CO), Guwahati	CIT-I, Guwahati	Order No. 68, Sl.6	Vice Shri P. K. Ray
5.	Shri P. K. Ray	CIT-I, Guwahati	CIT, Varanasi	Order No. 67, Sl.54	Not yet released

Since nobody has been posted as CIT (CIB) in place of Shri T. Hangzo who has taken over the charge of DIT (Investigation), the post of CIT (CIB) remains vacant. It is possible to temporarily accommodate Shri P.K. Dev Varman, or even the applicant, in that vacant post till the matter of this application is decided and disposed of. The applicant states the above position to fortify his statement that there is scope for his continuance in Guwahati on a temporary posting without disturbing the cycle.

4.23. That the applicant's release from Guwahati after the extended period of service in NE Region and posting in Kolkata will enable him to be united with his family. Afflicted with diabetes and glaucoma, he now needs family care after having led a lonely life in Guwahati for the last 3 years. He is entitled to this

benefit after having completed his tenure in the NE Region. Otherwise, his wife and daughters will also be adversely affected, as they will have to vacate the Government accommodation in Kolkata. Thus a great damage and injustice will be caused to the applicant unless this Hon'ble Tribunal is pleased to intervene.

4.24. That on the facts and in the circumstances narrated in this application, the applicant has reasonable apprehension that if he is released before consideration of his cause merely on the ground of joining of his reliever or the reliever's reliever, he shall suffer irreparable loss which cannot be compensated. The applicant very humbly reiterates that his prayer is for posting at Kolkata where there are vacancies. He further reiterates that during the period of consideration of his cause or pendency of this application there is scope for retaining him at Guwahati as there is a clear vacancy in Guwahati, and such extension in Guwahati is covered by the Government of India's instructions for service in the NE Region.

Pradiy Kumar Ray

5. Grounds with legal provisions:

5.1. For that the applicant has been most arbitrarily denied the benefit of posting to the place of his choice which is an incentive assured by the Government of India for serving in the NER;

5.2 For that the applicant has been denied a posting at Kolkata even though it was possible to accommodate him, as there were and there are vacancies in Kolkata;

5.3. For that the applicant has been denied a posting at Kolkata whereas officers with longer period of service in Kolkata have been accommodated there even though such officers have not served in NER and are as such not entitled to choice station posting;

5.4. For that the applicant's cause for the education of his daughter as well as medical ground has not been considered whereas in other cases the same has been taken into account;

5.5. For that the instructions for posting in NER provide for longer stay of willing officers. The applicant expressed his willingness to stay at Guwahati for some more period if he could not be posted at Kolkata for the time being. This has also not been considered;

5.6. For that discrimination is patent in the transfer order dated 31.5.2006 and as such the order of the transfer of the applicant to Varanasi is violative of Articles 14 and 16 of the Constitution;

5.7. For that para 10 of the Transfer/Placement Policy is a clog on scope of representation within the ambit of fair administrative play and justice and the same clause in Order no. 67 dated 31.5.2006 is arbitrary and amounts to denial of the principles of natural justice;

5.8. For that the applicant had come to the NER in August 2003 under the well-publicized assurance of the Government of India that all Central Government employees are entitled to choice station posting on completion of the fixed tenure in NER and as such the non-consideration of the applicant's case for posting to Kolkata, his place of choice, is unjust and unfair, and defeats legitimate expectations.

6. **Details of the remedies exhausted:**

There is no remedy under any rule and this Hon'ble Tribunal is the only remedy. However, the applicant has submitted another representation dated 05.06.2006 to the Chairperson, Central Board of Direct Taxes, through Chief Commissioner of Income-tax, Guwahati.

7. **Matter not pending before any other Court or Tribunal:**

The applicant declares that he has not filed any other case/application before any other Court or Tribunal.

Pradipt Kumar Ray

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8. Relief sought for:

On the facts and in the circumstances explained above, the applicant prays for the following reliefs:

i) the order of transfer of the applicant by Order No. 67 of 2006 dated 31.5.2006 (Annexure D, serial no. 54) be set aside and quashed;

ii) his posting be made at Kolkata according to his option under the incentive scheme assured by the Government of India for all Central Government employees on completion of tenure of 2 years in NER (Annexure A);

iii) after his transfer he be allowed to continue in Kolkata at least for a period of 2 years, which is the minimum tenure of a post;

iv) till such time he is posted at Kolkata, he be allowed to continue at Guwahati;

v) para 10 of the Transfer Policy 2005 (Annexure H) with the clause denying scope of representation before joining the new place of posting be set aside and quashed;

vi) any other relief/reliefs the Hon'ble Tribunal may be pleased to give.

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

9. Interim reliefs prayed for:

During the pendency of the case the applicant prays for the following interim reliefs:

The order of transfer of the applicant by Order No. 67 of 2006 dated 31.5.2006 (Annexure D, serial no. 54) be stayed/suspended and the applicant's services be allowed to continue in Guwahati.

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

10. This application is being filed through Advocate.

11. **Particulars of I.P.O :**

i) I.P.O. No. : 26G 350773
ii) I.P.O. date : 28.06.2006
iii) Issued from Post Office : G.U. Post Office
iv) Payable at : G.P.O. Guwahati

12. **Particulars of Annexures:**

As per Index.

Pradip Kumar Ray

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VERIFICATION

I, Shri Pradip Kumar Ray, son of Shri Sailesh Chandra Ray, aged about 55 years and presently working as Commissioner of Income-tax, Guwahati-I, do hereby verify that the statements made in paras 1, 4, 6 to 12 are true to the best of my knowledge and those made in paras 2, 3 and 5 are as per legal advice. I have not suppressed any material facts.

Place: Guwahati

Date: 26.7.06

Pradip Kumar Ray

Signature

(Pradip Kumar Ray)

[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, 27th July, 1984, G.I., M.F., U.O. No. 3943-E IV/84, dated the 17th October, 1984, O.M. No. F. 20014/3/83-E IV, dated the 31st January, 1985, 25th September, 1985, U.O. No. 824-E IV/86, dated the 1st April, 1986, O.M. No. 20014/3/83-E IV, dated the 29th October, 1986, O.M. No. 20014/3/83-E IV/E. II (B), dated the 11th May, 1987, 28th July, 1987, 15th July, 1988 and O.M. No. F. 20014/16/86-E IV/E. II (B), dated the 1st December, 1988 and O.M. No. 11 (2)/97-E. II (B), dated the 22nd July, 1998.]

I

Allowances and facilities admissible to various categories of civilian Central Government employees serving in the North-Eastern Region comprising the States of Assam, Meghalaya, Manipur, Nagaland and Tripura and the Union Territories of Arunachal Pradesh and Mizoram, Andaman and Nicobar Islands and Lakshadweep Islands. These orders also apply *mutatis mutandis* to officers posted to N-E Council, when they are stationed in the N-E Region and to the civilian Central Government employees including officers of All India Services posted to Sikkim.

(i) Tenure of posting/deputation:

There will be a fixed tenure of posting 3 years at a time for officers with service of 10 years or less and of 2 years at a time for officers with more than 10 years of service. Periods of leave, training, etc., in excess of 15 days per year will be excluded in counting the tenure period $\frac{2}{3}$ rd years. Officers, on completion of the fixed tenure of service mentioned above may be considered for posting to a station of their choice as far as possible.

The period of deputation of the Central Government employees to the States/Union Territories of the North-Eastern Region, will generally be for 3 years which can be extended in exceptional cases in exigencies of public service as well as when the employee concerned is prepared to stay longer. The admissible deputation allowance will also continue to be paid during the period of deputation so extended.

(ii) Weightage for Central deputation/training abroad and special mention in Confidential Reports:

Satisfactory performance of duties for the prescribed tenure in the North-East shall be given due recognition in the case of eligible officers in the matter of—

- (a) promotion in cadre posts;
- (b) deputation to Central tenure posts; and
- (c) courses of training abroad.

A specific entry shall be made in the CR of all employees who rendered a full tenure of service in the North-Eastern Region to that effect.

Cadre authorities are advised to give due weightage for satisfactory performance of duties for the prescribed tenure in the North-East in the matter of promotion in the cadre posts, deputation to Central tenure post and courses of training abroad.

(iii) Special (Duty) Allowance:

Central Government civilian employees who have All India transfer liability will be granted Special (Duty) Allowance at the rate of $12\frac{1}{2}\%$ of basic pay on posting to any station in the North-Eastern Region. Special (Duty) Allowance will be in addition to any special pay and/or deputation (duty) allowance already being drawn without any ceiling on its quantum. The condition that the aggregate of the Special (Duty) Allowance plus Special Pay/Deputation (Duty) Allowance, if any, will not exceed Rs. 1,000 per month shall also be dispensed with from 1-8-1997. Special Allowances like Special Compensatory (Remote Locality) Allowance, Construction Allowance and Project Allowance will be drawn separately.

The Central Government civilian employees who are members of Scheduled Tribes and are otherwise eligible for the grant of Special (Duty) Allowance under this para. and are exempted from payment of Income Tax under the Income Tax Act will also draw Special (Duty) Allowance.

NOTE 1.— Special duty allowance will not be admissible during periods of leave/training beyond 15 days at a time and beyond 30 days in a year. The allowance is also not admissible during suspension and joining time.

NOTE 2.— Central Government civilian employees, having 'All India Transfer Liability' on their posting to Andaman & Nicobar Islands and Lakshadweep Islands are, with effect from 24th May, 1989, granted 'Island Special Allowance' in lieu of 'Special (Duty) Allowance'. See Orders in Section V of this Appendix.

(iv) Special Compensatory Allowance:

The recommendations of the Fifth Pay Commission have been accepted by the Government and Special Compensatory Allowance at the revised rates have been made effective from 1-8-1997.

For orders regarding current rates of Special Compensatory allowance—See Part V of this Compilation - HRA and CCA

(v) Travelling Allowance on first appointment:

In relaxation of the present rules (SR 105) that travelling allowance is not admissible for journeys undertaken in connection with initial appointment, in

Attended
(Adv)

~~Dr. J. H. H. H.~~
~~Dr. J. H. H. H.~~

16



भारत सरकार

Annexure B

मुख्य आयकर आयुक्त का कार्यालय, गुवाहाटी

सैकिया कमर्शियल कॉम्प्लेक्स, श्रीनगर, जी. एस. रोड, गुवाहाटी - 781005

GOVERNMENT OF INDIA

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX, GUWAHATI

Saikia Commercial Complex, Sreenagar, G.S. Road, Guwahati - 781005

Ph. 0361-2345116, Fax : 0361-2345118, EPBX : 2345646

F.No. Per-188/PKR/CCIT/GHY/2003-04/.....13713

Dated :- 10-01-2006

17.01.

To
The Chairperson,
Central Board of Direct Taxes,
North Block,
New Delhi - 110 001.

Madam,

Sub :- Request for transfer from Guwahati to Kolkata -
Shri P.K.Ray, CIT, Code No. 77028 - Representation sending of -

As directed, I am sending herewith the representation dt. 04-01-06 submitted by Shri P.K.Ray, CIT, Guwahati-I, Guwahati seeking transfer from Guwahati to Kolkata for favour of your kind sympathetic consideration and favourable order.

It is submitted that in his representation Shri Ray has stated that both his daughters have been studying in Kolkata - the elder one is a student of MBBS and the younger one will be appearing at the Higher Secondary Examination this year. At this crucial juncture, the need of his presence in the family is being strongly felt for the proper guidance as well as career planning of the younger daughter. Moreover, Shri Ray living all alone here is himself suffering from hyperglycemia and glaucoma for which he has to follow a strict regimen of medications and dietary restrictions and as such he is also badly in need of family care.

It is further submitted that Shri Ray has completed a stay of two years in the North Eastern Region (NER) and as such, he is entitled to a posting of his choice, as stated in his petition, in accordance with the Govt. of India's decision communicated under GI MF OM No. 20014/3/83-EIV dt. 14th December, 1983 and various other subsequent O.Ms. issued from time to time.

In this connexion, I am also directed to enclose the letter dated 31.10.2005 written by the CCIT, while forwarding Shri Ray's earlier representation dt. 31.10.2005, for your kind and favourable consideration.

With profound regards.

Enclo :- As above.

Yours faithfully,

(Goulen Haangshing)

Addl. Commissioner of Income-tax(Hqrs.,
O/o. the Chief Commissioner of Income-tax, Guwahati.

adlected
(20/1/06) [Signature]

17



भारत सरकार

मुख्य आयकर आयुक्त का कार्यालय, गुवाहाटी

সৈকিয়া কমার্শিয়াল কমপ্লেক্স, গ্রীনগার, জি.সি. রোড, গুৱাহাটী- ৗৗৗৗৗৗ

GOVERNMENT OF INDIA

OFFICE OF THE CHIEF COMMISSIONER OF INCOME TAX, GUWAHATI

Saikia Commercial Complex, Greenagar, G.S. Road, Guwahati- 781005

Ph. 0361-2345116, Fax, 0361-2345118, EPBX : 2345646

Dated 31.10.2005.

F. No. Pr-188/PKR/CCIT/GH/2003-04/ 9905

To

The Chairman,
Central Board of Direct Taxes,
North Block,
New Delhi.

Subject:- Request for Transfer - Regarding -

Sir,

Shri P.K. Ray, CIT, Guwahati-I, Guwahati (77023) working in the N.E. Region, has submitted an application soliciting transfer to Kolkata.

2. Shri Ray in his prayer submitted that both his daughters are studying at Kolkata. The elder one is studying MBBS and the younger one is in Class XII and it is not possible for him to shift his family at Guwahati at this critical juncture. The reason cited by him is genuine and deserves sympathetic consideration so as to provide him opportunity to impart proper guidance and career-planning to his daughters.

3. Shri Ray joined the N.E. Region on 25-08-2003 and already completed two years period. It is in recognition of the unfavourable working conditions prevailing in the North Eastern region that the Government of India decided to restrict the tenure of service in the North Eastern Region of any Central Govt. Employee irrespective of the Department he belongs to or the transfer policy he is governed by, to a maximum period of two years. As per the policy a Govt. servants becomes entitled for choice posting once he completes the tenure of 2 years in the North East.

4. In view of the above fact the representation made may kindly, therefore, be favourably considered for posting to Kolkata in the light of the policy adopted and followed.

Thanking you.

Yours faithfully,

(Dilip K. Das)

Chief Commissioner of Income-tax,
Guwahati

Encl. :- As stated

Accepted
(Adv)

O/c

Representation

P K Ray

Commissioner of Income-tax,
Guwahati-I, GuwahatiSaikia Commercial Complex,
Sreenagar, G S Road,
Guwahati 781 005

No. PKR/PER/CIT/GHY-I/2005-06/ 4704

Dated, the 4th January, 2006

To
The Chairperson,
Central Board of Direct Taxes,
North Block,
New Delhi 110 001.

[Through Chief Commissioner of Income-tax, Guwahati]

Madam,

Sub: Request for transfer from Guwahati to Kolkata –
Code No. 77023 – Matter regarding –

I am an IRS Officer belonging to the 1977 Batch, working at present as CIT, Guwahati-I.

2. Vide CBDT's Order No. 121 of 2003 (F.No.A-2011/7/2003-AD VI) dated the 5th August 2003, I was transferred as CIT, Guwahati-I, although Guwahati was not one of the places of my choice.
3. I joined as CIT, Guwahati-I, on the 25th August 2003, and have thus completed a stay of two years in the North-Eastern Region (NER).
4. The Government of India, vide its decisions communicated under GI, MF, OM No.20014/3/83-E.IV dated 14th December 1983 and various other subsequent OMs issued from time to time, has fixed the tenure of service of Civilian Central Government Employees in NER at two years in view of the difficult conditions prevailing in this part of the country, and has also recommended that a Central Government Employee, on completion of a fixed tenure of two years in the NER, should be given a posting of his choice, to the extent possible [Swamy's Compilation of FRSR, Part-I, 15th Edition, 2001, Page 540].
5. All Central Government Departments and Central PSUs are following these guidelines. The incentives have also been recognized by the Board in para 5.7 of the recently formulated Transfer Policy for IRS Officers, 2005.
6. In pursuance of the above policy of the Government of India applicable to all Civilian Central Government Employees, I am now eligible to request for a transfer out of NER to the place of my choice. My executive profile is updated online.
7. The place of my choice is Kolkata. I sincerely hope that I shall be accommodated in the place of my choice, after having served for more than two years in this difficult, strife-torn region.

Attested
(Adv)

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8. I request for a transfer to Kolkata for the reason that both my daughters are studying there. The elder is studying MBBS and the younger will be appearing at the Higher Secondary Examination this year. It is not possible for my family to leave the city of Kolkata at this critical juncture and join me at Guwahati or at any other place in the country for that matter. My presence is absolutely essential for the guidance and career-planning of my younger daughter.

9. I would, however, like to clarify that in case I cannot be accommodated in Kolkata for the time being, I would rather like to continue in Guwahati for a few months more. A transfer to some other station at this stage will inconvenience me further and add to my problems.

10. Although I am not making this request for transfer on medical grounds, I may add that I am suffering from hyperglycemia (increased glucose content in blood) and glaucoma (increased intra-ocular pressure) for which I have to follow a strict regimen of medications and dietary restrictions. The importance of family care can hardly be overemphasized in a condition such as mine.

11. I, therefore, request you to kindly consider my representation sympathetically and transfer me to Kolkata, for which act of generosity and kindness I shall ever remain grateful to you.

Encl: Copy of Swamy's Compilation of FRSR,
Part-I, 15th Edition, 2001, Page 540.

Yours faithfully,

(P K Ray)

Commissioner of Income-tax, Guwahati-I,
Guwahati

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Attched
(Adv)

Representatives



भारत सरकार

वित्त मंत्रालय, राजस्व विभाग

आयकर आयुक्त गुवाहाटी-I का कार्यालय

सैकिया कमर्शियल कॉम्प्लेक्स, श्रीनगर, जी. एस. रोड., गुवाहाटी - ७८१००५

GOVERNMENT OF INDIA

Ministry of Finance, Department of Revenue

OFFICE OF THE COMMISSIONER OF INCOME-TAX, GUWAHATI-I

Saikia Commercial Complex, Sreenagar, G.S. Road, Guwahati-781 005

दूरभाष /Phone : 2345117, Fax : 2345111 EPABX : 2269733 (Ext. 104)

F.No.PKR/PER/CIT/GHY-I/2005-06/ 5315

Date: 21.02.2006

To
Chief Commissioner of Income-tax,
Guwahati

Sir,

[Attention: ACIT, Hqrs (Admn), O/o CCIT, Guwahati]

Sub: Submission of Transfer Option Form

Kindly refer to your F.No.E-14/Transfer Proforma/CCIT/GHY/2001-02/15489-539 dated the 20th February 2006.

I submit my Transfer Option Form in the prescribed format (in duplicate) for onward transmission to the Board with a favourable recommendation.

Encl: As above.

Yours faithfully,

(P K Ray)

Commissioner of Income-tax, Guwahati-I,
Guwahati

Accepted
(Adv)

Received
[Signature]

OPTION FORM for CIT

Name : Pradip Kumar Ray
Civil List Code No. : 77023

Present place of posting : Guwahati
Date of joining on present post : 25.08.2003
Date of retirement : 30.09.2011

Note:

- If you have not yet posted your profile on the website www.irsofficersonline.org, then please fill up your profile, get the same verified by the CCA-CCIT, and attach it separately with this option form.
- If your profile already exists on the website www.irsofficersonline.org, please go through the same, provide updated profile information, and attach the same separately with this option form.
- If you find that there are entries in your existing profile that need to be rectified, then please provide the rectifications against the existing entries along with verification by the CCA-CCIT and attach the same separately with this option form.

[1] Please tick the item that is applicable:

- ☐ I had not posted my profile on the website and am doing so now.
- ☒ My profile is already on the website and the entries therein are correct.
- ☐ My profile is already on the website and the same needs to be rectified. I am providing details of the entries that need rectification separately and attaching the same separately with this option form.
- ☐ I am providing the updated profile information and attaching the same with this option form.

Attended
(Adv)

[2] Are you requesting for a transfer?

Yes / ~~No~~

[3] Irrespective of whether you are 'due for transfer' or not, your options for station (in order of preference):

1. KOLKATA
2. GUWAHATI
3. _____

[4] Reasons for giving these options (please fill in whichever is applicable):

(a) Working spouse (please specify whether spouse is fellow IRS service/Central Services/Central Government or State Government employee or PSU or private sector or self employed)

(b) Medical grounds (please specify whether in respect of self or family member and nature of ailment)

I have glaucoma & hyperglycemia. Staying alone in Guwahati for about 3 years now is proving stressful.

(c) Education of children (please specify what course is being pursued)

My family is in Kolkata. My younger daughter is appearing at Higher Secondary Examination this year. My presence is needed for her career planning.

(d) Others (please specify)

This is my third year in the North Eastern Region. Having completed more than two years in this difficult region, I am now covered by the Government of India's decisions, communicated under GI, MF, OM No.20014/3/83-E.IV dated 14th December 1983 and various other subsequent OMs issued from time to time, recommending that all Central Government Employees, on completion of a fixed tenure of two years in the NER, should be given a posting of their choice [Swamy's Compilation of FRSR, Part-I, 15th Edition, 2001, Page 540].

Date: 21.02.2006

Signature of the Officer

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Annexure D

F.NO.A-22011/3/2006-AD.VI
Government of India
Ministry of Finance
Department of Revenue

New Delhi, the 31st May, 2006Order No.67 of 2006

The following transfers/postings of the officers in the grade of Commissioners/Directors of Income tax are hereby ordered with immediate effect and until further orders:-

No.	NAME OF THE OFFICER (S/Sh./Ms.)	CODE NO	From	To	Remarks
1.	J.B. Sangma	72056	CIT, Varanasi	CIT(A) I - Trivandrum	Vacant
2.	S.S.Khorana	73025	CIT-XXI Kolkata	CIT(Jud.) Delhi	Vice B.N. Verma
3.	P.P. Srivastava	74002	CIT - I Jodhpur	CIT (RTI) - Mumbai	Vacant
4.	Y.S. Rawat	74016	CIT - III. Ahmedabad	CIT - Dehradun	Vacant
5.	Vinita Surie	74020	CIT (A) - I. Baroda	CIT - Karnal	Vice Sarojini Lal
6.	A.K. Jha	74020	UOP Mumbai	CIT(C)-I Mumbai	Vice S.C. Gupta-II
7.	R.N. Tripathi	74022	CIT, Moradabad	DIT (ITSC) - Chennai	Vice A. Majumdar
8.	K. Vasudevan	74027	DIT (IT), Delhi	CIT II - Chennai	Vacant
9.	K.C. Sarangi	74031	CIT - I, Kolkata	CIT I - Mumbai	Vacant
10.	A. Majumdar	74033	DIT (ITSC), Chennai	CIT I - Madurai	Vice G.S. Randhawa
11.	A.K. Garg	74037	DIT (RECOVERY), Delhi	CIT I - Nagpur	Vice G.R. Rao
12.	Sudhakar Tiwari	74040	CIT, Allahabad	CIT (ITAT)-II Chennai	Vice Usha Govindan
13.	V. Jha	74042	CIT - I, Pune	CIT - Hazaribagh	Vice A.K. Kaushal
14.	Bharti Mandal	74051	DIT (Inv) Guwahati	CIT V - Kolkata	Vacant
15.	Kalyan Chand	75004	DIT (INV) - II, Mumbai	CIT V - Delhi	Vice Usha Gupta
16.	Dr. Kalyan Choudhary	75005	CIT, Burdwan	CIT - Bilaspur	Vice G.C. Jain
17.	B.P. Gaur	75006	DIT (INV) - I.	CIT I - Delhi	Vice A.K. Jain

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			Mumbai		
18.	B.S. Dhillon	75007	CIT – II. Jalandhar	CIT XX - Mumbai	Vice Abhay Kumar
19.	S.C. Gangwar	75010	CIT(C) – I. Ahmedabad	CIT IV - Delhi	Vice P.K. Saxena
20.	M.L. Aggarwal	75018	CIT (CENTRAL). Bangalore	CIT II - Nagpur	Vice A.K. Jain
21.	Satya Prakash	75027	CIT (ITAT). Pune	CIT -ITAT - Rajkot	On conversion of the post of CIT(A)-IV. Rajkot
22.	Sri Ram Singh	75029	CIT – II, Indore	CIT (C) II - Chennai	Vice V.J. Vinay Kumar
23.	A.P. Pawar	75033	CIT (DR) ITSC- I. Mumbai	CIT II - Madurai	Vice K.K. Arumugam
24.	Abhay Kumar	75035	CIT – XX, Mumbai	DIT (Inv.) - Bangalore	Vice N.P. Singh
25.	S.Chakravorty	75036	CIT-I Nashik	CIT(TDS) Kolkata	Vacant
26.	Arun Kumar	75038	CIT-XXI. Mumbai	CIT-I Pune	Vice V. Jha
27.	Sarojini Lal	75042	CIT Karnal	CIT (CIB) – Delhi	Vice B.D.S. Kharb
28.	Indra Kumar	75047	CIT (ITAT) – V, Mumbai	CIT(A) II - Madurai	Vice S. Shankaralingam
29.	✓ K. Chandrahas	76001	CIT – I, Hyderabad	CIT-Allahabad	Vice Sudhakar Tiwari
30.	✓ Manika Dutta	76002	CIT Jamshedpur	CIT VI - Kolkata	Vice Vinod Khurana
31.	Brajesh Gupta	76003	CIT – I, Patna	CIT XV - Mumbai	Vice B.R. Sudhakara
32.	S.C. Jaini	76004	CIT-II. Kolhapur	CIT- IV Mumbai	Vacant
33.	Jaspal Singh	76013	CIT. Davengere	CIT – Panchkula	Vice A.K. Bhardwaj
34.	A.K. Manchanda	76016	CIT. Shimla	Addl.DG-II (NADT) - Nagpur	Vice Sunil Chopra
35.	S.K. Mishra	76017	CIT (A) – II. Jaipur	CIT(C) Hyderabad	Vice J.K. Hota
36.	N.K. Jain	76019	CIT – II. Pune	CIT I - Jodhpur	Vice P.P. Srivastava
37.	Arvind Pinto	76023	CIT (A) Hubli	CIT (ITAT) V - Mumbai	Vice Indra Kumar
38.	S.K. Jha	76025	OSD, Pune	CIT II - Patna	Vacant
39.	A.P. Srivastava	76027	CIT (OSD) Jalpaiguri	CIT I – Ludhiana	Vice M.N.A. Choudhary
40.	C. Abraham	76028	CIT – X, Chennai	CIT II – Mumbai	Vacant
41.	H.S. Acharya	76031	CIT (C) – II. Kolkata	CIT-I Nashik	Vice S. Chakrabarty
42.	✓ R.K. Tiwari	76032	CIT (OSD) System. Delhi	CIT(C) I – Kolkatta	Vacant
43.	V.K. Singhal	76039	CIT (A). Karnal	CIT XXVI – Mumbai	Vacant
44.	Pankaj Gupta	76041	CIT(OSD) (Vig.). Delhi	CIT II – Ahmedabad	Vacant
	S.S. Bajpai	76043	CIT(A)	DIT(Legal&	On diversion of the

Attended
(K.W.)

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45.			Varanasi	Research-II) Delhi	post of DIT(Systems). Delhi as DIT(L&R)- II. Delhi
46.	O.P. Aggarwal	76045	CIT. Haldwani	CIT I - Patna	Vice Brajesh Gupta
47.	B.S. Verma	76048	CIT (A). Siliguri	CIT - Kota	Vice M.C. Singhal
48.	J.R. Sharma	76056	CIT - XXIX. Mumbai	CIT I - Hyderabad	Vice K. Chandras
49.	A. Dev Burman	76058	CIT -XXIV. Mumbai	CIT - Dibrugarh	Vacant
50.	A.R. Reddy	77005	CIT. Tirupati	CIT (CO) - Patna	Vice M.C. Dubey
51.	B.N. Dutta	77014	CIT (A) - V. Baroda	CIT III - Ahmedabad	Vice Y.S. Rawat
52.	G.S. Randhawa	77021	CIT - I, Madurai	CIT(A) Panchkula	Vice S. Bhattacharya
53.	S.K. Sen	77022	CIT (A). Jamshedpur	CIT - Muzaffar-pur	Vacant
54.	P.K. Ray	77023	CIT - I. Guwahati	CIT - Varanasi	Vice J.B. Sangama
55.	M.N.A. Chaudhary	77024	CIT - I, Ludhiana	CIT XXIV Mumbai	Vice A. Dev Barman
56.	A.K. Jain	77025	CIT - II, Nagpur	CIT II - Hyderabad	Vice K.V. Choudhary
57.	B.L. Razdan	77026	CIT - VII. Delhi	CIT - Moradabad	Vice R.N. Tripathi
58.	Girija Jagannath	77029	CIT. Vijayawada	CIT III - Nagpur	Vice B.K. Damor
59.	A.L.K.B. Chand	77031	CIT - II Rajkot	CIT(A) I - Kolkata	Vice Prayag Jha
60.	K.K. Dhawan	77031A	CIT(ITAT). Indore	CIT VIII - Chennai	Vice Nutan Arvind
61.	D.D. Pandey	77033	CIT - IX. Delhi	CIT (C) III - Mumbai	Vice M.P. Varshney
62.	A. Soorivanaravan	77034	CIT. Kannur	CIT I - Thane	Vice R.K. Roye
63.	Pamela B. Prasad	77035	CIT - XXVIII. Mumbai	CIT(A) II - Indore	Vice Prabash Shankar
64.	K.S.Pathania	77043	On Compulsory wait	CIT-II Jalandhar	Vice B.S. Dhillon
65.	R.K. Roye	77044	CIT - I, Thane	CIT II - Ludhiana	Vice Roshan Sahay
66.	R.K. Rai	77045	CIT (ITAT) - VII, Mumbai	CIT(A) XXVI - Kolkatta	Vacant
67.	Mohinder Singh	77047	DIT (INV). Ludhiana	CIT IV Ahmedabad	Vacant
68.	L.R. Nayyar	77048	CIT, Bhatinda	CIT -XXI Mumbai	Vice Arun Kumar
69.	K.V. Chowdhary	78001	CIT-II. Hyderabad	CIT(A)- Varanasi	Vice S.S. Bajpai
70.	A.K. Jain	78005	CIT (A). Mangalore	CIT - Aligarh	Vice S.M. Ashraf
71.	G.N. Pandey	78006	CIT, Ghaziabad	CIT(C) -I Chennai	Vice S. Bose
72.	Mukesh Kumar	78007	CIT. Ujjain	CIT (A)-I - Mumbai	Vice R.C. Sharma
73.	E.T. Luckose	78009	CIT (CO).	CIT XXVII -	Vacant

After 100
(Adv)

			Chennai	Mumbai	
74.	N.C. Joshi	78011	DIT (VIG). Kolkata	OSD (Vig.) - Delhi	Vice Pankaj Gupta
75.	S.K. Sahu	78012	DIT (VIG). Chennai	CIT(A)-II Bhubaneswar	Vice S. Mohapatra
76.	S.K. Ray	78014	CIT (JUDL). Mumbai	CIT I - Trivandrum	Vacant
77.	Krishna Sahai	78016	CIT(A) I, Patna	CIT XI - Kolkatta	Vice A.M. Sangma
78.	S.K. Pahwa	78022	CIT (A). Rohtak	CIT XXIII Mumbai	Vice J.M. Sahay
79.	D. Dasgupta	78026	CIT (RTI). Chennai	CIT - Pondi- cherry	Vice Sushil Kumar
80.	Kiran O. Vasudev	78027	DIT (VIG). Delhi	CIT(A) II - Lucknow	Vice D.V. Singh
81.	K. Satyanarayana	78028	CIT (A). Guntur	CIT II Kolhapur	Vice S.C. Jaini
82.	S.Rajguru	78030	CIT(A)-II. Cochin	CIT Jamnagar	Vice D.B.R.V. Prasad
83.	Arvind Shankar	78033	CIT(A). Burdwan	CIT- V Ahmedabad	Vice M.K. Idnani
84.	A.K. Mehrish	78035	CIT - III. Ludhiana	CIT-XXIX Mumbai	Vice J.R. Sharma
85.	S. Bose	78036	CIT (C) - I, Chennai	CIT III - Rajkot	Vice Suresh Kumar
86.	Y.K. Batra	78041	CIT (A). Shimla	CIT II - Chandigarh	Vice Girish Sharma
87.	Dhirendra Khare	78042	CIT (A) - XXVI. Delhi	CIT(A) XXX- Kolkatta	Vice G.S. Panwar
88.	J.M. Sahay	78045	CIT -XXIII. Mumbai	CIT II - Rajkot	Vice A.L.K.B. Chand
89.	S.S. Kanan	78046	CIT (A)- I. Chennai	CIT - Jalpaiguri	Vice G.C. Negi
90.	S. Gopalakrishna	78053	CIT. Salem	CIT (C) II - Kolkatta	Vice H.S. Acharya
91.	Suresh Kumar	78055	CIT - III. Rajkot	CIT- VI Delhi	Vacant
92.	A.K. Singh	78057	CIT (A). Bareilly	DIT (Inv.) - Bhopal	Vacant
93.	Girish Sharma	78059	CIT - II. Chandigarh	CIT - Burdwan	Vice Dr. Kalyan Chowdhry
94.	R.P. Bahamani	78063	CIT. Muzaffar Nagar	CIT-XXI Kolkatta	Vice S.S. Khorana
95.	Girdhari Lal	78071	CIT. Raipur	CIT (ITAT)-I Kolkatta	Vice K. Hari Prasad
96.	A.M. Sangma	78074	CIT - XI. Kolkata	CIT XXVIII - Mumbai	Vice Pomela B. Prasad
97.	B.S. Rattan	78080	CIT (A)- II. Ahmedabad	CIT II - Amritsar	Vacant
98.	Promila Bhardwaj	79001	CIT. Patiala	CIT III - Baroda	Vice K.K. Tripathi
99.	S.K. Pathak	79002	CIT (A) - XIV. Kolkata	CIT(A) I - Patna	Vice Krishna Sahay
100.	Anil Kumar Aggarwal	79010	CIT (A) - I, Agra	CIT (C) - Bangalore	Vice M.L. Aggarwal
101.	K.K. Tripathi	79015	CIT (A)- V.	CIT III -	Vacant

Attest
(Add)

			Ahmedabad	Hyderabad	
102.	T. Jayashankar	79025	CIT – IV. Chennai	CIT (A) Ujjain	Vice R.K. Choudhary
103.	K. Sarkar	79026	CIT (A) – VIII. Mumbai	CIT(A) - Jamshedpur	Vice S.K. Sen
104.	P. Raghu	79035	CIT (A)- V. Chennai	CIT (A)-XX Ahmedabad	Vice S. Bhattasali
105.	A.K. Bhardwaj	79039	CIT. Panchkula	CIT(A) I – Baroda	Vice Vinita Surie
106.	Raj Kumar	79046	CIT (ITAT). Nagpur	CIT(C) - Pune	Vice Tejinder Singh
107.	S. Mukherjee	79050	CIT(A). Sambhalpur	CIT(A) II – Surat	Vice J.R. Barolia
108. ✓	Ms. Vatsala Subromoni	79051	CIT (CO). Bangalore	CIT(A) – III - Kolkatta	Vice Kai Sang
109.	Ms. S. ✓ Bhattacharya	79052	CIT(A). Panchkula	CIT (C) III - Kolkata	Vice V.K. Saxena
110.	N.P. Bhagat	79054	DIT (Intl. Tax.). Kolkata	DIT (TP) Delhi	Vice O.P. Jain
111.	A.K. Garg	79057	CIT -(A) IX. Chennai	CIT VII – Delhi	Vice B.L. Razdan
112.	Gunjan Mishra	79059	CIT – II Nashik	CIT (CIB) - Bangalore	Vice Anuradha Goyal
113.	Nishi Singh	79063	CIT (A) – III Baroda	CIT (CIB) - Mumbai	Vice D. Prasad
114. ✓	Y.R. Rao	79064	CIT(ITAT). Hyderabad	CIT (Jud.)- Kolkatta	Vacant
115.	G.C. Negi	79065	CIT. Jalpaiguri	CIT – Patiala	Vice Promila Bhardwaj
116.	Jagtar Singh	79070	CIT (A) –I. Indore	CIT(A) IV - Mumbai	Vice A.K. Jaiswal
117. ✓	L. Sailo	79075	CIT (A)- XV Delhi	CIT - Muzaffarnagar	Vice R.P. Bahmani
118.	Nutan Arvind	79079	CIT – VIII. Chennai	CIT – Raipur	Vice Girdhar Lal
119.	Bonani Ghosh	79082	CIT – XV. Kolkata	CIT (CIB) Bhubaneshwar	Vice Sangeeta Kampani
120.	C.R. Sekhar Reddy	80002	CIT(C)-III. Chennai	CIT(A) – II – Rajkot	Vice N.P. Singh
121.	Rajendra Kumar	80006	CIT (A) – IV. Bangalore	CIT (A) Salem	Vice D.K. Singh
122.	Raminder Kaushal	80007	CIT (A)(C). Ludhiana	CIT II – Pune	Vice N.K. Jain
123.	S. T. Ahmed	80008	CIT (A) (C) - VII. Mumbai	CIT(A) II - Patna	Vacant
124.	N.K. Sangwan	80009	CIT (A) – IV Baroda	CIT (OSD) Systems - Delhi	-
125.	B.P. Jain	80010	CIT (A)-I. Bikaner	CIT(A) I – Jodhpur	Vice B.L. Meena
126.	A.K. Kaushal	80017	CIT. Hazaribagh	DIT (Inv.) – Chandigarh	Vice P.C. Modi
127.	Prayag Jha	80019	CIT (A) – I. Kolkata	CIT – Ranchi	Vacant
128.	R.C. Sharma	80020	CIT (A) – I. Mumbai	CIT (C) - Kanpur	Vice Atulesh Jindal

Attached
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129.	Abrar Ahmed	80029	CIT. Ajmer	CIT(A)-II Ahmedabad	Vice B.S. Rattan
130.	A. Bandhopadhyay	80030	CIT (A) – XXII. Delhi	CIT(A) II- Dehradun	Vacant
131.	M.S. Chandrasekaran	80035	CIT – I. Coimbatore	CIT – Rajamundhary	Vacant
132.	A.K. Srivastava	80037	CIT (A) – I. Nashik	CIT V - Chennai	Vacant
133. ✓	R.K. Sinha	80039	CIT (A) – XV. Mumbai	CIT(A) XXIX - Kolkata	Vice O.P. Pahadia
134.	S. Mohapatra	80040	CIT (A) – II. Bhubaneswar	CIT (TDS) – Hyderabad	Vice A. Bhaskar Reddy
135.	Subhash Mehra	80043	CIT (A) – II. Delhi	CIT(A)(C)- Ludhiana	Vice Ravinder Kaushal
136. ✓	B.N. Verma	80044	CIT Judicial Delhi, Delhi	CIT(A)-XL Kolkata	Vice Virendra Singh
137.	Ram Snehi	80046	CIT (A) – III. Jaipur	DIT (Exemp- tion) – Ahmedabad	Vacant
138. ✓	L.S. Negi	80047	CIT(A). Muzaffar-Pur	CIT (A)-XXIII - Kolkatta	Vice R. Bharadwaj
139.	H. Srinivasulu	81001	CIT-II Vizag	CIT(ITAT) Hyderabad	Vice Y.R. Rao
140.	Krishna Saini	81003	CIT (A)- XII. Delhi	CIT (A)-II - Baroda	Vice R.N. Gupta
141.	Ms. S. Bhattasali	81005	CIT (A) – XX. Ahmedabad	CIT (A)-I - Agra	Vice A.K. Aggarwal
142.	A. Bhaskar Reddy	81006	CIT(TDS). Hyderabad	CIT- Tirupati	Vice A.R. Reddy
143.	P.K. Vaid	81011	CIT (A). Raipur	CIT(DR)- ITSC-II Chennai	Vice P.M. Vasan
144.	Harbhajan Singh	81012	CIT (A) – XXVII. Kolkata	CIT – Faridabad	Vacant
145.	Ameeta Saini	81013	On Compulsory wait	CIT(A)-IV Baroda	Vice N.K. Sangwan
146.	Rekha Goel	81023	CIT (A)- XIV. Delhi	CIT Ujjain	Vice Mukesh Kumar
147.	Anil Goel	81032	CIT – II Thane	Secretary- ITSC - Mumbai	Vice K.K. Sen
148.	Rakesh Mohan	81033	CIT (RTI). Chandigarh	CIT(A)-V Mumbai	Vice Buta Singh
149.	Sanjeev Kr. Abrol	81040	CIT (A) – XXVII. Mumbai	CIT(A) III - Rajkot	Vice S.C. Sonkar
150.	S.C. Kabra	81041	CIT (A)- III. Ahmedabad	CIT VII - Chennai	Vacant
151.	S.M. Ashraf	81042	CIT. Aligarh	CIT(A) – IV – Delhi	Vice P. Behuria
152. ✓	B. Ramakotiah	81048	CIT (ITAT) – III. Chennai	CIT (A)- XXXVII – Kolkata	Vacant
153.	Ram Samujh	81050	CIT (A) – V. Kolkata	CIT(A) VI – Delhi	Vice B.D. Bishnoi
154.	Y.A. Mubrukar	81051	CIT (A) – X. Ahmedabad	CIT(A) - Hubli	Vice Arvind Pinto

Attended
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155.	R.P. Singh	81056	CIT (DR) ITSC-II. Mumbai	CIT(A)-X Ahmedabad	Vice Y.A. Mabrukar
156.	M.C. Singhal	82008	CIT. Kota	CIT II - Indore	Vice Sri Ram Singh
157.	Ms. Anuradha Goyal	82009	CIT (CIB). Bangalore	CIT(A) IV - Kochi	Vice K.P. Karunakar
158.	H.V. Kalra	82011	CIT (A) - XXXV. Kolkata	CIT(A) - Chandigarh	Vice Manoj Mishra
159. ✓	Meeta Nambiar	82013	DIT (ITSC). Delhi	CIT(A) IV- Kolkatta	Vacant
160.	K.P. Karunakar	82014	CIT (A) IV. Cochin	CIT(A) VI - Ahmeda-bad	Vice Sushil Chandra
161.	N. Biswal	82018	CIT (A) - IV. Rajkot	CIT(A) VII - Ahmeda-bad	Vacant
162.	H.C. Jain	82020	DIT (AUDIT). Delhi	CIT(A) XIV - Mumbai	Vice K.R. Das
163.	D.D. Goel	82025	CIT (A) - I. Hyderabad	CIT-Guntur	Vacant
164. ✓	Madhu Mahajan	82026	CIT(OSD) System. Delhi	CIT(A) V- Kolkatta	Ram Samujh
165.	A.K. Nigam	82027	DIT (Exemp). Hyderabad	CIT II - Trichy	Vacant
166.	Rajiv Sahai	82030	CIT (CIB). Chandigarh	CIT(A) III - Ahmedabad	Vice S.C. Kabra
167. ✓	Abhay Tayal	82031	CIT (A) - III. Delhi	CIT (A)- XXXIX- Kolkata	Vice Ashim Kumar
168.	S.S. Narain	82035	CIT (A)- VI. Chennai	CIT (A)-I - Nagpur	Vice A.K. Chauhan
169.	Akhilesh Ranjan	82037	DIT (Intl. Tax.). Delhi	CIT - Shimla	Vice A.K. Manchanda
170.	K. Ramalingam	82040	DIT (FT). Chennai	DIT (Int. Tax.) - Delhi	Vice Akhilesh Ranjan
171.	R.K. Choudhary	82041	CIT (A). Ujjain	CIT(A) I - Indore	Vice Jagtar Singh
172.	G.K. Maheshwari	82046	CIT (A) - XVII. Mumbai	CIT(A) VII Delhi	Vacant
173.	S.C. Goyal	82050	CIT (A) - III. Bangalore	DIT (Inv.) - Kochi	Vice V.K. Sreedhar
174.	H.S.Sohi	82051	On Compulsory wait	CIT Bhatinda	Vice L.R. Nayyar
175.	Ashutosh Chandra	82054	CIT (CO). Ahmedabad	DIT(Exemp.) Bangalore	Vice J.P. Boaz
176.	Pushp Lata Srivastava	82057	CIT (A)- IV. Ahmedabad	CIT(A) I - Jaipur	Vacant
177. ✓	K. Mohanrao	82058	CIT (A)- X. Chennai	CIT(A) II - Kolkatta	Vacant
178.	B.K. Damor	82067	CIT - III. Nagpur	CIT XI - Chennai	Vacant
179.	K.R. Chhawal	82071	CIT (A)- III. Chennai	CIT(A) I Bikaner	Vice B.P. Jain
180.	Kai Sang	82072	CIT (A) - III. Kolkata	CIT(A) XII - Delhi	Vice Krishna Saini
181.	Anirudh Rai	82072A	On Compulsory wait	CIT-II Thane	Vice Anil Goel
	K L Maheswari	83002	CIT (ITAT) -	CIT	Vacant

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182.			III. Mumbai	Trichur	
183.	K.K. Arumugam	83007	CIT - II. Madurai	CIT(A)-VIII - Ahmedabad	Vice Himalini Kashyap
184.	G.M. Belagali	83008	CIT (A). Belgaum	CIT(A) - Mysore	Vice R.L. Rinawma
185. ✓	Sushil Kumar	83009	CIT. Pondicherry	CIT(A)-XXXV - Kolkatta	Vice H.V. Kalra
186.	R.C. Gupta	83010	DIT (Exemp). Chennai	CIT(A) II - Jaipur	Vice S.K. Mishra
187.	Ashu Jain	83019	On Compulsory wait	CIT(A)-XXVII. Delhi	Vice S.K. Mishra
188.	S.P. Choudhary	83021	CIT (A) - XIX. Kolkata	CIT(A)- XXIII - Mumbai	Vice S.V. Jadav
189.	M.C. Dube	83023	CIT (CO). Patna	CIT(A) III - Pune	Vice S.K. Mishra
190.	D.C. Sreedhar	83028	CIT (A) -I. Coimbatore	CIT(A) XVII - Mumbai	Vice G.K. Maheshwari
191.	Shishir Sinha	83030	CIT (A) - XI. Kolkata	CIT(A) IX - Delhi	Vice Binod Kumar
192.	R.K. Gupta	83038	CIT(A). Jamnagar	CIT(A) XI - Delhi	Vice Arti Handa
193.	G. Chandorkar	83039	CIT (A) - XX. Mumbai	CIT II - Coimbatore	Vacant
194.	S.B. Singh	83041	CIT (A) V. Cochin	CIT(A) XV - Mumbai	Vice R.K. Sinha
195.	Y.R. Saini	83042	CIT (A) - XXVIII. Mumbai	CIT(A) III - Chennai	Vice K.R. Chhawal
196.	S.V. Jadhav	83044	CIT (A) - XXIII. Mumbai	DIT (Exemption) - Hyderabad	Vice A.K. Nigam
197.	Sunita Puri	83045	CIT (ITAT) - VIII Mumbai	CIT (ITAT) VI - Delhi	On diversion of one post of CIT(A) as CIT (ITAT)-VI. Delhi
198.	Binod Kumar	83048	CIT (A) - IX. Delhi	CIT(A)-Meerut	Vice D.S. Saxena
199.	R.N. Jha	83049	CIT - IV. Nagpur	CIT(A) XXIV - Mumbai	Vice A.K. Sinha
200.	A. Patra	83051	CIT(A). Tirupati	CIT(A)-I Hyderabad	Vice D.D. Goel
201.	Vijay Kumar	83054	CIT (A) - XII. Ahmedabad	CIT-III - Ludhiana	Vice A.K. Mehrish
202.	G.S. Panwar	83061	CIT (A) - XXX. Kolkata	CIT - Rohtak	Vacant
203.	Kiran Babu	83062	CIT (A). Ludhiana	CIT(A)-IV Ahmedabad	Vice Pushap Lata Srivastava
204.	N.P. Singh	83065	CIT (A) - II. Rajkot	CIT(A) IV - Chennai	Vice A.N. Pahuja
205.	S.C. Sonkar	83067	CIT (A) - III. Rajkot	CIT(A) II - Chennai	Vice R.C. Mishra
206. ✓	V.J. Vinaya Kumar	83069	CIT (C) - II. Chennai	CIT(A) XIV - Kolkata	Vice S.K. Pathak
207.	D.V. Singh	83072	CIT (A) - II.	CIT(A)	Vice Y.R. Saini

Attached
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			Lucknow	XXVIII - Mumbai	
208.	D.V. Manival Raju	83073	CIT (A) - II. Hyderabad	CIT(A) III- Bangalore	Vice S.C. Goyal
209.	P.D. Meena	83074	CIT (A) - XXI. Kolkata	CIT(A) - Ajmer	Vice V.S. Kothari
210.	L.C. Joshi	83077	CIT (A). Dibrugarh	CIT(A) (C) VII - Mumbai	Vice S.T. Ahmed
211.	S.D.Jha	84011	On Compulsory wait	DIT(Inv.) Patna	Vacant
212.	Sangeeta Kampani	84020	CIT (CIB) Bhubhaneshwar	CIT (DR - ITSC) II - Delhi	Vice S.K. Srivastava
213.	A.K. Sinha	84026	CIT(A) XXIV Mumbai	CIT(CO) - Guwahati	Vice P.K. Dev Burma
214.	J.P. Boaz	84027	DIT (Exemp). Bangalore	CIT(A)-I - Coimbatore	Vice D.C. Sreedhar
215.	Sangeeta Gupta	84028	CIT (ITAT) - II. Delhi	CIT (ITAT) - Lucknow	Vacant
216.	Rajeev Jain	84030	CIT (ITAT) Allahabad	CIT(OSD) - Delhi	-
217.	S. Mukhopadhyay	84037	CIT (A) - II. Kolkata	CIT(A) - Raipur	Vice P.K. Vaid
218.	S.K. Mittal	84040	CIT (A). Bhatinda	CIT(A) XVI - Ahmedabad	Vice Gurpreet Singh
219.	Rashmi Saxena Sahni	84045	On Compulsory wait	CIT(A)-V Kochi	Vice S.B. Singh
220.	Ajay Kumar	84051	CIT (A) (C) - IV. Mumbai	CIT(A) - Ludhiana	Vice Kiran Babu
221.	U.D. Prasad	84057	CIT (A) - VI. Hyderabad	CIT (ITAT II - Kolkata	Vice P.K. Gupta
222.	D.R. Sindhal	84058	CIT (A) - XXXIV. Kolkata	CIT - Siliguri	Vacant
223.	D.B.R.V. Prasad	84059	CIT. Jamnagar	CIT(A)-II Bhopal	Vacant.
224.	Mehar Singh	84060	CIT (A). Palampur	CIT(A) Shimla	Vice Y.K. Batra
225.	O.P. Pahadia	84067	CIT (A) - XXIX. Kolkata	CIT(A) -V Baroda	Vice B.N. Dutta
226.	S.P. Meena	84068	CIT (A). Bilaspur	CIT(A) - Vijayawada	Vice R.C. Parmanik
227.	K.R. Meena	84071	CIT(A)-II. Bikaner	CIT(A) - Guntur	Vice K. Satyanarayana
228.	Ashim Kumar	85005	CIT (A) - XXXIX. Kolkata	CIT(A) - Allahabad	Vice R.K. Jain
229.	Himalini Kashyap	85007	CIT (A)- VIII Ahmedabad	CIT(A) - Ghaziabad	Vice Praveen Kumar
230.	Sunil Ojha	85055	CIT (ITAT) - X. Mumbai	CIT(CO) Delhi	Vice Surabhi Sinha

2. All CCIT(CCAs) shall ensure that the officers mentioned above are relieved on or before 9.6.2006 positively under intimation to the Board, failing which it will be assumed that they stand relieved and the

3. Officers at Sl. No. 2, 14, 30, 37, 45, 59, 139, 147, 213 and 216 have been posted to exempted/non-assessment charges till AGT-2007 on medical/Compassionate grounds. Officer at Sl. No. 25 has been posted till AGT-2007 on ground of child being in 10/12th standard. Officers at Sl. No. 3, 27, 112, 117, 124, 197, 212 and 229 have been posted to exempted/non-assessment charges till AGT-2007 on spouse grounds and officer at Sl. No. 113 has been posted to exempted/non-assessment charge on administrative requirements.

4. The CCIT(CCAs) shall also ensure that the officers under order of transfer out of their respective regions submit their Resume/Self-Assessment and also report/review the ACRs of their subordinates for the period ending 31.3.2006 and submit them to the CCIT(CCA)/Reviewing/Reporting Officer, as the case may be.

5. With this order, all representations for postings and transfers in the grade of Commissioners/Directors of Income Tax stand disposed off. Henceforth representations for transfer/posting from officers of this rank shall be entertained only after they are received through the concerned CCIT(CCAs) after the concerned officer has joined the new place of posting in terms of Para 10 of the Transfer Policy. The CCIT(CCAs) shall consolidate all such representations relating to their respective Regions and forward the same to the Board with specific recommendations on a monthly basis only. No direct representations shall be entertained whatsoever.

(P.C. BHATT)
DEPUTY SECRETARY TO THE GOVT. OF INDIA

1. Officers concerned
2. All Chief Commissioners of Income Tax/ Directors General of Income Tax.
3. Principal Chief Controller of Accounts, New Delhi.
4. Zonal Accounts Officer, CBDT, C/o. CCIT concerned.
5. DIT(IT)/DIT(RSP&PR)/DIT(Audit)/DIT(Vig.)/DIT(Systems)/DIT(O&MS)/ DIT(Spl.Inv.).
6. PSs to FM/ MOS(R)/Advisor to FM / Secy.(R)/ AS(R)/ Chairman, CBDT/ Members,CBDT/JS(Admn.), CBDT/JS(R)/DS(Admn.)/DS(Hqrs.)/
7. Directors, CBDT/D.Ss., CBDT.
8. US(Hqrs.)Pers.DT/US(Ad.I)/US(Ad.VI)Ad.VI(A)/Ad.VII/ITCC/OT/Computer Cell/Hindi Section.
9. General Secretary, ITGOA/IRS Association.

(P.C. BHATT)
DEPUTY SECRETARY TO THE GOVT. OF INDIA

Altered
(Adv.)

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Annexure E

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F.NO.A-22011/3/2006-AD.VI
Government of India
Ministry of Finance
Department of Revenue
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New Delhi, the 31st May, 2006**Order No.68 of 2006**

The following local changes in the placement of officers in the grade of Commissioners/Directors of Income Tax within the respective CCIT(CCA) Region are hereby ordered with immediate effect and until further orders:-

S.No.	Name of the Officer S/Shri/Ms.	Code No.	Place /Region of Present Posting	To	Remarks
1.	C.S. Kahlon	73014	CIT(ITAT)-IV, Mumbai	CIT-V Mumbai	Vacant
2.	Meenakshi Singh	73017	CIT - XII, Delhi	CIT(DR)-ITSC-I Delhi	Vice Balbir Verma
3.	B. R. Sudhakara	73021	CIT - XV, Mumbai	CIT (ITAT) I - Mumbai	Vice R.N. Dash
4.	Usha Gupta	73024	CIT - V, Delhi	DIT(IT) Delhi	Vice K. Vasudevan
5.	A.K. Jain	73037	CIT - I, Delhi	CIT(ITAT)-I Delhi	Vice Sudhir Chandra
6.	P.K. Dev Burman	73051	CIT(CO), Coimbatore	CIT-I Coimbatore	Vice P.K. Ray
7.	P. Sahi	74001	CIT - I, Chandigarh	CIT (RTI) - Chandigarh	Vice Rakesh Mohan
8.	Laxman Das	74003	CIT - XI, Mumbai	CIT (ITAT) II - Mumbai	Vice Anuradha Bhatia
9.	V.K. Sridhar	74006	DIT(Inv.), Cochin	CIT-I Kochi	Vacant
10.	R. Bhardwaj	74010	CIT (A) - XXIII, Kolkata	CIT I - Kolkatta	Vice K.C. Sarangi
11.	R.K. Jain	74013	CIT (A), Allahabad	CIT (ITAT) Allahabad	Vice Rajeev Jain
12.	S.C.Gupta	74017	CIT(CO), Bhubaneshwar	DIT(Inv.) Bhubaneshwar	Vice T. Jena
13.	Akhilesh Prasad	74029	CIT-II, Delhi	DIT(Inv.)-I Delhi	Vacant
14.	S.C.Gupta-II	74030	CIT (C)-I, Mumbai	CIT(ITAT)-III Mumbai	Vice K.L. Maheshwari
15.	S.P. Pandey	74036	CIT-VII, Ahmedabad	CIT-I, Ahmedbad	Vacant
16.	P.M. Vasan	74050	CIT (DR) - ITSC -II, Chennai	DIT (Exempt.) Chennai	Vice R.C. Gupta
17.	Vinod Khurana	75002	CIT - VI,	DIT (Vig.) -	Vice N.C. Joshi

18.	K.K. Tripathi	75008	Kolkata CIT-III, Baroda	Kolkatta CIT-I Baroda	Vacant
19.	P.K. Saxena	75012	CIT - IV, Delhi	DIT (Recovery)	Vice A.K. Garg
20.	Manoj Mishra	75015	CIT (A), Chandigarh	CIT I - Chandi-garh	Vice P. Sahi
21.	Sunil Chopra	75023	ADG-II Training,, NADT, Nagpur	ADG-I (Training), NADT Nagpur	Vacant
22.	N.P. Singh	75028	DIT (INV), Bangalore	CIT I - Bangalore	Vacant
23.	P. Mangro	75053	CIT (CIB), Coimbatore	DIT (INV.) Coimbatore	Vice Bharti Mandal
24.	Sudha Sharma	76007	CIT - VIII, Delhi	DIT (RSP&PR) Delhi	Vice Deepa Krishan
25.	R.N.Dash	76008	CIT(ITAT)-I, Mumbai	CIT-X, Mumbai	Vice K.S. Bhatti
26.	M.P. Varshney	76011	CIT (C) - III, Mumbai	CIT (Jud.) - Mumbai	Vice S.K. Ray
27.	G.C.Jain	76029	CIT, Bilaspur	CIT(A), Bilaspur	Vice S.P. Meena
28.	Sudhir Chandra	76033	CIT (ITAT) - I, Delhi	CIT-XV Delhi	Vice S.G. Joshi
29.	D.K.Singh	77003	CIT(A) Salem	CIT Salem	Vice S. Gopalakrishan
30.	J.C. Mishra	77004	CIT-III, Coimbatore	CIT-I Coimbatore	Vice M.S. Chandrashekar
31.	A.N. Pahuja	77009	CIT (A)- IV, Chennai	CIT III - Chennai	Vacant
32.	Deepa Krishan	77032	DIT (RSP&PR), Delhi	CIT-XII Delhi	Vice Meenakshi Singh
33.	G.R. Sofi	77037	CIT (A) (Hqrs. At Amritsar), Jammu	CIT I - Amritsar	Vice Kuldip Singh
34.	P.Behuria	77038	CIT (A) - IV, Delhi	CIT-XI Delhi	Vice Dilip Shivpuri
35.	Dilip Shivpuri	77039	CIT - XI, Delhi	DIT (Audit) Delhi	Vice H.C. Jain
36.	T.K.Shah	77042	CIT-XXV, Mumbai	DIT(Inv.)-I Mumbai	Vice B.P. Gaur
37.	G.R. Rao	78004	CIT - I, Nagpur	CIT IV - Nagpur	Vice R.N. Jha
38.	M.D. Kabra	78010	CIT - XVII, Delhi	DIT(Vig) North Delhi	Vice Kiran O Vasudev
39.	R.C. Pramanik	78015	CIT(A) Vijaywada	CIT Vijaywada	Vice Girija Jaganathan
40.	S.K. Srivastava	78025	CIT (DR) ITSC-II, Delhi	CIT-XVI Delhi	Vice Purnima Singh

41.	Atulesh Jindal	78031	CIT (C), Kanpur	CIT -I- Kanpur	Vacant
42.	T.Jena	78032	DIT(Inv.), Bhubaneswar	CIT(CO) Bhubaneswar	Vice S.C. Gupta
43.	Purnima-Singh	78047	CIT - XVI, Delhi	CIT(ITAT)- III Delhi	Vice Gopal Kamal
44.	J.R.Barolia	78062	CIT(A)-II Surat	CIT-III Surat	Vacant
45.	J.L. Basumatary	78064	CIT(CIB), Jaipur	CIT(ITAT) Jaipur	Vice P.K. Sharma
46.	Surender Paul	78069	CIT(A)- XXIV, Delhi	CIT-IX Delhi	Vice D.D. Pandey
47.	K.S.Bhatti	78070	CIT-X, Mumbai	CIT-III Mumbai	Vacant
48.	R.L. Rinawma	78073	CIT (A), Mysore	CIT - Mysore	Vacant
49.	Jagrup Singh	78081	CIT(A) Faridabad	CIT Faridabad	Vacant
50.	S.G.Joshi	79003	CIT-XV, Delhi	DIT(Inv.)-II Delhi	Vice P.K. Kedia
51.	Rani S. Nair	79005	CIT (A) - XX, Delhi	CIT (Audit) Delhi	Vacant
52.	K. Hari Prasad	79005A	CIT(ITAT)-I, Kolkata	CIT(A)- XXVII, Kolkata	Vice Harbhajan Singh
53.	R.C. Mishra	79007	CIT (A)- II, Chennai	CIT IV - Chennai	Vice T. Jayashankar
54.	Deepali Bahadur	79012	CIT (A) - V, Delhi	CIT (ITAT)-II Delhi	Vice Sangeeta Gupta
55.	J.K.Hota	79013	CIT(C), Hyderabad	CIT-IV Hyderabad	Vacant
56.	D.S. Saxena	79017	CIT (A), Meerut	CIT - Meerut	Vacant
57.	Roshan Sahay	79020	CIT - II, Ludhiana	DIT (Inv.) - Ludhiana	Vice Mohinder Singh
58.	M.K. Idnani	79023	CIT - V, Ahmedabad	CIT (CO) - Ahmedabad	Vice Ashutosh Chandra
59.	Surabhi Sinha	79028	CIT(CO), Delhi	CIT-VIII Delhi	Vice Sudha Sharma
60.	P.R.Sethi	79040	CIT(A)-XXI, Mumbai	CIT-VIII Mumbai	Vacant
61.	Gurpreet Singh	79043	CIT (A) - XVI, Ahmedabad	CIT VII - Ahmedabad	Vice S.P. Pandey
62.	S.K.Sahai	79060	CIT(A)-VI, Mumbai	CIT-XI Mumbai	Vice Laxman Das
63.	Sushil Chandra	80001	CIT (A)- VI, Ahmedabad	CIT (C)- I- Ahmedabad	Vice S.C. Gangwar
64.	Balbir Verma	80012	CIT (DR)	DIT(ITSC)	Vice Meeta Nambiar

			ITSC-I	Delhi	
65.	Arti Handa	80036	CIT (A) – XI, Delhi	CIT-XVII Delhi	Vice M.D. Kabra
66.	Gopal Kamal	81007	CIT (ITAT) – III, Delhi	CIT(A)-II Delhi	Vice Subhash Mehra
67.	Kuldip Singh	81010	CIT – I, Amritsar	CIT (ITAT) – Amritsar	On diversion of the post of CIT(A), Palampur as CIT(ITAT), Amritsar
68.	S.K. Mishra	81015	CIT(A)-III, Pune	CIT-III Pune	Vice S.M. Mishra
69.	B.D. Bishnoi	81019	CIT (A) – VI, Delhi	CIT(A)-XXIX Delhi	Vice Suraj Bhan
70.	S.K. Pandey	81026	CIT(CO), Pune	CIT-IV Pune	Vice Pradeep Sharma
71.	V.S. Kothari	81029	CIT (A), Ajmer	CIT – Ajmer	Vice Abrar Ahmed
72.	P.K. Sharma	81030	CIT (ITAT), Jaipur	CIT(CIB) Jaipur	Vice J.L. Basumatary
73.	Aditya Vikram	81035	CIT(A)-X, Mumbai	CIT(ITAT)-IV Mumbai	Vice C.S. Kahlon
74.	O.P. Jain	81038	CIT(Transfer Pricing), Delhi	CIT(A)-III Delhi	Vice Abhay Tayal
75.	S.M. Mishra	81039	CIT-III, Pune	CIT-V Pune	Vice G.S. Singh
76.	P.K.Kedia	81043	DIT(Inv.)-II, Delhi	CIT(A)-V Delhi	Vice Deepali Bahadur
77.	A.C. Naik	81044	CIT(CIB), Hyderabad	CIT(A)-VI Hyderabad	Vice U.D. Prasad
78.	B.D. Gupta	81049	Secy. ITSC, Delhi	CIT(A)-XVII Delhi	Vacant
79.	B.L. Meena	81057	CIT(A) I, Jodhpur	CIT(OSD) - Jodhpur	-
80.	Ms. Shanta Sujata Abrol	81059	CIT (A) – XXXIII, Mumbai	CIT(A) IX - Mumbai	Vice K.C. Ghumaria
81.	P.C. Modi	82004	DIT (Inv), Chandigarh	CIT (CIB) - Chandigarh	Vice Rajiv Sahai
82.	A.K. Jaiswal	82005	CIT(A)-IV, Mumbai	CIT(A)-VIII Mumbai	Vice K. Sarkar
83.	Rajendra	82010	CIT(A)(C)-VIII, Mumbai	DIT(Inv.)-II Mumbai	Vice Kalyan Chand
84.	A.C. Shukla	82028	CIT(A)-II, Pune	CIT(A)-I Pune	Vacant
85.	D.B. Goel	82036	CIT (A) – XXIX, Mumbai	CIT(A) XXVI - Mumbai	Vice Pragati Kumar
86.	Tejinder Singh	82048	CIT(C), Pune	CIT(A)-II. Pune	Vice A.C. Shukla
87.	B.D.S. Kharb	82052	CIT (CIB), Delhi	CIT(A)-XXII Delhi	Vice A. Bandhopadhyay
88.	Buta Singh	82062	CIT(A)-V, Mumbai	CIT(A)-III Mumbai	Vacant

89.	K.C. Ghumaria	82066	CIT (A) - IX, Mumbai	CIT(A) X - Mumbai	Vice Aditya Vikram.
90.	G.S.Singh	83005	CIT-V, Pune	CIT(CO) Pune	Vice S.K. Pandey
91.	Pradeep Sharma	83020	CIT-IV, Pune	CIT(ITAT) Pune	Vice Satya Prakash
92.	Prabhash Shankar	83022	CIT (A) - II, Indore	CIT (ITAT) - Indore	Vice K.K. Dhawan
93.	Pragati Kumar	83046	CIT (A) - XXVI, Mumbai	CIT(A) XII - Mumbai	Vacant
94.	K.R. Das	83068	CIT(A)-XIV, Mumbai	CIT(A)-XXVII, Mumbai	Vice S.K. Abrol
95.	P.K. Gupta	84003	CIT (ITAT) - II, Kolkata	CIT(A) - XXI Kolkata	Vice P.D. Meena
96.	S.K.Mishra	84006	CIT(A) XXVII, Delhi	CIT(A)-XXIV Delhi	Vice Surinder Paul
97.	V.K. Saxena	84007	CIT (C) -III, Kolkata	CIT(A)-XIX, Kolkata	Vice S.P. Choudhary
98.	V K Pandey	84010	CIT (A)- XIII, Chennai	CIT (C) III - Chennai	Vice C.R. Sekhar Reddy
99.	O.P. Kakralia	84018	CIT(A)II, Nashik	CIT-II Nashik	Vice Gunjan Mishra
100.	Praveen Kumar	84019	CIT (A) , Ghaziabad	CIT - Ghaziabad	Vice G.N. Pandey
101.	A.K. Chauhan	84021	CIT(A)-I, Nagpur	CIT(A)-II Nagpur	Vice S.S.S.B. Rai
102.	Suraj Bhan	84022	CIT(A) XXIX, Delhi	CIT(A)-X Delhi	Vacant
103.	Anuradha Bhatia	84032	CIT (ITAT) - II, Mumbai	CIT(A)(C) - IV Mumbai	Vice Ajay Kumar
104.	S.S.S. B. Rai	84049	CIT(A)-II, Nagpur	CIT (ITAT), Nagpur	Vice Raj Kumar
105.	K.K. Sen	84050	SEC'Y (ITSC), Mumbai	CIT(A)-XX-Mumbai	Vice G. Chandorkar
106.	P. Sreedhar	84052	CIT (A) - V, Hyderabad	CIT(CIB) Hyderabad	Vice A.C. Naik
107.	S.J. Singh	84061	CIT (A) - XXXII, Mumbai	CIT(A)(C)-VIII - Mumbai	Vice Rajendra

2. All CCIT(CCAs) shall ensure that the officers mentioned above are relieved on or before 9.6.2006 positively under intimation to the Board, failing which it will be assumed that they stand relieved and the succeeding officer may assume charge. This order may be read with Order No.66/2006 and Order No.67/2006 both dated 31st May, 2006

3. Officers at Sl. Nos. 26, 87 and 106 have been retained at exempted/non-assessment charges till AGT-2007 at their stations of present posting on medical/Compassionate grounds. Officer at Sl. No. 73 has been retained at exempted/non-assessment charge till AGT-2007 at his station of present posting on grounds of children being in 10/12th standard. Officers at Sl. Nos. 2, 3, 4, 5, 7 and 8 have been retained at exempted/non-assessment charges till AGT-2007 at their

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stations of present posting as they are in the zone of promotion as CCsIT during the year. Officers at Sl. Nos.16, 19, 24, 35, 43, 51, 54 and 64 have been retained at exempted/non-assessment charges at the station of present posting on spouse grounds.

4 The CCIT(CCAs) shall also ensure that the officers under order of transfer out of their respective regions submit their Resume/Self-Assessment and also report/review the ACRs of their subordinates for the period ending 31.3.2006 and submit them to the CCIT(CCA)/Reviewing/Reporting Officer, as the case may be.

5. With this order, all representations for postings and transfers in the grade of Commissioners/Directors of Income Tax stand disposed off. Henceforth representations for transfer/posting from officers of this rank shall be entertained only after they are received through the concerned CCIT(CCAs) after the concerned officer has joined the new place of posting in terms of Para 10 of the Transfer Policy. The CCIT(CCAs) shall consolidate all such representations relating to their respective Regions and forward the same to the Board with specific recommendations on a monthly basis only. No direct representations shall be entertained whatsoever.

(P.C. BHATT)

DEPUTY SECRETARY TO THE GOVT. OF INDIA

1. Officers concerned
2. All Chief Commissioners of Income Tax/ Directors General of Income Tax.
3. Principal Chief Controller of Accounts, New Delhi.
4. Zonal Accounts Officer, CBDT, C/o. CCIT concerned.
5. DIT(IT)/DIT(RSP&PR)/DIT(Audit)/DIT(Vig.)/DIT(Systems)/DIT(O&MS)/ DIT(Spl.Inv.).
6. PSs to FM/ MOS(R)/Advisor to FM / Secy.(R)/ AS(R)/ Chairman, CBDT/ Members,CBDT/JS(Admn.), CBDT/JS(R)/DS(Admn.)/DS(Hqrs.)/
7. Directors, CBDT/D.Ss., CBDT.
8. US(Hqrs.)Pers.DT/US(Ad.I)/US(Ad.VI)Ad.VI(A)/Ad.VII/ITCC/OT/Computer Cell/Hindi Section.
9. General Secretary, ITGOA/IRS Association.

(P.C. BHATT)

DEPUTY SECRETARY TO THE GOVT. OF INDIA

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.487 of 2001

Date of Order: This the 1st Day of March, 2002

HON'BLE MR. JUSTICE D.N. CHOWDHURY, VICE-CHAIRMAN
HON'BLE MR. K.K. SHARMA, ADMINISTRATIVE MEMBER

1. Sri Tapan Kumar Chakraborty
Son of Late Motilal Chakraborty
Resident of Kanakpur Part-II
Silchar-788005. ... Applicant

By Advocate Mr. B.C. Das, Mr. S. Dutta, Mrs. U. Das

-Vs-

1. The Union of India,
Represented by the Secretary to the
Government of India
Department of Education
New Delhi-110001.
2. The Commissioner,
Kendriya Vidyalaya Sangathan
18, institutional Area
Sahid Jeet Singh Marg
New Delhi-110016
3. The Joint Commissioner (Admn).
Kendriya Vidyalaya Sangathan
18, institutional Area
Sahid Jeet Singh Marg
New Delhi-110016
4. The Assistant Commissioner
Kendriya Vidyalaya Sangathan
Silchar Regional Office,
Hospital Road,
Silchar-788005.
Assam Respondents.

By Advocate Mr. S. Sarma, for the Respondents.

O R D E R.

K.K. SHARMA, MEMBER (ADMN):

In this Application under Section 19 of the
Administrative Tribunals Act the applicant has challenged
transfer
the order No. 11-6/99-KVS (Estt-1) dated 13.11.2000 (Annexure 3)
and Order No. F.6-25/94-KVS (Estt) dated 4th December, 2001

contd/-

Altered

16/11/2001

(Annexure 7) whereby the Respondents have rejected the representation of the applicant for his choice posting. The applicant has been transferred from Regional office Silchar to Regional office New Delhi. The applicant is working as Assistant in the KVS Regional office Silchar. The order has been challenged on the ground that the applicant, having completed more than five years service in the N.E. Region had acquired right for his choice posting at Kolkata in conformity with the transfer and posting guidelines. The Respondents have not followed the direction of this Tribunal in O.A.No.423 of 2000 dated 5th June 2001 directing the Respondents to consider the case of the applicant for his choice posting.

2. Mr.S.Dutta learned counsel appearing on behalf of the applicant submitted that the applicant had challenged the transfer order dated 13.11.2000 in O.A.No.423 of 2000.

In the proceedings before this Tribunal the Respondents had stated that the case of the applicant for transfer to Kolkata could not be considered because of pendency of disciplinary proceedings. Considering the fact that the applicant had completed his tenure in N.E. Region, this Bench by order dated 5th June 2001 in the aforementioned O.A. directed the Respondents to re-consider the case of the applicant for re-posting to Kolkata without being influenced by the pendency of the departmental proceeding. The learned counsel for the applicant referring to the impugned order dated 4th December 2001 and the written statement filed by the respondents stated that the respondents have now changed their stand. It is the stand of the Respondents that the transfer guidelines are applicable only to teaching and non-teaching staff of the Kendriya Vidyalaya and the officers and staff working in the

Amended
for
(Adv)

contd/-

Regional office are not covered by the transfer guidelines. It is also stated that the applicant was posted in Calcutta Regional office from 1984 to 1995 except for a short period when he was posted at Patna. The request of the Regional office staff are taken into account only if they are compatible with the interest of the Organisation. The learned counsel argued that Respondents cannot change the said ground after the matter had been adjudicated before this Tribunal. He also referred to the transfer guideline circulated under reference No.F-1/99(KVS(Estt.III) dated 25.1.2000(Annexure 1) and submitted that as per para 19 of the Guideline, the guidelines are applicable to the non-teaching staff also. He argued that the rejection of the applicant's representation on the ground that the same is not covered by the guidelines is arbitrary and discriminatory. The Respondents have arbitrarily rejected the claim of the applicant for his choice posting in violation of the direction of this Tribunal in O.A.No.423 of 2000. Mr.S.Sarma learned counsel for the Respondents relied on the written statement filed by the Respondents and submitted that the applicant had not given any option for choice posting and specifically referred to the para 4.6 of the application. He argued that the applicant has referred to the representations dated 8.9.98, 14.12.98, 19.12.98, dated 19.12.98 without annexing the copies of the same. Mr.Sharma strongly argued that the transfer guidelines are not applicable to the Regional office.

3. The facts are not indispute. The impugned order of transfer dated 13.11.2000 has been subject matter of adjudication before this Tribunal. The direction was given to the respondents to consider the case of the applicant for choice posting. The submission made by the Respondents

contd/-

Alleged
(Adv)

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that the applicant has not made any application for choice posting can not be accepted, because the applicant had come before this Tribunal for consideration of choice posting. No material has been placed on behalf of the respondents to show that the transfer guidelines issued by the respondents vide their letter dated 25.1.2000 are not applicable to the applicant. In Para 1 of the transfer guidelines is reproduced below:-

"In supersession of existing guidelines/orders on the subject, it has been decided that transfer in the Kendriya Vidyalaya Sangathan will hereafter be made as far as practicable in accordance with the guidelines indicated below.

Thereafter in para 2 the Sangathan has been described as reproduced below:-

"Sangathan" means the Kendriya Vidyalaya Sangathan."

As mentioned above it is stated in para 19 of the guidelines that the guidelines apply to non-teaching staff also to the extent applicable. Reference to the guidelines does not show that the staff working in Regional office is outside the purview of transfer guidelines. The submission of the Respondents on the material before us cannot be sustained. The rejection of the claim of the applicant in the impugned order dated 4.12.2001 is not considered justified, as the same is not based on any material. Normally the transfer orders are not interfered by the Tribunal unless the orders are found to be arbitrary, malafide or without jurisdiction. The applicant had come before this Tribunal earlier. The Respondents were directed to reconsider his request. Again his request was turned down taking a new stand. The rejection of applicants representation couldnot be supported by any material. The impugned order dated 4th December 2001

contd/-


Attested
(Adv)

K K Sharma

is found to be arbitrary.

4. The impugned order dated 4th December 2001 is accordingly set aside. The Respondents are directed to consider the case of the applicant for transfer to his choice posting at Calcutta as per guidelines dated 25.1.2000 and to accommodate the applicant at Calcutta ^{existing} against/available vacancy. The Respondents are directed to complete the process within a month of the receipt of this order. The interim order dated 3.1.02 shall continue to operate till the completion of the exercise.

Application is allowed as indicated above. There shall however, no order as to costs.


Sd -
Vice - Chairman
Sd - Members (4)

Alerted

(Adv)

44 38

Annexure G

FORM NO. 4

(See Rule 42) of

In The Central Administrative Tribunal

GUWAHATI BENCH : GUWAHATI

ORDER SHEET

APPLICATION NO. 487/2001

Applicant(s) Mr. M. T. Chakraborty

Respondent(s) W.O.T. Gm

Advocate for Applicant(s) Mr. B.C. Das, S. Dutta, Min U. B. M. A.

Advocate for Respondent(s)

K.V.S.

Notes of the Registry.	Date	Order of the Tribunal
	3.1.02	<p>Heard Mr. S. Dutta, learned counsel for the applicant.</p> <p>The application is admitted. Call for the records.</p> <p>Issue notice as to why impugned transfer order F.No. 11-6/99-KVS (Estt-1) dated 13-11-2000 reiterated by order No. F.6/25/94-KVS (Estt.) dated 4.12.2001 shall not be suspended. Returnable by three weeks.</p> <p>Mr. S. Sarma, learned counsel accepts notice on behalf of respondents. In the meantime, operation of the orders of transfer shall remain suspended and the applicant shall continue in working at Regional Office, Silchar.</p> <p>List on 25.1.2002 for order.</p>

Admitted
(A.C.V.)

Sd-
Vice-Chairman

Sd- Member (A)

**Transfer /Placement Policy for Group 'A' Officers of the Indian
Revenue Service
Central Board of Direct Taxes
2005**

1 Introduction

The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, is the Cadre Controlling Authority for IRS (IT) officers. In order to increase transparency, and also to provide better opportunities to officers for excellence and a more planned approach to cadre planning, a proper placement /transfer policy is a vital ingredient. This placement policy has been formulated to address the needs of the Department as well as the Human Resource Development aspects and career management of officers as a whole

1.1 The Salient features of the Transfer/ Placement Policy for Group 'A' Officers of the service (hereinafter referred to as the Placement Policy) are as follows:

2 Salient features

The policy shall come into effect from the date of issue.

All annual transfer orders shall normally be issued by 30 April and, in any case, not later than 31 May of the year.

All transfers and postings of group 'A' shall be effected by the Placement Committee or on its recommendation, as stated hereinafter.

2.1 A posting policy has been formulated for officers at different levels.

2.2 All stations have been categorized in three classes and tenure in different classes of stations has been prescribed.

2.3 All posts have been divided into two categories, namely, sensitive and non-sensitive.

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

2.5 The transfer guidelines shall not be applicable to the transfer and postings of Chief Commissioners / Directors General.

2.6 A correct and complete data base is a *sine qua non* for operationalising the Policy. The Board shall ensure that a data base containing the profiles of all Group 'A' officers is created and regularly updated.

3 The Placement Committee

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All transfers / postings of all Group 'A' officers will be done by or on the recommendations of, as the case may be, a Placement Committee consisting of the following:

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

3.1 The Placement Committee will:

- (a) Recommend proposals for posting of Chief Commissioners, Directors General and Commissioners for approval of the Government i.e. Finance Minister, through the Minister of State for Finance (Revenue) and Revenue Secretary;
- (b) Be the final authority for transfer and allocation to the region of each Cadre Controlling Chief Commissioner of Income Tax of officers below the rank of Commissioner, provided the case falls within the purview of 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 transfer proposals. Approval of the Government will be required in case a deviation from the existing guidelines has to be made.

3.2 The minutes of the meeting of the Placement Committee should be drawn up and approved by all Members within 24 hours of the meeting (not by circulation). The minutes must be approved by the competent authority within one month.

4 **Posting policy for officers at different levels**

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

4.1 For officers below the rank of Commissioner, the Placement Committee will place the officers at the disposal of the cadre controlling Chief Commissioner for further posting. In each region under a Cadre Controlling Chief Commissioner of Income Tax, there shall be a Local Placement Committee consisting of :-

- [a] Cadre Controlling Chief Commissioner of Income Tax
- [b] DG (Investigation) concerned
- [c] Two other senior most Chief Commissioners whose jurisdictions fall within the region of the Cadre Controlling CCIT

They will consider the intra-region transfers of officers. All postings by the

Attached
(Adm)

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Local Placement Committee will be in accordance with the provisions of the transfer / placement policy. Deviations, if any, will need prior permission of the Board. ✓

4.2 The normal practice is transfer on promotion. In individual cases this may give rise to hardship. Hence, this may be left to be decided by the Placement Committee. For this purpose, the grant of senior scale and NFSG will not be treated as promotion.

4.3 Directly recruited / newly promoted Group 'A' officers shall preferably be posted to 'B / C' stations for a minimum of 4 years after completion of training. Officers promoted from Group 'B' to Group 'A' shall, on promotion, be transferred out of the region in which they were previously working, unless the balance service is less than three years. As far as possible, an officer shall spend the first nine years of his service on field posts. During first six years, the officer shall not ordinarily be given a posting outside the department or sent on a deputation. After six years, an officer may be posted to the Board to serve as Under Secretary.

4.4 As far as possible, the senior most Commissioner may be posted as 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.

5. Classification of stations, fixations of tenures and rotation between them.

The various stations where Group 'A' officers can be posted have been categorized as Class 'A', Class 'B' and Class 'C'. Such categorization is based on the twin criteria of revenue collection and the number of Commissioner level posts at a station. (Appendix I)

5.1 All suburbs of metro towns have been clubbed with the respective metro town in this classification.

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

5.3 1) The country will be divided into four areas, viz., East, West, North and South.

The existing CCIT regions will be divided into the four Areas as under:

North	- NWR, Delhi, UP(E), UP(W), Rajasthan
East	- West Bengal, Bihar, Orissa, NER
West	- Gujarat, MP, Maharashtra, Mumbai, Nagpur
South	- AP, Kerala, TN, Karnataka

2) A total posting period of 16 years in a region shall be counted as a 'cycle'. In Mumbai and Delhi regions, since there are no Class 'B' and Class 'C' stations, one cycle will be of 8 years.

Amended
(Ad. vj)

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8 yrs
15 yrs

3) An officer shall not serve for more than one cycle in a region during his entire service up to and including the rank of Commissioner.

4) An officer shall be posted to another region after he has completed one cycle of posting.

5) ~~The maximum tenure at a Class 'A' station in a 'cycle' will be 8 years, the remaining period will be spent in Class 'B' and Class 'C' stations.~~

6) The minimum tenure at Class 'B' + Class 'C' stations in each cycle shall be 6 years.

7) The maximum total tenure in Class 'A' stations during service up to and including the rank of Commissioner shall be 16 years.

8) An officer shall be posted to another 'Area' when he is promoted to the level of Commissioner of Income Tax, provided he has remained in only one 'Area' for 16 years or more till his promotion as Commissioner.

9) The minimum and maximum tenures on a post shall ordinarily be 2 and 3 years respectively.

10) Once posted to another 'area' on promotion as Commissioner, an officer may be posted back to the same 'area' after he has served in 'areas' other than that of long stay for a minimum of 5 years.

11) Exceptions on compassionate / administrative grounds may be made by the Placement Committee.

12) When a certain number of officers are due for moving out of a station to a new station or to new postings in the same station for reason of having completed their tenure, but cannot be so moved due to inadequate number of vacancies available, the officers who have served for longer periods will be moved first as far as possible.

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

14) A stay of more than nine months at 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.

5.4 All postings in the Board and in the Directorates of Vigilance, Systems and Administration, technical posts in the Department of Revenue, Deputations / postings to Central Economic Intelligence Bureau (CEIB), Enforcement Directorate, Authority for Advance Rulings (AAR), Competent Authorities (CAs), Appellate Tribunal for Forfeited Property (ATFP), Income Tax Appellate Tribunal (ITAT) and Settlement Commission shall ordinarily not count towards calculation of stay at a particular station / area but may

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be so counted at the option of the officer. However, an officer who has been on deputation / posting to any one of the aforesaid bodies shall not ordinarily be considered for another deputation / posting to any of the aforesaid organizations without completing the minimum prescribed cooling off. When an officer applies for cadre clearance for a deputation, his previous history of postings will be considered. An officer shall be transferred out of the station in which he was on deputation on his return if he has completed his tenure at that station.

5.5 In order to encourage officers to seek postings at 'C' category stations, the Government shall sanction:

- (a) At least one vehicle for office use at every 'C' category station irrespective of the level of the officer heading the office; and
- (b) 100 per cent housing facility for officers.

5.6 The starting point for computing stay at Class 'A', 'B' or 'C' stations shall be the date of joining at the station.

5.7 Officers who complete 3 years of tenure at National Academy of Direct Taxes, Nagpur, Regional Training Institutes and the Vigilance Directorate, and whose performance has been excellent, will get preference, as far as possible, in posting to stations of their choice. Officers who have served in the North Eastern Region and J&K would get preference in posting to stations of their choice.

6. Sensitive / non sensitive posts

6.1 Posts in Investigation and Central charges are classified as sensitive.

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

7. Postings in the Directorate of the Board

7.1 In the attached Directorates of Vigilance, Systems and Administration, the respective Directors General may propose a panel of names for the consideration of the Placement Committee. Individual officers will be selected by the Placement Committee, which will also indicate their station of posting.

7.2 The maximum length of tenure in these Directorates will be three years, subject to the condition that no officer shall spend more than six years in these Directorates during his entire career.

8. Postings on compassionate grounds

8.1 Cases of postings on medical / compassionate grounds will be examined by the Placement Committee which may refer medical ground cases to Medical Boards, if required.

8.2 In case of working couples, if the spouse of an officer is working outside the Department, posting in the same station as the spouse may be

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of

allowed subject to the instructions issued by the Department of Personnel & Training on this issue. 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. Transfer on administrative grounds / public interest

9.1 Notwithstanding anything contained in this Policy the Government may, if necessary to do so in public interest, transfer or post any officer to any station or post.

9.2 In between two Annual General Transfer exercises, on administrative exigencies, the Placement Committee may shift a Commissioner from one charge to another charge in the same station. The Placement Committee may also shift officers of the rank of Additional Commissioners and below from one region to another.

9.3 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. This restriction will remain in operation till such time as the vigilance matter is not closed. However such an officer shall under no circumstances be posted to a sensitive charge.

10. Petitions against transfers

Grievance petitions from Officers against transfer orders will be considered only after the officer joins the new place of posting and applies through proper channel. It is clarified that petitions shall not confer any right whatsoever on the officers to continue at their previous posts in defiance of Government orders.

11. Earned / Study Leave

An officer under orders of transfer shall be granted Earned Leave or Study Leave only after he has joined his new place of posting. Period under such leave will not count towards cooling off from stay at a station or in an area. Officers who proceed on leave without completing the minimum tenure at a station / area will be posted to the station from which they had gone on leave, on joining after availing leave. Officers who have completed their tenure at a particular station / area before proceeding on Study / Long Leave will report to the office of the Cadre Controlling Chief Commissioner, under intimation to the Board, for further posting as per the policy applicable in their case.

Affected
(Adv)

Annexure- I**Table of tenure in some comparable cases in Kolkata (up to 31.5.2006)**

Name of Officers	Total stay in Kolkata <u>excluding</u> vigilance posting & deputation	Total stay in Kolkata	Total stay in West Bengal Region	Total stay in East Area <u>excluding</u> NER	Tenure in NER
The Applicant	12 years 9 mths	17 yrs 9 mths	21 yrs	21 years	2 yrs 9 mths
Shri Gautam Choudhuri	22 yrs 8 mths	25 yrs 6 mths	27 yrs	27 yrs 4 mths	—
Shri S.Chakravarty	17 yrs 7 mths	24 yrs 10 mths	25 yrs 3 mths	28 yrs 6 mths	—
Shri ALKB Chand	21 years	21 years	21 years	22 yrs 9 mths	—



INCOME TAX DEPARTMENT

Department of Revenue, Ministry of Finance, Government of India

Annexure J

Home F

www.irsofficersonline.org

The Civil List Code Number 77023

First Name Pradip

Middle Name Kumar

Last Name Ray

Date of Birth 2/9/1951

Sex Male

Category General

Marital Status Married

Spouse Details

First Name Suchismita

Middle Name

Last Name Ray

Does your spouse work with Government? no

Does your spouse work with Income Tax Dept.? no

Profession Of Spouse Housewife

Address of Spouse Flat No.10, Block A1, 16 Dover Lane, Kolkata-700 029

Spouse's Civil List Code Number N.A.

Number of Children 2

Name of the child Date of Birth

Suchidipa Ray 29/01/1983

41 53

07

Dipanwita Ray 31/01/1988

Permanent Address Tarabhavan, Gunjabari, Cooch Behar 736 101

State(Permanent) West Bengal

Present Address(Residential) Flat No. 505, I.T. Residential Quarters, Bongaon, Beltol.
Guwahati-781028

State(Residential) Assam

Date of Joining Group 'A' Services 14/7/1977

Batch to which the officer Belongs 1977

Present Designation CIT

Date of Joining present grade 25/6/2001

First Deputation Detail

S.no.	Post Held	Place	From Date	To Date
1	Executive Director (Vig.); Andrew Yule & Co. Ltd.	Kolkata	28/4/1995	27/4/2000

History of Posting

S.no.	Post Held	Post Desc.	Place	From Date	To Date
1	ITO	ITO (Class-1, Probationer)	Mussoorie	14/7/1977	5/11/1977
2	ITO	ITO Class-1, Probationer)	Nagpur	24/11/1977	10/11/1978
3	ITO	ITO, Gr. A, OSD	Kolkata	28/11/1978	28/5/1979
4	ITO	ITO, P-Ward, Distt. V(1)	Kolkata	28/5/1979	23/7/1980
5	ITO	ITO, B-Ward, Survey Cir.	Kolkata	23/7/1980	30/7/1980
6	ITO	ITO, G- Ward, Survey Cir.	Kolkata	30/7/1980	9/6/1981
7	ITO	ITO, A-Ward	Cooch Behar	12/6/1981	28/8/1984
8	ADIT	AD(Trg)	Nagpur	6/9/1984	2/6/1986
9	ITO	ITO, Insp. Divn.	Delhi	4/6/1986	26/12/1986

Affected
(Adv)

42 54

89

10	IAC	IAC, Asstt., Central, RG- V & IAC/DC (JUDL) (Central)	Delhi	26/12/1986	23/5/1988
11	Deputy CIT	OSD	Kolkata	26/5/1988	22/6/1988
12	Deputy CIT	DCIT, Spl. R- 16	Kolkata	22/6/1988	15/5/1989
13	Deputy CIT	DCIT, R-20	Kolkata	15/5/1989	11/5/1990
14	Deputy DIT	DDIT (Prosecution)	Kolkata	18/6/1990	17/9/1991
15	Deputy CIT	DCIT(HQ.) (Vig.)	Kolkata	17/9/1991	19/1/1994
16	Deputy CIT	DCIT, R-7	Kolkata	19/1/1994	28/4/1995
17	Addl. CIT	OSD	Kolkata	6/6/2000	4/8/2000
18	Addl. CIT	ADDL.CIT, R-7	Kolkata	4/8/2000	25/6/2001
19	CIT	CIT(A), III	Kolkata	25/6/2001	22/8/2002
20	DIT	DIT (Exemption)	Kolkata	23/8/2002	22/8/2003
21	CIT	CIT-I	Guwahati	25/8/2003	1/3/2005

Educational Qualification

S.no.	Name of the Course	Name of the College/University	Time Period	Subjects
1	Higher Secondary	Jenkins School, Cooch Behar, WB Board of HS Education	1967	English, Bega Economics, Lo Sanskrit
2	B.A. (Hons.)	Ramkrishna Mission Residential College, Narendrapur, Calcutta University	1970	Eng. Literature (I
3	M.A.	Calcutta University	1974	Eng. Lit.

Training Details

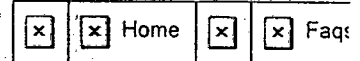
S.no.	Name of the Training	Period	Place	Training Region
1	Management & Investigation Course	15-06-1987 to 17-07-1987	Nagpur	India
2	CVO's Training Course	08-01-1996 to 12-01-1996	Delhi	India
3	Capital Market Course	07-10-1996 to 11-10-1996	Kolkata	India
4	Seminar for CsIT (A)	26-09-2001 to 28-09-2001	Nagpur	India

Attested
(Adv.)

43 55

Annexure K

Department of Revenue, Ministry of Finance, Government of India



90

The Civil List Code Number 75036

First Name Sumohan

Middle Name

Last Name Chakravarty

Date of Birth 2/9/1948

Sex Male

Category General

Marital Status Married

Spouse Details

First Name Tanusree

Middle Name

Last Name Chakravarty

Does your spouse work with Government? no

Does your spouse work with Income Tax Dept.? no

Profession Of Spouse Housewife

Address of Spouse 30/C, Sreemohan Lane, Kolkata - 700 026.

Spouse's Civil List Code Number

Number of Children 2

Name of the child Date of Birth

Devlina Chakravarty 14/09/1984

Devpriya Chakravarty 27/07/1990

Permanent Address

30/C, Sreemohan Lane, Kolkata - 700 026.

State(Permanent)

West Bengal

A. K. Das
(A. K. Das)

44 56

al

Present Address(Residential) 30/C, Sreemohan Lane, Kolkata - 700 026.
 State(Residential) West Bengal
 Date of Joining Group 'A' Services 16/7/1975
 Batch to which the officer Belongs 1975
 Present Designation CIT
 Date of Joining present grade 21/6/1999

First Deputation Detail

S.no.	Post Held	Place	From Date	To Date
1	CVO, Hindusthan Paper Corporation.	Kolkata	28/4/1995	20/6/1999

History of Posting

S.no.	Post Held	Post Desc.	Place	From Date	To Date
1	ITO	Probationer [UT]	Mussorie	16/7/1975	23/11/1975
2	ITO	Probationer	Nagpur	24/11/1975	19/11/1976
3	ITO	Assessment	Jalpaiguri	19/11/1976	2/5/1977
4	ITO	Assessment	Kolkata	2/5/1977	4/3/1985
5	AAC	Appeal	Bhagalpur	4/3/1985	25/7/1986
6	AAC	Appeal	Muzaffarpur	25/7/1986	10/12/1987
7	Deputy CIT	Headquarters	Patna	10/12/1987	2/6/1988
8	Deputy CIT	Sr.Ar.ITAT	Kolkata	2/6/1988	1/9/1989
9	Deputy CIT	Range Administration	Kolkata	1/9/1989	26/6/1991
10	Deputy CIT	Headquarters	Kolkata	26/6/1991	2/7/1993
11	Deputy CIT	Range Administration	Kolkata	2/7/1993	27/5/1994
12	Addl. DIT	Investigation	Kolkata	27/5/1994	28/4/1999
13	CIT	Appellate	Kolkata	21/6/1999	29/6/2001
14	CIT	DIT [Vig], East Zone.	Kolkata	29/6/2001	1/4/2002

Educational Qualification

S.no.	Name of the Course	Name of the College/University	Time Period	Subject
1	M.A.	Kolkata University	1968-1970	Modern History
2	B.A. (Hons)	Maulana Azad College, Kolkata.	1965-1968	History (Ancient)

Attested
(CAW)

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92

Training Details

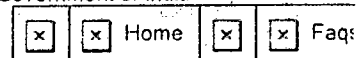
S.no.	Name of the Training	Period	Place	Training Region
1	Foundational Course	4 months [1975]	Mussorie	India
2	Professional Course	12 months [1975-1976]	Nagpur	India
3	Refresher Course	6 weeks [1987]	Kolkata	India
4	Middle Management Course	1 week [1992]	Nagpur	India
5	Senior Management Course	3 days [2000]	Nagpur	India

A. H. Reddy
(Actg)

46 58

Annexure L

Department of Revenue, Ministry of Finance, Government of India



The Civil List Code Number 77031

First Name ADHAR LAL

Middle Name KANAN BIHARI

Last Name CHAND (A.L.K.B.CHAND)

Date of Birth 29/3/1951

Sex Male

Category General

Marital Status Married

Spouse Details

First Name SMRITI

Middle Name

Last Name CHAND

Does your spouse work with Government? no

Does your spouse work with Income Tax Dept.? no

Profession Of Spouse Housewife

Address of Spouse C/o A.L.K.B.Chand Commissioner of Income-Tax(Appeals)
Bhawan SAMBALPUR ORISSA-768004

Spouse's Civil List Code Number Not Applic

Number of Children 2

Name of the child Date of Birth

Miss Ruchira Chanda 12/04/1981

Master Arijit Chanda 28/04/1985

Permanent Address

House No-VII-H-89 Sailasree Vihar BHUBANESWAR-75101

47 59

97

State(Permanent)

Orissa

Present Address(Residential)

Office of Addl.DIT(Inv.) J.M.Colony Budharaja SAMBALPUR
ORISSA

State(Residential)

Orissa

Date of Joining Group 'A' Services 10/11/1975

Batch to which the officer Belongs 1977

Present Designation

CIT

Date of Joining present grade

25/6/2001

History of Posting

S.no.	Post Held	Post Desc.	Place	From Date	To
1	ITO	U.T.	Nagpur	26/11/1977	10/11
2	ITO	Salary Circle	Kolkata	22/11/1978	30/4/
3	ITO	Distt.-III(2)- O Ward	Kolkata	1/5/1979	30/5/
4	ITO	Distt.III(2)-A Ward	Kolkata	1/6/1980	30/6/
5	ITO	Central Circle-I	Kolkata	1/7/1982	30/4/
6	ADIT	Training	Nagpur	4/5/1983	29/12
7	IAC	Assessment	Kolkata	31/12/1986	31/3/
8	Deputy CIT	Special Range	Kolkata	1/4/1988	10/5/
9	Deputy CIT	Exemption	Kolkata	10/5/1991	27/7/
10	Deputy DIT (Invest.)	Unit-VII & Admn.	Kolkata	27/7/1992	31/1/
11	Addl. DIT (Invest.)	Do	Kolkata	1/2/1994	5/6/
12	Addl. CIT	Range-2	Kolkata	5/6/1995	10/7/
13	Addl. DIT	Training (R.T.I.)	Kolkata	11/7/1997	25/6/
14	CIT	Appeals-V	Kolkata	25/6/2001	2/9/
15	CIT	Appeals	Sambalpur	3/9/2003	27/2/

Educational Qualification

S.no.	Name of the Course	Name of the College/University	Time Period	Subje
1	M.A.	Delhi University	1974	Economic International
2	B.A.(Hons.)	Utkal University	1972	Econor
3	First Year B.A.	Utkal University	1970	Economics, Maths., Sa Engli
4	Pre- University Science	Utkal University	1969	Physics, Ch Maths., E

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as

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H.S.C. Examn.

Board of Secondary
Education, ORISSA

1968

Science, Math
Studies, E
Oriya, Sans

Training Details

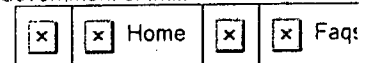
S.no.	Name of the Training	Period	Place	Training Region
1	Course on Salary Assessment	3 Days; May 1979	R.T.I., Kolkata	India
2	Updating Course	5 Days; May 1980	R.T.I., Kolkata	India
3	Course on Scrutiny Assessment	3 Days; June 1981	R.T.I., Kolkata	India
4	Updating Course	5 Days; May 1982	R.T.I.; Kolkata	India
5	Management Development Programme	5 Days; Sept. 1982	R.T.I.; Kolkata	India
6	Executive Development Programme	5 Weeks; October 1984	N.A.D.T.; Nagpur	India
7	Vigilance Course	1 Week; August 1985	N.A.D.T.; Nagpur	India
8	Training of Trainers	12 Weeks; April to July 1987	University of Manchester; U.K.	Abroad
9	Taxation of Non-Residents	3 Days; Sept. 1989	R.T.I.; Kolkata	India
10	Budget Analysis	1 Day; July 1992	R.T.I.; Kolkata	India
11	Computer Application in CIB	1 Week; February 1995	A.S.C.I.; Hyderabad	India
12	Course on Capital Market	1 Week; July 1995	U.T.I. Institute; Mumbai	India
13	Budget Analysis	1 Day; July 1996	R.T.I.; Kolkata	India
14	Course on Computer Application	3 Days; August 1998	o/o CCIT, Kolkata	India
15	Attachment with Inland Revenue Service	1 Week; June 1999	Singapore	Abroad
16	Orientation Course for CIT (appeals)	3 Days; Sept. 2001	N.A.D.T.; Nagpur	India

Altered
(Adm)

49 61

Annexure ^{ab} M

Department of Revenue, Ministry of Finance, Government of India



The Civil List Code Number. 74021

First Name Gautam

Middle Name

Last Name Choudhuri

Date of Birth 8/11/1950

Sex Male

Category General

Marital Status Married

Spouse Details

First Name Jonaki

Middle Name

Last Name Chowdhuri

Does your spouse work with Government? yes

Does your spouse work with Income Tax Dept.? no

Profession Of Spouse Reader in Physics in a govt. college in Kolkata

Address of Spouse Same as mine

Spouse's Civil List Code Number NA

Number of Children 0

Altered
(Adm)

Permanent Address 16A Jhill Road Kolkata 700075

State(Permanent) West Bengal

Present Address(Residential) Flat no. 8, Block A-I 16 Dover Lane Kolkata 700

State(Residential) West Bengal

50 62

07

Date of Joining Group 'A' Services 21/7/1974
 Batch to which the officer Belongs 1974
 Present Designation CIT
 Date of Joining present grade 23/9/1997

First Deputation Detail

S.no.	Post Held	Place	From Date	To Date
1	Chief Vigilance Officer/ Executive Director(Vig),	Kolkata	16/11/1994	22/9/1997

History of Posting

S.no.	Post Held	Post Desc.	Place	From Date	To Date
1	ITO	Probationer	Mussorie	21/7/1974	8/11/1
2	ITO	Training	Nagpur	20/11/1974	11/11/1
3	ITO	OSD	Kolkata	22/11/1975	19/12/1
4	ITO	Addl. A ward, Dist- IIIA	Kolkata	19/12/1975	30/4/1
5	ITO	H-ward, Comp. Dist-I	Kolkata	1/5/1976	30/5/1
6	ITO	B-ward, Comp. Dist-I	Kolkata	30/5/1979	20/7/1
7	ADIT	Investigation	Kolkata	20/7/1981	28/11/83
8	IAC	Range Burdwan	Burdwan	28/11/1983	10/6/1
9	AAC	Moradabad	Moradabad	18/6/1985	18/1/1
10	Deputy CIT	Bareilly	Bareilly	21/1/1988	3/6/1988
11	Deputy CIT	OSD	Kolkata	13/6/1988	17/6/1
12	Deputy CIT	Range-10 Hqrs. Admn. (Subs Post)	Kolkata	17/6/1988	21/12/1
13	Deputy CIT	Sr.ARITAT Dec.88 to Jun91	Kolkata	21/12/1988	8/5/1
14	Deputy CIT	Range-III (Central)	Kolkata	8/5/1992	14/6/1994
15	Deputy DIT	Inv. Ranchi	Ranchi	27/6/1994	10/11/1
16	CIT	Appeals-I	Kolkata	23/9/1997	25/6/2
17	CIT	WB-IV	Kolkata	25/6/2001	20/7/2
18	CIT	CIB	Kolkata	20/7/2001	8/10/2
19	CIT	CO	Kolkata	8/10/2003	21/1/2
20	CIT	CIB	Kolkata	21/1/2004	29/1/2
21	CIT	CO	Kolkata	29/1/2004	1/2/2

Altered
 (Adv)

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Educational Qualification

S.no.	Name of the Course	Name of the College/University	Time Period	Subje
1	M.Sc.(Physics)	Jadavpur University	1972	Pure Ph
2	B.Sc(Hons.)	Jadavpur University	1970	Physics(I
3	Higher Secondary	W.B. Board of Secondary Education	1967	Science s
4				
5				
6				

Training Details

S.no.	Name of the Training	Period	Place	Training Region
1	Course for AACs	One week, Dec. 1985	RTI, Kolkata	India
2	Management & Inv. course	Five weeks, Nov - Dec, 1986	RTI, Lucknow	India
3	Course on formulation & Management of Taxation Sys	3.7.91 to 13.7.91	NADT, Nagpur	India
4	Training course for CVOs	20.2.95 to 24.2.95	New Delhi	India
5	Course on Information Technology	27.7.98 to 31.7.98	NADT, Nagpur	India

A Hatched
(Adv)

64 64

Annexure N

P K Ray

Commissioner of Income-tax,
Guwahati-I, Guwahati

29

Saikia Commercial Complex,
Sreenagar, G S Road,
Guwahati 781 005

No. PKR/PER/CIT/GHY-I/2006-07

Dated, the 5th June, 2006

To
The Chairperson,
Central Board of Direct Taxes,
North Block,
New Delhi 110 001.

[Through Chief Commissioner of Income-tax, Guwahati]
Sub: Representation against transfer from Guwahati to Varanasi – Code
No. 77023 – Matter regarding –

Madam,

I beg to invite your kind attention to CBDT's Order No. 67 of 2006 (F.No. A-22011/3/2006-AD.VI) dated 31.05.2006, transferring me as CIT, Varanasi, and wish to lay down the following facts for your kind consideration.

2. I joined as CIT, Guwahati-I in the North-Eastern Region (NER) on 25.08.2003 in obeisance to CBDT's Order No.121 of 2003 dated 05.08.2003. Having completed a stay of 2 years and 9 months (3 financial years) in the NER, I was eligible for transfer to a place of my choice in accordance with the extant policy of the Government of India communicated under GI MF OM No. 20014/3/83-E.IV dated 14.12.1983 read with subsequent other OMs (copy enclosed).

3. Recognizing the hardships of an NER posting, the Central Government has fixed the tenure in NER at 2 years and has also stipulated that a Central Government employee, on completion of the 2-year tenure in the NER, should be given a posting of his/her choice to the extent possible.

4. Accordingly, in my representation dated 04.01.2006 as well as in the transfer option form dated 21.02.2006 (copies enclosed) I had requested for a posting in Kolkata where my family resides. The grounds of my ailments and my children's education were also mentioned in the representation as well as in the transfer option form. My family (consisting of my wife and two unmarried daughters) is not in a position to move away from Kolkata on account of my daughters' education. While I have been living alone in Guwahati for the last 3 years, silently suffering from diabetes and glaucoma, my wife who is also not well has been finding it difficult to manage all the family problems all by herself. My younger daughter has to be shortly admitted in some

Affected
(Adv)

academic or professional course in Kolkata depending on how she fares in her Higher Secondary & Joint Entrance Examinations.

5. Apart from Kolkata, I had not given any other option, because I am entitled to getting a posting to the place of my choice. Alternatively, I had implored that I should be retained in Guwahati for some time more if my request could not be acceded to for the time being. I did so precisely for the reason that a transfer to a third station would take away the roof over the heads of my wife and two daughters and expose them to great hardships. I have retained my Government accommodation in Kolkata under the extant rules permitting a Central Government employee posted in NER to do so.

6. I am frustrated to see that 28 Commissioners have been transferred to Kolkata from other stations and still I have not been accommodated. Apart from Ms Bharati Mandal (74047) who came to Guwahati on transfer in 2003 along with me, no other officer has a greater claim than I for a posting in Kolkata in view of the extant Government of India decisions referred to above. This position is also supported by the Gauhati Bench of Central Administrative Tribunal which took objection to the posting of one Shri Sudhir Chopra, Joint Director, Defence Estates, to Agra, disregarding his choice for posting in Delhi (enclosed copy of CCIT Guwahati's letter dated 17.03.2005 may kindly be seen). My posting at Varanasi is also at variance with the Transfer Policy of the Department (Para 5.7).

7. Excluding a total tenure of 5 years on a vigilance assignment in a PSU, my effective stay at Kolkata in the Department has been for a period of 12 years and a few months. Shri Sumohan Chakravarty (75036) and Shri A L K B Chand (77031) who have spent longer periods in Kolkata and in the East Zone have been accommodated in Kolkata after a stint of only one year at Nashik and Rajkot respectively. There are other officers in Kolkata who have not been disturbed even after having spent longer periods in Kolkata and in the East Zone. While I appreciate the Board's concern for the personal problems of many officers on medical grounds as well as on the ground of children's education, I beg to say that I do not deserve any less compassion on the same grounds as stated in para 4 above. More importantly, my case is covered by the Government of India decisions. I believe that the above position escaped the attention of the Board through inadvertence.

8. In view of the circumstances narrated above, I request your honour to kindly render justice to me by cancelling my transfer order as CIT, Varanasi and accommodating me in any post in Kolkata, for which act of grace and kindness I shall ever remain grateful to you.

Encl: As above

Yours faithfully,

(P K Ray)

Commissioner of Income-tax, Guwahati-I,
Guwahati

7/c



Affectad
(Adv)

Government of India::Ministry of Finance

Department of Revenue

OFFICE OF THE CHIEF COMMISSIONER OF INCOME-TAX:

"Saikia Commercial Complex"

2nd Floor: "Sreenagar": G.S.Road: Guwahati-781005**ORDER**Dated Guwahati the 9th June, 2006

ESTABLISHMENT ::: :: GAZETTED

In pursuance of the Central Board of Direct Taxes, New Delhi's Order no. 66, 67 & 68 of 2006 (F. No. A-22011/3/2006-AD.VI) dated 31st May, 2006, following Commissioners of Income-tax (UOT) shall handover their respective charges to the Commissioners of Income-tax as mentioned against their names, positively on or before 9th June, 2006 and join their (respective) new postings in accordance with the said order of the Board.

1. **Smt. Bharati Mandal**
DIT(Inv.), NER, Guwahati

- **Shri T. Hangzo**, CIT(CIB) Under Order of Posting as DIT(Inv.), NER, Guwahati. He shall hold the charge of CIT(CIB) as additional charge till a regular incumbent is posted there after taking over the charge of DIT(Inv.), NER, Guwahati from Smt. Bharati Mandal, who stands transferred as CIT-V, Kolkata.

2. **Shri L.C. Joshi**
CIT, Dibrugarh

- Shri H. Raikhan, CIT, Shillong will hold the charge of CIT, Dibrugarh in addition to his own.

3. **Shri P.K. Ray**, CIT, Guwahati-I

I am at Kolkata from 05.06.06. S/Shri S.K. Sinha and P.K. Chopra posted as CCIT, Shillong and CCIT, Guwahati respectively are yet to take over their respective new assignments. No one has been posted in place of Shri T. Hangzo, CIT(CIB), Guwahati who is to take over the charge of office of DIT(Inv.), Guwahati from Ms. Bharati Mandal proceeding to Kolkata. CsIT posted as CIT, Dibrugarh and CIT(CO), Guwahati are yet to convey their expected dates of assumption of assigned charges.

Shri P.K. Ray currently holding charge of office of CIT, Guwahati-I has completed a quarter short of 3 (three) years in the NER. He is entitled to a posting of his choice in terms of Government of India's decisions communicated under GI, MF, O.M No. 20014/3/83-E IV dated 14.12.83 and subsequent instructions on the subject. While taking over charge in NER on 25.08.03 he left behind his family comprising of wife and two daughters, both of whom are yet to complete their studies. Shri Ray is a patient of Diabetes and Glaucoma. He had served in 'B' and 'C' class cities in the past. Option exercised by him was retention in the NER or posting at Kolkata if covered by A.G.T. There are, till date unfilled vacancies in West Bengal in the cadre of Commissioners. Transfer of Shri Ray to Varanasi ignoring the overriding instructions of the Government of India thus appears to be an inadvertent omission.

In view of the position explained above, I am inclined to the view that in the interest of work as also of justice in the case of Shri Ray it is expedient to postpone his release from the NER till receipt of further advice from the Board.

Representation submitted by Shri Ray is proposed to be withheld till then.

The order is effective from 09.06.06.

Sd/-

(Dilip K. Das)

Chief Commissioner of Income-tax
Guwahati.

Contd...Pg.2


Commun
letter
in answer
from

-(2)-

Memo No. E-166/CIT's Posting/CCIT/GHY/2001-02/3225-237

dated 09.06.2006.

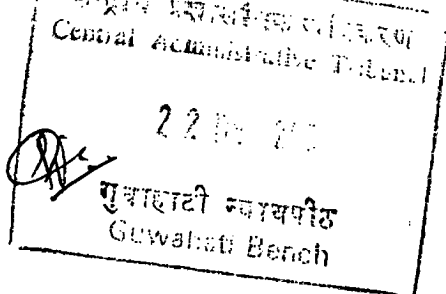
- Copy to :
1. The Deputy Secretary, Ad. VI, CBDT, North Block, New Delhi- 110 001.
 2. The CCIT, Shillong/DGIT, East, Kolkata
 3. The ZAO, CBDT, Shillong.
 4. The Field Pay Unit, Guwahati/Dibrugarh.
 5. The AD(OL), Guwahati for Hindi version.
 6. Officers concerned.
 7. Shri P.K. Dev Varman, CIT(CO), Guwahati.
 8. The General Secretary, IRS/ITGOA/ITEF, North Eastern Region.



[Dibyendu Kumar Deb]

Asstt. Commissioner of Income-tax, Hqrs.(Admn.)
For Chief Commissioner of Income-tax, Guwahati.

Amrta
28
Adv.



103
Filed by
through
D. P. Bhaskar
অপার মাফকর মাফকর (মুহুরা)
ACAI. Commissioner of Income Tax (Hqrs.)
কর্তা মাফকর মাফকর মাফকর
For Chief Commissioner of Income Tax (Hqrs.)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH AT GUWAHATI

D.A. NO. 181 OF 2006

Sri P.K. Ray

...Applicant

-Versus-

Union of India & Ors.

....Respondents

The written statements on behalf of
the Respondents.

WRITTEN STATEMENT OF THE RESPONDENTS

MOST RESPECTFULLY SHEWETH:

1. That with regard to the statement made in paragraphs 1 of the instant application the answering Respondents beg to state that there is no tenure of posting in North Eastern Region in the transfer policy applicable to Indian Revenues Service for brevity IRS. Therefore, the claim of the applicant is not tenable.

2. That with regard to the statement made in paragraphs 2 and 3 of the instant application the answering Respondents have no comment.

3. That with regard to the statement made in paragraph 4.1 and 4.2 of the instant application the answering Respondents beg to state that those matter all of records, hence no comment.

Contd...P/-

4. That with regard to the statement made in paragraph 4.3 of the instant application the answering Respondents beg to state that the applicant belongs to Indian Revenue Service (hereinafter for brevity IRS). For IRS the competent authority in consultation with IRS Association has formulated a transfer policy keeping in view the functional and administrative requirements of the Department. The said policy was notified on 26th April '05. There is no provision for tenure posting for IRS officials in NER. However, para 5.7 of the Policy provides that officers who have served in NER and J & K would get preference in posting to stations of their choice.

5. That with regard to the statement made in paragraph 4.4 of the instant application the answering Respondents beg to state that these are matters of record, hence no comment.

6. That with regard to the statement made in paragraph 4.5 and 4.6 of the instant application the answering Respondents beg to state that the applicant has done 22 years stay in East Area consisting of Bihar, WB and NER. Out of this, his stay in Class-A was 19 years. As per para 5.3.7, the maximum total tenure in Class-A stations during service upto and including the rank of Commissioner is 16 years. Further, para 5.3.8 provides for a maximum stay of 16 years in an area. Thus

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having done more than 16 years in Class- A stations as well as in Eastern area, the applicant is liable to be transferred out of East area and posted to B & C stations in another area.

During AGT, 2006, the Placement Committee followed the following criteria for transfer/posting of officers in the grade of CIT:

- 1) Officers who are to retire within next 2 years are not to be shifted except when the officer himself requests for a change.
- 2) Those who are in the zone of consideration and are likely to be promoted to the grade of CCIT during the year 2007 are not to be transferred as they will be transferred on promotion during the current year/2007.
- 3) Consideration of vigilance aspect against officers are to be taken into account while deciding their transfer/posting.
- 4) As far as possible, officers being transferred/retained in relaxation to transfer/placement policy will be given non assessment/exempted charge.
- 5) As far as possible, administrative changes have been given keeping in mind the continuity of the officer during the current financial year so that revenue collection efforts are not disrupted midway during the year due

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to promotion/transfer of officer. It was kept in mind that important high revenue yielding charges are preferably manned by officers who are not in the zone of consideration for promotion as CCIT during the year.

6) It was noted that there is a mismatch between the numbers of CIT post in Class-A stations and those in the Class B & C stations put together. While 418 posts are in Class-A stations, only 280 posts falls in Class B & C stations put together. Given the trend over the years, the officers continue in Class-A station for longer period. Therefore, not being eligible for a posting in Class A station now, the number of posts in Class B & C stations available are less than the number of posts required for placing such officers who cannot be posted to Class A station. This has been kept in mind while deciding the transfer/placement of officers for approval of the competent authority.

Having completed 22 years of stay in East Area and 19 years in Class A, the applicant was liable to be transferred out of NER. His request for retention at Guwahati or posting at Kolkata was not valid. Further he was due for transfer during AGT, 2005 but was deferred for AGT, 2006.

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The placement Committee after considering the case of the applicant recommended for his transfer to Varanasi, a station nearer to East Area.

7. That with regard to the statement made in paragraph 4.7 of the instant application the answering Respondents beg to state that in view of the facts and circumstances mentioned in the paragraph 6, the request of the applicant for retention at Guwahati or Kolkata is not admissible. As such the order is not discriminatory and illegal.

8. That with regard to the statement made in paragraph 4.8 of the instant application the answering Respondents beg to state that during AGT, 2005, more than 300 officers in the grade of CIT were due for transfer as per transfer policy. Transfer of large number of officers would have resulted in mass dislocation and revenue collection affected. Therefore, the list of officers due for transfer was staggered and those deferred during AGT, 2005 have been transferred now. The applicant having completed his stay in Class A stations as well as East area was in fact due for transfer during AGT, 2005 and has to be deferred for AGT, 2006. He has, therefore, been transferred during AGT, 2006 to Varanasi, a place nearer to East area according to availability of vacancy as the options given by him was invalid.

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As regards posting of Shri P.K. Dev Verman, from CIT (CO), Guwahati to CIT-1, Guwahati, the officer has been locally shifted and not transferred out in view of the fact that he is in the zone of consideration for promotion as CCIT as also his retirement in 2008. Further, Shri A.K. Sinha has been transferred from Mumbai to Guwahati as per his request based on serious illness of his wife. Therefore, the allegations made by the applicant in this para baseless and strongly refuted.

9. That with regard to the statement made in paragraph 4.9 of the instant application the answering Respondents beg to state that the applicant has no case for posting to Kolkata on the basis of availability of vacancies. In fact, the applicant having completed more than 16 years in Class-A stations is not eligible for posting to Kolkata. As regards the case of Ms. Bharati Mandal cited by the applicant, she was posted to Kolkata as per her request and keeping in view her retirement in August, 2007 & 82 years old ailing mother, on compassionate ground in relaxation of stay in Class-A station and East Area duly approved by the Govt.

10. That with regard to the statement made in paragraph 4.10 of the instant application the answering Respondents beg to state that the applicant has no claim for posting in Kolkata merely on the ground of availability of vacant posts at that station. Having completed

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his stay in Class-A station and East area, he is not eligible to be posted neither in Class A station nor in East Area. By raising such issues, he is attempting to perpetuate his stay in NER/Kolkata.

11. That with regard to the statement made in paragraph 4.11 of the instant application the answering Respondents beg to offer no comments as the case cited by the applicant is not applicable in the instant case in view of the guidelines of AGT. It is, however, submitted that the applicant belongs to IRS with all India transfer liability. It is further submitted that when a person accepts a job, which is transferable and transfer is incidental to the service, the order of transfer should not be interfered with in the normal circumstances. The applicant belongs to Indian Revenue Service. As per rule 13 of the IRS Rules, such officers have All India transfer liability. Therefore the applicant is liable for transfer anywhere within India. Even if the guidelines provide for a particular period, the transfer can be effected before that period. Nobody has a right to continue at a particular place and personal hardship is not a ground for avoiding transfers.

12. That with regard to the statement made in paragraph 4.12 of the instant application the answering Respondents beg to state that the applicant has given his options for posting to Kolkata and Guwahati. He was not eligible for posting either to Kolkata or retention

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at Guwahati. Therefore, he has been transferred to Varanasi, a place nearer to East area, as per availability of vacancy.

13. That with regard to the statement made in paragraph 4.13 of the instant application the answering Respondents beg to state that those are untrue, false and incorrect statement and hence denied. The officer quoted by the applicant in this para have been transferred as per transfer policy and on specific compassionate grounds as referred to in the said transfer order.

14. That with regard to the statement made in paragraph 4.14 of the instant application the answering Respondents beg to state that the applicant having been overstayed his tenure in Class A station as well as East area was due for transfer in 2005. He was deferred for transfer during AGT, 2005 and has now been transferred. The options given by him are invalid. Therefore, he has been transferred to Varanasi, as per available vacancy. By citing other cases, the applicant is making an attempt to divert from the main issue and to perpetuate his stay at a particular station/area. Being an IRS Officer, he is liable to be transferred to any place even before completion of his tenure. However, having overstayed in Kolkata or East area he has been transferred during AGT, 2006 whereas he was due for transfer in AGT, 2005. He has no right to continue at a particular station, as personal hardship is not ground for avoiding transfer.

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15. That with regard to the statement made in paragraph 4.15 of the instant application the answering Respondents beg to state that the applicant has in fact defied the orders and approached the Hon'ble Tribunal without availing the avenues as provided in para 10 of the policy. Being a member of the IRS with all India transfer liability, he is liable to be posted to any place in India and there is no violation of article 14 and 16 of the Constitution as cited by him.

16. That with regard to the statement made in paragraph 4.16 of the instant application the answering Respondents beg to state that the transfers were affected vide order dated 31.5.2006 after consideration of options/requests given by each officer. Having a large cadre, it has not been the practice to reply to each individual whose request has not been acceded to.

17. That with regard to the statement made in paragraph 4.17 and 4.18 of the instant application the answering Respondents beg to state that the officers are considered for retention at the station or transferred to a station of their choice on medical/compassionate/educational grounds. The criteria for educational ground are the children studying in 10th or 12th standards. The applicant's daughter having passed Higher Secondary in June, 2006 and now admitted to higher classes is not

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eligible for availing the benefit. By raising these issues in this para, the applicant is making an attempt to perpetuate his stay at Guwahati for another 4 years till his daughter completes her engineering degree. For the sake of arguments, after completing her engineering degree, the application may make another representation to retain himself for some other ground. Therefore, such request does not deserve consideration.

18. That in respect of the statement made in paragraph 4.19 of the instant application the answering Respondents begs to state that these are false and untrue hence denied. The said representation of the applicant was considered during AGT, 2006 but his request was not agreed to.

19. That in respect of the statement made in paragraph 4.20 of the instant application the answering Respondents beg to state that the applicant was neither eligible for transfer to Kolkata nor retention at Guwahati as per transfer policy. Having completed 19 years in A station and 22 years in the East his transfer was due in 2005 itself. Hence transferred to Varanasi. Therefore, the averments made are not admitted.

20. That in respect of the statement made in paragraph 4.21 of the instant application the answering Respondents begs to state that the applicant cannot claim to be retained at a station on the basis of availability of vacancies when he is not eligible for such retention.

21. That in respect of the statement made in paragraph 4.22 of the instant application the answering Respondents begs to state that the cases quoted by the applicant did not have a bearing on his transfer as each transfer has been made on the basis of the criteria fixed by the placement Committee as discussed in reply to para 4.5 & 4.6 above.

22. That with regard to the statement made in paragraph 4.23 of the instant application the answering Respondents begs to state that these are untrue and false hence denied. The applicant has no case to remain at a station just to retain a government accommodation for his family.

23. That with regards to the statement made in paragraph 4.24 of the instant application the answering Respondents have no comments in view of the replies in above paras.

24. That with respect of the statement made in paragraph 5.1 to 5.8 of the instant application the answering Respondents beg to state that as stated in reply to the foregoing paras, the transfer order dtd. 31st May, 2006 has been issued strictly as per transfer policy. There has been no gross violation of the policy as alleged by the applicant. The contention of the applicant that there is no conscious decision to deviate

from the policy is not admitted. The transfer policy 2005 has been notified to facilitate the transfers/postings of IRS Officers. The Transfer policy guidelines are not statutory guidelines and are in the nature of directives to enable transparency in ordering transfers/postings of officers. Order No. 69/2006 has been issued only within the ambit of the transfer policy guidelines and with the approval of the authority competent to order such transfers.

It is further submitted that when a person accepts a job, which is transferable and transfer is incidental to the service, the order of transfer should not be interfered with in the normal circumstances. The applicant belongs to Indian Revenue Service. As per rule 13 of the IRS Rules, such officers have All India transfer liability. Therefore, the applicant is liable for transfer anywhere within India. Even if the guidelines provide for a particular period, the transfer can be effected before that period. Nobody has a right to continue at a particular place and personal hardship is not a ground for avoiding transfers. According to paras 5.3.5. and 5.3.06 of TP 2005 an officer's maximum tenure at Class A in a cycle will be 8 years whereas minimum tenure at Class B & C stations in each cycle is 6 years. Therefore, the applicant cannot claim that he is entitled to remain in a Class A station or Class A stations continuously upto 8 years, without serving a minimum tenure of 6 years in B & C stations.

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It may be seen that there has been no mala-fide in not transferring the officers mentioned in the said list. It is further submitted that as decided by the Apex Court, in the case of Gujarat Electricity Board Vs. Atma Ram Sungomal Poshani, 1989 2 SCC 602, Union of India Vs. S.L. Abbas (1993) 4 SCC 357 and Kendriya Vidyalaya Sangathan Vs. Damodar Prasad Pandey (2004) 12 SCC 299, transfer of a Government servant appointed to a particular cadre of transferable post from one place to the other is an incident and a condition of service. It is necessary in public interest and efficiency in public administration and no Government Servant or employee has any legal right for being posted at any particular place. Further, it is for the appropriate authority to decide transfer of an officer unless the order of transfer is vitiated by mala-fide or is made in violation of any statutory provisions, the court can not interfere with it. While ordering the transfer, the authority has to keep in mind the guidelines issued by the government on the subject. The representations made against such transfers to the appropriate authorities have to be considered, having regard to the exigencies of administration.

As decided by the Apex Court in the State of UP Vs. Goverdhan Lal (2004) 11 SCC 402, any Government servant cannot contend that once appointed or posted in

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a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment, but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing condition of service. Unless the order of transfer is shown to be outcome of a malafide exercise of power or violating of any statutory provision or passed by any authority not competent to do so, an order of transfer cannot lightly be inferred with as a matter of course or routine for any or every type of grievances sought to be made. Even administrative guidelines for regulating transfers or containing transfer policy at best afford an opportunity for redress but can not have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigency of service as long as the official status is not affected adversely and there is no infraction of any career prospect such as seniority, scale of pay and secured emoluments. Further, order of transfer made even in transgression of administrative guidelines cannot be inferred with as they do not infer any legally enforceable right unless any malafide or violation of any statutory provision is proved.

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In the light of above submission, the contention of the application that he did not give the choice for the station where has been posted as one of the three stations for which options were called for is unfounded as exercise of such options does not confer any statutory right on a government servant to claim posting at a particular place or station.

It is further submitted that the Apex Court in State of MP Vs. S.S. Kurev (1195)3 SCC 270 has already decided that the Court or Tribunals are not appellate forums to decide transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the court or tribunal are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by malafide or by extraneous consideration without any factual background or foundation.

Attention of Hon'ble Tribunal is invited to the judgment of the Hon'ble Andhra High Court in R.

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Rama Rao Vs. FCI and others 1992 (6) SLR following the decision of the Apex Court in UOI Vs. H.N. Kirtania. According to this, the Apex Court has categorically held that transfer of a public servant made on administrative grounds or in public interest should not be interfered with unless there are strong or pressing grounds rendering the transfer order illegal on the ground of statutory rules or on grounds of mala fides. It has also been held that when a person accepts a job, which is transferable and transfer is incidental to the service, the order of transfer should not be interfered with in the normal circumstances. The applicant belongs to Indian Revenue Service. As per Rule 13 of the IRS Rules, such officers have All India transfer liability. Therefore, the applicant is liable for transfer anywhere within India. Even if the guidelines provide for a particular period, the transfer can be effected before that period. Nobody has a right to continue at a particular place and personal hardship is not a ground for avoiding transfers. Therefore, the applicant can not claim that he is entitled to remain in a Class A station or in an area even after completing his tenure as prescribed in the transfer policy.

It is therefore, submitted that the transfer order is neither arbitrary nor mala fide and has been passed in true spirit of the policy. The application therefore, deserves to be dismissed.

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The respondent further begs to state that the grounds set forth in the instant application are not good grounds and not tenable in law and hence the instant application is liable to be rejected.

25. That with regard to the statement made in paragraph 6 and 7 of the instant application the answering Respondents have no comment.

26. That with regard to the statement made in paragraph 8 and 9 of the instant application the answering Respondents beg to state that in view of the facts and circumstances mentioned above the applicant is not entitled to any relief or intention relief as prayed for and the instant application is liable to be rejected.

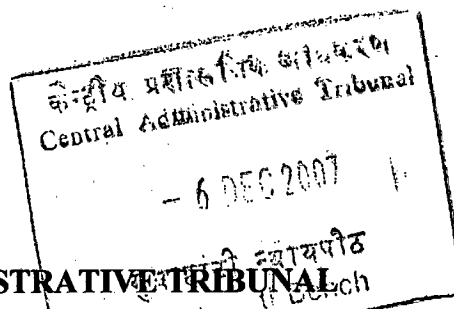
VERIFICATION

I, D. PAUKHOLEN HAOKIP S/o LETKHONSEH HAOKIP
 aged about ⁴⁶ years, R/o BETHHESED, 6 MILE, VIP ROAD, GHY
 District KAMRUP and competent officer of the
 answering respondents, do hereby verify that the state-
 ment made in paras 1 to 26 are true
 to my knowledge and those made in paras _____
 being matters of record are true to my information
 derived therefrom which I believe to be true and the
 rests are my humble submission before this Hon'ble
 Tribunal.

And I sign this verification on this 21st day
 of December 2006 at Guwahati.

D. P. Haokip
 Signature

D. P. Haokip
 अपर आयकर अधिकृत (मुहर्षा)
 Addl. Commissioner of Income Tax (Hqrs.)
 कर्तृ मध्य आयकर प्रायुक्त, गुवाहाटी
 For Chief Commissioner of Income Tax, Guwahati



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

O.A. No. 181 of 2006

Pradip Kumar Ray,
Commissioner of Income-tax, Guwahati-I,
Saikia Commercial Complex,
G. S. Road, Guwahati 781 005

.... Applicant

-Vs.-

Union of India and Ors.

.... Respondents

A Rejoinder to the Written Statement of the Respondents

Filed by the Applicant

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Filed by the applicant
through S.N. Tomuli
Advocate 8/1/07

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI**

O.A. No. 181 of 2006

Pradip Kumar Ray

...Applicant

-versus-

Union of India & Ors

...Respondents

A REJOINDER

TO THE WRITTEN STATEMENT OF THE RESPONDENTS

FILED BY THE APPLICANT

1. That the applicant has gone through the Written Statement of the respondents and has understood the contents thereof.
2. That the correctness of the statements made in para 1 of the Written Statement is denied. The applicant begs to state that the respondents, having misinterpreted the tenure and posting policy for North Eastern Region (NER) referred to in para 1 of the Original Application (OA), are disputing the applicant's prayer on the wrong premise that there is no tenure of posting in NER as per the departmental Transfer Policy formulated in 2005. This statement has no relevance since the Government of India, vide an incentive scheme declared in 1983 for all civilian Central Government employees who are transferred to NER, gave clear instructions not only for fixed tenure posting in NER, but also for choice station posting on completion of the tenure. The national policy for NER, which is a special policy, cannot be ignored by the Central Board of Direct Taxes (CBDT) in the manner sought to be done in the instant case after the applicant has done his tenure in the NER under the said policy.
3. That in reply to the statements made in para 4 of the Written Statement the applicant begs to state that his averments in para 4.3 of the OA have not been answered by the respondents. He begs to state that the departmental transfer policies are ever-changing and have no reasonable permanence, and as such the

Transfer Policy notified on 26.04.2005 does not have retrospective effect. More importantly, so far as transfer and posting in NER is concerned, the transfer policies of all Central Government departments including the Income-tax Department have to be consistent with the Government of India's executive instructions communicated vide GI MF OM No. 20014/3/83-E.IV dated 14.12.1983 followed by various subsequent OMs issued from time to time, which are printed in Appendix 9 at page 540 to 559 of Swamy's Compilation of FRSR, Part-I (Annexure-A to the OA). Thus, so far as the applicant's case is concerned, it is not relevant whether or not the recently formulated Transfer Policy of the respondents has any provisions for tenure posting in the NER. The applicant has done his part after his posting in the NER under the national policy and he cannot be legitimately denied the benefits of the said policy.

It is significant that para 5.7 of the Transfer Policy for the IRS Officers also mandates choice station posting for officers who have served in the NER. The applicant's prayer is for the enforcement of the legitimate benefits under the above policies of the Government of India as well as of the Income-tax Department.

4. That in reply to the statements made in para 6 of the Written Statement the applicant denies the correctness of the averments made by the respondents that he stayed for 25 years in Kolkata and 28 years in East Area. He begs to state that these are not correct and are in fact malicious statements. He begs to refer to para 4.4 of the OA for the factual position which the respondents have accepted as matters of record vide their comments in para 5 of the Written Statement. The applicant begs to state that out of 29 years of service, he spent approximately one and half years in Mussoorie and Nagpur as a probationer. Thereafter, he has worked in Kolkata, Coochbehar, Nagpur, Delhi and Guwahati. As per departmental transfer guidelines, his total stay in Kolkata as on 31.05.2006 is for a period of only 12 years and 9 months. Although the different stints spent by him in Kolkata total up to a period of 17 years and 9 months, a period of 5 years spent by him on deputation to a Public Sector Enterprise under the Ministry of Heavy Industries is to be excluded for counting the total period of stay. The period spent on the first deputation has all along been excluded for counting the stay at a station or a region. The applicant begs to refer to the Departmental Transfer Guidelines dated 09.11.1999 wherein it is stated in para 1 that

‘The period spent by an officer on deputation basis outside the IRS cadre either in Central Board of Direct Taxes in the Department of Revenue or deputation to other Departments/Organisations will be excluded for reckoning the period of stay of 8 years/14 years in a particular Region/Charge.’ (emphasis added)

The applicant again begs to refer to the next Departmental Transfer Policy formulated in 2003. In para 5.6 of the said Transfer Policy it is stated that

‘For counting continuous stay at a station, only the period spent on the first deputation during the service shall be excluded.’ (emphasis added)

Although the excludibility of the deputation period was not clearly spelt out in the Transfer Policy of 2005, the respondents, by an amendment dated 14.11.2006 to the said Policy, have specifically excluded deputation period spent outside the Department for the purpose of counting the tenure in a station or an area. In para 6.2 of the 1st amendment to Transfer Policy 2005 it is clarified that

‘The period of deputation outside the Department shall be excluded for counting towards stay in the ‘station’ or ‘area’ tenure of the officer.’ (emphasis added)

Thus the effective period of the applicant’s stay in the Income-tax Department in Kolkata is for a period of 12 years and 9 months and not 25 years as stated by the respondents in their Written Statement. Moreover, Kolkata was not an ‘A’ category station as per the Transfer Policy of 2003, but was a ‘B’ category station. It was made an ‘A’ category station in the Transfer Policy of 2005. The applicant begs to state that there has been no consistency or reasonable permanence as far as the departmental transfer policies are concerned. There were 4 different transfer policies in the span of last 9 years. Transfer policies were enunciated in 1998, 1999, 2003 and 2005. Divergent criteria were adopted in these policies. For example, the Transfer Policy of 2003 had no concept of ceiling in respect of total stay in ‘A’ category stations, total stay in a region or total stay in an area during the entire service career of an officer. The criterion of transfer as per the Transfer Policy of 2003 was continuous stay, and not total stay, in a station or a region, and there was no bar

against coming back to the old station or region after a cooling-off in some other region. The multiplicity of parameters newly introduced in the Transfer Policy of 2005 as well as the changes effected in categorization of various stations cannot be made retrospectively applicable for the sake of administrative propriety, equity and justice.

As far as his stay in the East area is concerned, the applicant begs to state that the period spent by him in Guwahati cannot be included to count his total area stay, for the conditions of service in the NER, recognized as a difficult area, are governed by the Government of India's policy referred to above, and not by any particular department's in-house guidelines. Even otherwise, the applicant has not spent 28 years in the East Area. The period of his stay in Mussoorie, Nagpur (in two stints) and Delhi cannot by any stretch of imagination be clubbed with his stay in the East Area. The details of every officer's postings are available on the departmental website and hence the misrepresentation of facts is deliberate and motivated. The respondents are making an endeavor to arbitrarily deny the applicant's just cause by reflecting wrong data of his postings. Moreover, there are several other Commissioners of Income-tax who have been accommodated in Kolkata despite having had a much longer stay in Kolkata and East Area than the applicant (as shown later in para 11 of this rejoinder).

A copy of the Transfer Policy formulated in 2005 was enclosed vide Annexure H to the OA. Copies of the Transfer Policies formulated in 1999 and in 2003 are enclosed vide Annexures XA and XB to this rejoinder. A copy of the amendment dated 14.11.2006 to the Transfer Policy of 2005 is enclosed vide Annexure XC to this rejoinder.

5. That in reply to the statements made in para 7 of the Written Statement the applicant begs to reiterate that he cannot be arbitrarily denied the benefits of the Government of India's instructions, when there were clear vacancies in Kolkata at the time of passing the transfer orders on 31.05.2006 and especially when several vacancies still exist in Kolkata.
6. That in reply to the statements made in para 8 of the Written Statement the applicant begs to state that he had never opted for Varanasi and as such could not have been posted there as per the extant instructions of the Government of India under the special scheme for NER. Thus a factual and legal mischief was

done by the respondents by treating the option of the applicant as invalid. As regards the posting of Shri P.K. Dev Varman as CIT, Guwahati-I, and that of Shri A.K. Sinha as CIT(CO), Guwahati, the applicant did not express any grievance in Para 4.8 of the OA, but had merely stated the facts. The attempts of the respondents to justify their transfer orders are, therefore, not relevant and have been made only to divert from the real issue.

7. That in reply to the statements made in para 9 of the Written Statement the applicant denies the correctness of the averments made by the respondents and states that the respondents are wrong in saying that the applicant was not eligible to be posted in Kolkata in view of his alleged completion of 16 years in 'A' category stations. In the first place, para 5.7 of the departmental Transfer Policy regarding service in NER is applicable to the case of the applicant and, more importantly, his case is also covered by the Government of India's special instructions. Secondly, the applicant has not completed a stay of 16 years in category 'A' stations. As explained in para 4 of this rejoinder, his stay in Kolkata was for a period of 12 years and 9 months. He spent a little less than 2 years in Delhi and thus his total stay in 'A' category stations comes to 14 years and 9 months. Thirdly, Kolkata was not at all an 'A' category station as per Transfer Policy of 2003, but a 'B' category station. Lastly, even otherwise, the applicant has been subjected to discrimination, as other officers of the same rank with longer stay in 'A' category stations and in the East Area have been accommodated in Kolkata (as shown later in para 11 of this rejoinder). Thus the denial of choice station posting to the applicant despite vacancies existing in Kolkata was an act of injustice in view of the extant Government of India instructions. This was highlighted in the communication dated 09.06.2006 of the Chief Commissioner of Income-tax, Guwahati, a copy of which has been enclosed with the OA vide Annexure-O. As regards Ms. Bharati Mandal's transfer to Kolkata, the applicant never expressed any grievance and so the respondents' attempts to justify her transfer are not relevant. The applicant begs to state that the cases of other officers cited are only demonstrative of the administrative powers including those of relaxation to which the applicant is equally entitled.
8. That in response to statements made in para 10 of the Written Statement the applicant begs to state that the averments made by the respondents are not correct in view of the facts narrated in para 4 to para 7 of this rejoinder. Still there are existing vacancies in Kolkata and there is no cogent reason as to why

the applicant should not be accommodated. In the interim order dated 27.07.2006 the Hon'ble Tribunal had been pleased to observe that during the pendency of the application 'if the respondents are considering the applicant's case for choice posting, they are at liberty to decide accordingly.' Thereafter, the CBDT passed two orders on 14.08.2006 and 06.10.2006 accommodating 13 and 4 officers respectively in their places of choice, but did not consider the applicant's case. The respondents are deliberately acting de hors the Government of India's special guidelines for transfer and posting in and out of the NER.

By the above two orders the respondents reversed their earlier orders (Order No. 67 dated 31.05.2006 which is the subject-matter of the present OA) qua the following officers and accommodated them in their places of choice:

Sl. No	Name	From	Transferred to vide Order dated 31.05.06	Transferred back vide Orders dated 14.08.06/06.10.06
1.	Shri S.K. Sahu	DIT(Vig), Chennai	CIT(A) II, Bhubaneswar	CIT-III, Chennai
2.	Shri S. Rajguru	CIT(A)II, Cochin	CIT, Jamnagar	CIT(A)II, Cochin
3.	Shri S.S. Kannan	CIT(A)I, Chennai	CIT, Jalpaiguri	CIT(A)I, Chennai
4.	Shri S. Gopala krishna	CIT, Salem	CIT(C)II, Kolkata	CIT(A)I, Bangalore
5.	Smt Banani Ghosh	CIT XV, Kolkata	CIT(CIB), Bhubaneshwar	CIT XV, Kolkata
6.	Shri G.M. Belagali	CIT(A), Belgaum	CIT(A)I, Mysore	CIT(A) II, Bangalore
7.	Shri G.D. Chandorkar	CIT(A)XX, Mumbai	CIT II, Coimbatore	CIT(Audit), Mumbai
8.	Shri S.K. Sen	CIT(A), Jamshedpur	CIT, Muzaffarpur	CIT(A), Jamshedpur
9.	Smt. Meeta Nambiar	DIT(ITSC), Delhi	CIT(A)IV, Kolkata	CIT(OSD), ITAT, Delhi
10.	Smt.Sangeeta Gupta	CIT(ITAT) II, Delhi	CIT(ITAT), Lucknow	CIT(A) XIX, Delhi

The very fact that the respondents have not considered the case of the applicant despite the observation made by the Hon'ble Tribunal in its interim order dated 27.07.2006 shows that they are working with closed mind to deprive the applicant of the benefit of choice station posting which is an incentive assured by the Government of India for service in the NER under the special scheme, and is also incorporated in the departmental policy.

Copies of the Transfer Orders dated 14.08.2006 and 06.10.2006 are enclosed herewith vide Annexure XD and XE.

9. That in reply to the statements made in para 11 of the Written Statement the applicant begs to state that the respondents have avoided to offer any comments on OA No. 487/2001 in the case of Shri Tapan Kumar Chakraborty v. U.O.I & Ors, where the subject matter of choice station posting has been decided by this Hon'ble Tribunal. In that case the Hon'ble Tribunal set aside the posting of the applicant (Shri Chakraborty) to Delhi in violation of the transfer guidelines and directed the respondents to post him at Kolkata. In the present case also the respondents have violated the Government of India instructions as well as even their own transfer guidelines which allow choice station posting to officers who have served in NER. The respondents have merely stated that IRS officers have all-India transfer liability and that personal hardship is no ground for avoiding transfers. Such general comments are not relevant in the circumstances of the present case which is covered by the special incentive scheme assured by the Government of India and also under the departmental guidelines.

The applicant begs to state that incentives such as fixed tenure of posting, choice station posting on completion of the tenure, special (duty) allowance, annual LTC, etc. assured by the Government of India cannot be denied or refused by any Department because they constitute compensatory rights for the concerned employee in view of the admitted hardships. The Income-tax Department has been allowing the other incentives of special (duty) allowance, annual LTC, etc. to all employees who are posted from other regions to NER on transfer. Thus there is no reason why the benefits of fixed tenure and choice station posting on completion of tenure should be denied by making repeated references to the recently-made, ever-changing, in-house transfer policy of the Department which also incorporates the said incentive of choice station posting for officers having worked in NER.

10. That in reply to the statements made in para 12 of the Written Statement the applicant begs to state that the respondents have evaded to answer the contention made in para 4.12 of the OA. In para 4.12 of the OA the applicant had referred to the fact that the incentive of choice station posting for officers having served in the NER had been incorporated even in the newly formulated Transfer Policy for the IRS Officers vide para 5.7 of the Policy. The respondents violated para 5.7 of their own policy, and with a view to misleading the Hon'ble Tribunal has given a vague reply seeking to hide its arbitrary action.

11. That in reply to the statements made in para 13 of the Written Statement the applicant begs to state that the cases cited in Para 4.13 of the OA are indicative of the favouritism under colour of the Departmental Transfer Policy vis-à-vis the concerned officers. He avers that injustice and discrimination were done to him even in applying the criterion of total stay in a station and/or in a region as per Transfer Policy 2005. The respondents have merely stated that those officers were transferred as per Transfer Policy and on compassionate grounds. The respondents have not explained how the cases of Shri S Chakravarty, Shri A L K B Chand and Shri Gautam Choudhuri qualified for a different treatment even on compassionate grounds. None of those officers has served in the NER and all of them have had a longer total stay in Kolkata and in the East Area than the applicant. The discrimination will be patent from the table below:

As on 31.5.2006 (excluding deputation and exempted postings)

Sl No	Name of Officers & IRS Code No.	Total stay in Kolkata	Total stay in East Area <u>excluding</u> NER	Tenure in NER	Period spent on deputation & exempted posts
1.	The Applicant (77023)	12 y 9 m	16 years	2 y 9 m	5 years
2.	Shri Gautam Choudhuri (74021)	22 y 8 m	24 y 6 m	—	2 y 10 m
3.	Shri Sumohan Chakravarty (75036)	17 y 7 m	21 y 3 m	—	7 y 3 m
4.	Shri ALKB Chand (77031)	21 years	22 y 9 m	—	—
5.	Smt. Bratati Mukherjee (79006)	17 y 10 m	24 y 3 m	—	—

All these officers have had a longer stay in the present 'A' category station as well as in the East Area than the applicant. While the officers at Sl No.3 and 4 have been transferred back to Kolkata after a one-year stint in Nashik and Rajkot respectively, the officers at Sl No.2 and 5 have not been transferred out of Kolkata for years although they are liable to be transferred as per the departmental guidelines. By denying the applicant a posting in Kolkata despite his entitlement to choice station posting and despite availability of vacancies at Kolkata, the respondents have shown discrimination and prejudice

against him. Malice in fact and malice in law is explicit against the applicant. In the above factual matrix the applicant denies the contention of the respondents that the statements in para 4.13 of the OA are untrue, false or incorrect. The respondents should be put to strict proof as regards the veracity of their statements.

12. That in reply to the statements made in para 14 of the Written Statement the applicant begs to state that he has not diverted from the main issue by citing other cases, as alleged by the respondents. The applicant sought to show in para 4.14 of the OA that total stay in a region, in an area or in all 'A' category stations taken together was not the sole consideration for issuing the orders for transfer inasmuch as the guidelines were not uniformly applied. The applicant would like to point out that, apart from the officers mentioned in para 11 above, there are other officers in other areas such as North Area, South Area and West Area who have had a longer stay in that particular area than the applicant had in East Area as shown below and have still been favourably accommodated in relaxation of the departmental transfer guidelines:

**Stay in a particular Area as on 31.5.2006
(excluding deputation and exempted postings)**

Sl No.	Name of the Officer & IRS Code No.	Stay in a particular Area	Clarifications	Deputation & other exempted postings
	The Applicant (77023)	16 years	Excluding the NER period of 2 y & 9 m	5 years
1.	Smt Divjyot Kohli (74014)	21 y 1 m	North Area	7 y 8 m
2.	Smt Sarojini Lal (75050)	23 y 3 m	North Area	6 y 2 m
3.	Smt. Sudha Sharma (76007)	22 y 4 m	North Area	6 y 9 m
4.	Shri S. Chellappan (77010)	22 y 5 m	South Area	3 y 9 m
5.	Shri G.S.Kurup (77011)	25 y 5 m	South Area	2 y 2 m
6.	Smt Chitra Srinivasan (77030)	27 y 5 m	South Area	Nil
7.	Shri D. Shivpuri (77039)	20 y 5 m	North Area	4 y 1 m
8.	Shri S.S. Kannan (78046)	25 y 11 m	South Area	0 y 6 m
9.	Shri S. Gopalakrishna (78053)	19 y 10 m	South Area	5 y 4 m
10.	Shri M.K. Idnani (79023)	20 y 7 m	West Area	Nil

Similarly, there are instances of officers in other areas, such as North Area, South Area and West Area, who have had a longer stay in 'A' category stations than the applicant as shown below and have still been favourably accommodated in relaxation of the departmental transfer guidelines:

**Stay in 'A' class cities as on 31.5.2006
(excluding deputation and exempted postings)**

Sl No.	Name of the Officer & IRS Code No.	Stay in 'A' category stations	Clarifications	Deputation & other exempted postings
	The Applicant (77023)	14 y 9 m		5 years
1.	Smt. Divjot Kohli (74014)	18 y 11 m	26 y in Delhi alone	7 y 8 m
2.	Shri S.C. Gupta (74030)	18 y 2 m	9 y 6 m in Mumbai exceeding 8 yrs ceiling for Mumbai	2 y 6 m
3.	Smt Sarojini Lal (75050)	18 y 6 m	20 y 10 m in Delhi alone	6 y 2 m ✓
4.	Shri Abhay Kumar (75035)	16 y 10 m		Nil
5.	Smt Chitra Srinivasan (77030)	27 y 5 m	Has never worked in 'B' or 'C' class stations	Nil
6.	Shri P.C. Srivastava (78013)	16 y 5 m		3 y 9 m ✓
7.	Shri S.S. Kannan (78046)	25 y 11 m	Has never worked in 'B' or 'C' class stations	0 y 6 m
8.	Shri S.M. Rastogi (78029)	17 y 6 m		4 y 10 m ✓
9.	Shri K.S. Bhatti (78070)	20 y 1 m		Nil
10.	Shri Anil Goel (81032)	22 y 6 m	Has never worked in 'B' or 'C' class stations	Nil

The applicant unambiguously reiterates that his case is not against the transfer or retention of any individual officer, but is for enforcement of his right of entitlement to choice station posting under the Government of India's special scheme for NER and also under the departmental policy. Other names have come up incidentally just for highlighting the inequality and arbitrariness in administrative action. These illustrative cases, which are by no means exhaustive, show that the departmental guidelines as regards tenure are not rigid

and their application varies from person to person. On the other hand, the incentive of choice station posting granted by the Government of India to officers who have done their tenure in NER is an assured benefit and as such has to be honoured when vacancies are available in the station of choice.

13. That in reply to the statements made in para 15 of the Written Statement the applicant begs to state that the respondents could not reply as to why para 10 of the Transfer Policy 2005 is not violative of the principles of natural justice inasmuch as it offends Articles 14 and 16 of the Constitution of India. The respondents are diverting from the real issue by alleging defiance on the part of the applicant. The applicant avers that he has not defied the orders of the respondents as alleged. The Chief Commissioner of Income-tax, Guwahati, took the view that the applicant's transfer to Varanasi was inconsistent with the overriding instructions of the Government of India and so he postponed the applicant's release pending further clarifications from the CBDT. No such clarifications ever came from the CBDT. In any case, seeking judicial remedy against a patently illegal and unjust order flowing from inequality and arbitrariness is a right of the applicant and it does not amount to any kind of defiance.
14. That in reply to the statements made in para 16 of the Written Statement the applicant begs to state that the respondents' silence on the Government of India's executive instructions governing transfer and posting in NER, on which the representation of the applicant was based, clearly shows that the requests/options of the applicant were not properly considered. The applicant is a victim of administrative unfairness.
15. That in reply to the statements made in para 17 of the Written Statement the applicant begs to state that the respondents are silent about the applicant's medical problems and are apathetic about the ground of his daughter's education. The applicant begs to mention that these are additional grounds. The main ground is the incentive policy of the Government of India, by which he is covered. The applicant did not start sending representations for transfer on the grounds of medical problems and children's education just after having arrived at Guwahati. He made representations only on completion of the fixed tenure in NER in accordance with the Government of India's declared policy. It is, however, a fact that he has been living alone in Guwahati for three and half years now, afflicted with diabetes and glaucoma as evident from the medical

certificate, and has to follow a strict medical and dietary regimen. Having exceeded the fixed tenure by one and half years now, he has a legitimate claim to be posted to Kolkata where his family resides.

The applicant is shocked and bewildered at the attitude displayed by the respondents towards the cause of his daughter's education. The respondents have stated that the cases of those having children in 10th or 12th standard have been considered. If this was a criterion, then the applicant should not have been transferred to Guwahati in 2003 when his daughter was in the 10th standard. The applicant begs to state that the criterion of considering only children studying in 10th or 12th standard does not figure in the Transfer Policy. A young girl's emotional needs for parental support do not change overnight just after she passes her Higher Secondary Examination. The respondents are wrong in saying that the applicant wants to perpetuate his stay in Guwahati for another 4 years when he is actually requesting for a transfer to Kolkata. Their insensitivity and prejudice are manifest in their statement that the applicant may make another representation for retention on some other ground even after his daughter completes her engineering degree. This is an unfortunate hypothetical statement without any factual basis and speaks of malice towards the applicant for approaching the Hon'ble Tribunal.

Copy of medical report from Sri Sankaradeva Nethralaya, Guwahati, certifying that the applicant has diabetes and primary open angle glaucoma (POAG) is enclosed vide Annexure XF.

16. That in reply to the statements made in para 18 of the Written Statement the applicant begs to state that it is evident from Annexure 'N' to the OA that he had submitted his representation on 05.06.2006 to the Chief Commissioner of Income-tax, Guwahati, requesting for cancellation of the transfer order to Varanasi and for posting him to Kolkata. His representation, addressed to the Chairman, CBDT, was to be routed through proper channel as per the procedure followed in Government departments.
17. That in reply to the statements made in para 19 of the Written Statement the applicant begs to state that the CBDT could not respond to the communication dated 09.06.2006 of the Chief Commissioner of Income-tax, Guwahati, who explained the correct view that the order of the applicant's transfer to Varanasi, ignoring his option for a posting in Kolkata, was an apparent omission in view

of the overriding instructions of the Government of India. By his aforesaid communication the Chief Commissioner released two other Officers transferred out of the NER but postponed the release of the applicant till receipt of further advice from the CBDT. In view of the factual position, no advice was ever received from the CBDT. In their Written Statement also the respondents have evaded replying to this specific issue raised in para 4.20 of the OA and have diverted by giving wrong data about the applicant's tenure in a station or an area. The applicant begs to refer to para 4 of this rejoinder and to state that the respondents are wrong in saying that he had completed 19 years in a station and 22 years in the East. These are irrelevant to the issue raised in para 4.20 of the OA.

18. That in reply to the statements made in para 20 & para 21 of the Written Statement the applicant begs to state that the respondents have not understood the import of the averments made by him in para 4.21 and para 4.22 of the OA and hence the statements made by them in para 20 and para 21 of their reply are irrelevant. In para 4.21 and para 4.22 of the OA the applicant sought to show that there was a vacancy in Guwahati and hence he could be temporarily retained in Guwahati till the disposal of his application.
19. That in reply to the statements made in para 22 & para 23 of the Written Statement the applicant begs to state that the respondents have failed to understand the import of the averments made by him in para 4.23 and para 4.24 of the OA. Those averments were made to highlight his sufferings and the sufferings of his family owing to the injustice done to him by the respondents. The applicant did not seek a transfer to Kolkata on the ground of retaining the Government accommodation. His claim of transfer to the station of his choice is based on the Government of India's Policy regarding transfer and posting in NER. The applicant denies that the statements in para 4.23 of the OA are untrue and false. He reiterates the statements.
20. That in reply to the statements made in para 24 of the Written Statement the applicant begs to state that the respondents have not replied to the specific legal grounds raised by him in his application pointing out that his transfer to Varanasi, ignoring the overriding instruction of the Government of India, was unfair, illegal, arbitrary and discriminatory. The respondents have merely reiterated that the applicant, being a member of the IRS, has all-India transfer liability and was transferred in accordance with the Transfer Policy of the

Department. This is a wrong statement. Apart from the Government of India's policy, the departmental policy also provides for choice station posting in cases of officers who have served in the NER. The judgments cited by the respondents are not relevant to the facts of the present case. They have stated that the court cannot interfere unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provision. In the applicant's case the respondents have defied and transgressed the instructions of the Government of India which they are not competent to defy or transgress. The instructions of the Government of India are applicable to all Central Government departments without any exception. No department has the powers or discretion to ignore the incentives assured by the Government of India to its employees for serving in the NER which is recognized as a difficult area. It is surprising that not a single word has been uttered by the respondents in the Written Statement on their flagrant violation of the Government of India instructions, although this was the core issue of the OA. The Written Statement of the respondents, therefore, deserves to be rejected.

It is pertinent to refer to a recent judgment of the Principal Bench of the Central Administrative Tribunal in the case of some Additional Commissioners of Income-tax. The ratio of that judgment is applicable to the applicant's case as well. The facts of the case are that the CBDT had passed a similar transfer order on 31.05.2006 in respect of the Additional Commissioners of Income-tax also, transferring them from one station to another. A few Additional Commissioners who were unjustly transferred had approached the Central Administrative Tribunal for quashing the orders and for retaining them in their old stations. The Hon'ble Principal Bench of the Tribunal after a detailed discussion quashed and set aside the impugned orders of transfer qua the applicants by observing as under:

Para 28. On examining the case law cited by parties, we find justification in the contention raised by applicants that emphasis has been laid by the Courts that transfers should as far as possible be based on guidelines & department should follow professed norms & principle governing the transfer. Further, the transfer should be effected based on 'said norms or guidelines'. The reasons for following such policy, formulated after due exercise is to exclude the arbitrariness as well as to demonstrate that such decisions are taken in a transparent manner, free from bias or mala fides. The policy so formulated becomes sacrosanct and should be followed as far as possible. This approach is also in consonance with the well settled law that the administrative decisions should be fair and reasonable. It is well settled that fairness is a rule to ensure that vast power in the modern State is not abused but properly exercised. The

State power is used for proper and not for improper purposes. (1990 (2) SCC 48 – Management of M/s. M.S. Nally Bharat Engineering CO. Ltd. vs. State of Bihar & Ors.). It is also well settled law that governmental action must be based on utmost good faith, belief, and ought to be supported with reason on the basis of the state law – if the action is otherwise or runs counter to the same, the action cannot but be ascribed to be mala fide and it would be a plain exercise of judicial power to countenance such action and set the same aside for the purpose of equity, good conscience and justice. Justice of the situation demands action clothed with bona fide reason and necessitates of the situation in accordance with the law. [2001 (5) SCC 664 – Tandon Brothers v. State of W.B. & Ors.].

In the case of the applicant also the respondents have abused their power to transfer as their action ran counter to the declared policy of the Government of India as well as to the guidelines adopted in the departmental Transfer Policy.

A copy of the judgment in OA NO.1510/2006 with other OAs is enclosed vide Annexure XG.

21. That in reply to the statements made in para 26 of the Written Statement the applicant begs to state that the CBDT has not only neglected to act on the executive instruction of the Government of India, it has also violated its own transfer guidelines in denying the applicant choice station posting in Kolkata even after he has done his tenure in the North-East. They have done injustice as well as discrimination to the applicant inasmuch as they have accommodated officers with longer stay in Kolkata while turning down the representation of the applicant without any valid reason. They have also not considered the ancillary grounds of the applicant's medical problems and the cause of his daughter's education, although they have considered similar grounds in other cases. They have subsequently revised their orders in several other cases but have not considered the applicant's case despite the Hon'ble Tribunal's observations in the interim order. On the facts and in the circumstances of the case, antipathy to the cause of the applicant is patent and prejudice against him is conspicuous. Only the Hon'ble Tribunal can render justice to the applicant by quashing the order of his transfer to Varanasi and directing the respondents to post him in Kolkata.

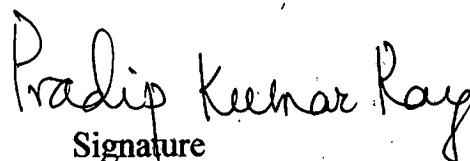
The applicant also prays that the Hon'ble Tribunal may be pleased to give a direction in its order to the effect that the applicant would be allowed to continue in Kolkata at least for two years (which is the minimum tenure of a post in any place) from his date of transfer to Kolkata in view of his three and

half years of service in NER. He is making this prayer because the bias and prejudice expressed by the respondents in their written statement have given him reasons to believe that the respondents may otherwise transfer him again out of Kolkata within a short period, rendering the Government of India's incentive scheme for serving in the North-East nugatory.

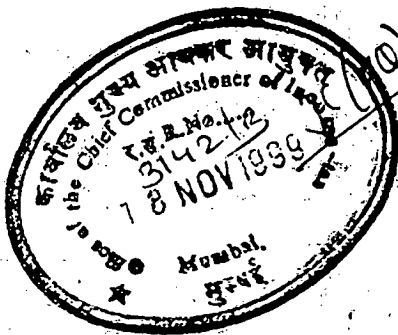
VERIFICATION

I, Shri Pradip Kumar Ray, son of Shri Sailesh Chandra Ray, aged about 55 years and presently working as Commissioner of Income-tax, Guwahati-I, with my office located at Saikia Commercial Complex, Sreenagar, G.S. Road, Guwahati, do hereby verify that the statements made in Para 1 to Para 21 of this rejoinder are true to the best of my knowledge and belief. I have not suppressed any material facts.

I sign this verification on the 4th day of January 2007 at Guwahati.


Signature

(Pradip Kumar Ray)



(10)-Adm (18)
F.No.A-35015/68/95-Ad.II
Government of India
Ministry of Finance
(Department of Revenue)

Annexure XA

139

New Delhi, the 9th November, 1999

To

2132
16/11/99

All Chief Commissioners of Income Tax/
Directors General of Income Tax

Subject:- Transfer guidelines for Group 'A' & 'B' officers of Income Tax

....

De (10) Adm Sir,
18/11

I am directed to say that the transfer guidelines for Group 'A' and 'B' officers of Income Tax Department were last revised in May, 1998. These guidelines have since been reviewed and it has been decided to modify these guidelines so as to provide some incentives to officers posted in the various Directorates of Income Tax at Delhi and the State of Jammu and Kashmir etc. A copy of the revised transfer guidelines is enclosed. Henceforth, the transfers/postings of Group 'A' and 'B' officers in the Income Tax Department shall be made in accordance with these revised guidelines, as far as practicable.

Yours faithfully,

(B.K. Arora)

Deputy Secretary to the Govt. of India

Copy forwarded to information to:-

1. General Secretary, IRS Association
2. General Secretary, ITGSF
3. General Secretary, ITEF.

(B.K. Arora)

Deputy Secretary to the Govt. of India

Attested
(S.N. Tamuli)
(Advocate)

TRANSFER GUIDELINES FOR GROUP 'A' AND GROUP 'B' OFFICERS

In supersession of existing orders on the subject, it has been decided that transfers in the Income Tax Department will hereafter be made as far as practicable in accordance with the guidelines indicated below:-

1. All Group 'A' officers will be liable for transfer at the commencement of the next financial year if they have completed 8 years of continuous stay in any cadre controlling Chief Commissioner/Commissioner's Region/Charge. This may be relaxed by the Board on compassionate and administrative grounds in appropriate cases. Periods spent on training and study leave at the same place or in the same Region/Charge (including similar assignment abroad) will count as continuous period of stay at that place or Region/Charge. The period spent by an officer on deputation basis out-side the IRS cadre either in Central Board of Direct Taxes in the Department of Revenue or Central deputation or deputation to other Departments/Organisations will be excluded for reckoning the period of stay of 8 years/14 years in a particular Region/Charge. A break of less than two years will be considered as continuous stay, in the same Region or Charge. For counting continuous stay, service in a lower grade shall also be taken into account.
2. Stay at a station will not exceed 8 years in respect of the metropolitan cities of Mumbai, Calcutta, Delhi, Chennai and Ahmedabad. This period may be restricted to 5 years in respect of the cities of Hyderabad and Bangalore. At other stations, the stay will normally be 3 years.
3. In metropolitan and other big cities, the officers will be rotated once in three years in such a way that they are not only transferred from one CIT charge to another but they are required to perform different functions on transfer.
4. These principles will, also apply to the transfer of Group 'B' officers within the Region/Charge.
5. The total stay of an officer during the course of his entire career, in all grades, (in Group 'A') in a particular Region/Charge should not exceed fourteen years.
6. The officers at any level having rendered more than 3 years in any of the charges like Tamil Nadu, West Bengal, Kerala, North-East, Bihar and the State of Jammu and Kashmir (NWR) will get preference in getting foreign training and also in getting preference for the place of their choice when they have completed their tenure in these regions.

Contd.../2-

7. The Assistant/Deputy Commissioners of Income Tax posted in the Board from the field as Under Secretaries will get preference for foreign trainings and the place of their choice after their tenure in the Board has been over. Similar incentives shall also be admissible to the officers posted in the various Directorates of Income Tax at Delhi.

8. The cooling off period for being posted again to the same Region/Charge will be at least three years.

9. An officer is liable to be transferred to any part of the country at any time at short notice on administrative grounds.

10. i) On promotion officers will normally be transferred irrespective of their period of stay except where they have come to that Region less than two years earlier.

ii) Group 'B' officers on promotion to the grade of ACIT would also be transferred out of the Region except in those cases where the officer has less than three years of total service left at the time of promotion.

[years

These exceptions will, however, be subject to the availability of vacancies in the Region concerned at the relevant time of promotion.

11. An officer may opt for a transfer one year before he is due on stay basis or in anticipation of promotion if it suits his convenience.

12. Persons who have less than two years service left may not be transferred on stay basis or after promotion if it is practicable to retain them in the same Region/Charge.

13. Officers who have got less than 3 years of service to retire may be posted to their Home Town/State at their own request provided that they have not been so posted at any time during the last 10 years.

14. Husband and wife will be retained at the same station to the extent possible.

15. Subject to the availability of vacancies, two Principal Office Bearers (Viz. President, Secretary and Treasurer) of the recognised Associations/Federations may be allowed to continue at the Headquarters of that Association/Federation till the next general transfers.

16. As far as possible, transfers from one region to another in the same State should not be made e.g. Lucknow Region to Kanpur Region and vice versa and Bombay Region to Pune Region and vice versa.

17. Officers at the level of CIT should not be posted on transfer from a metropolitan city to a nearby station.

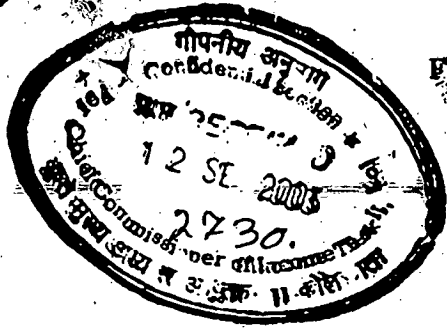
18. On completion of their training at NADT, the probationers may not be posted to their Home State, except on extreme compassionate grounds.

19. Attention of all officers is invited to Rule 20 of the CCS(Conduct) Rules under which no Government Servant shall bring or attempt to bring any political or other influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government.

20. This is in supersession of this department's circular letter No.35015/68/95-Ad.VI dated 8.5.98.

Required to be true copy
(Advocate)

F.No.A-35015/50/2003-Ad.VI (Pt.I)
 Government of India
 Ministry of Finance
 Department of Revenue
 (Central Board of Direct Taxes)



New Delhi, the 9th September, 2003.

To

All Chief Commissioners of Income Tax,
 All Directors General of Income Tax.

Subject: Transfer/Placement policy of Group 'A' officers of IRS (Income Tax)-.

Sir,

The new transfer/placement policy for Group 'A' officers of IRS had already been put on the website for general information. A copy of the same is again being circulated as per **Annexure-I**.

2. Para 5.2 of the policy contains names of Class 'A' stations. This categorization has been reconsidered and it has been decided to modify the list of Class 'A' stations. Therefore, existing para 5.2 of the policy may be substituted by the following:-

"Delhi (including Faridabad, Ghaziabad, Gurgaon and NOIDA)
 Mumbai (including Thane & Kalyan) Ahmedabad, Hyderabad,
 Bangalore, Pune, Chandigarh, Panchkula, Ludhiana & Jaipur".

Further, in terms of para 5.3 of the policy categorization of Class 'B' & 'C' stations has been done. The list of Class 'B' & 'C' stations is at **Annexure-II & III** respectively.

3. The policy incorporating categorization of 'A', 'B' & 'C' Stations is circulated for information to all IRS officers.

P.C. Bhatt

(P.C. BHATT)

Under Secretary to the Government of India

Copy to:

1. PSs to FM/Secy(R)/ Chairman(DT)/All Members (DT)/ JS(Admn.)
2. All officers in the CBDT.

Copy forwarded for information to:-

1. General Secretary, IRS Association.
2. General Secretary, ITGSC.
3. General Secretary, ITEF.

*So. A letter to
 DIT (44th) from*

*Deputed to be true copy
 (Advocate)*

TRANSFER/PLACEMENT POLICY FOR GROUP 'A' OFFICERS OF CENTRAL BOARDS OF REVENUE

144

1.0 INTRODUCTION

1.1 The Ministry of Finance has taken major initiatives for tax reforms, including reform of tax administration with emphasis on imparting greater transparency, reducing the inter face between the tax payer and administration and removal of discretion so as to eliminate rent seeking behaviour.

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. 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 in consultation with Adviser to the FM by the Revenue Secretary and Chairman of the two Boards of Revenue. Accordingly, a new Transfer/Placement Policy for Group 'A' officers of Central Boards of Revenue has been formulated.

2.0 SALIENT FEATURES OF THE POLICY

2.1 The salient features of the, Transfer/ Placement Policy for Group 'A' Officers of the Central Board of Revenue (hereinafter referred to as the Placement Policy) are as follows:

- (a) All transfers and postings of Group 'A' officers in CBDT and CBEC shall be effected either by the Placement Committee or on it's recommendations;
- (b) A posting policy has been formulated for officers at different levels;
- (c) All stations shall be categorized in three classes and tenure of stay in different classes of stay has been prescribed;
- (d) All posts in a station shall be divided into two categorizes viz. Sensitive and non-sensitive

- (e) Guidelines for dealing with different types of compassionate issues have been laid down.
- (f) All annual transfer orders shall be issued by 30th April of that year.

2.2 A correct and complete data base is a sine qua non for operationalising the Placement Policy. Both Boards have assured that a data base containing the profiles of all Group 'A' officers of both the Boards shall be created by 30th September, 2003.

2.3 All grievances arising out of the implementation of the Placement Policy shall be disposed off in accordance with the guidelines issued by the Department of Personal & Training.

2.4 The new Placement Policy shall come into effect from 2004-2005. For the current year, the Boards have the discretion to effect transfers as per the old/existing Transfer Policy or as per the new/proposed Placement Policy.

2.5 The transfer guidelines shall not be applicable to the transfer and postings of Chief Commissioners/Director Generals who are limited in number and have a short tenure of about 4 years in that scale..

: 3 :

3.0 THE PLACEMENT COMMITTEE

3.1 There will be a separate Placement Committee for each Board. The Board's Placement Committee shall consist of the following :-

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

3.2 The Placement Committee will:-

- (a) Recommend proposals for posting of Chief Commissioners and Commissioners for approval of the Finance Minister, through the Revenue Secretary ;
- (b) Be the final authority for transfer and posting of officers below the rank of Commissioner, provided the case falls within the purview of existing guidelines. In case a deviation from the existing guidelines has to be made, then the approval of the Finance Minister through the Revenue Secretary will have to be obtained.

3.3 After the annual general transfer, the Placement Committee may shift CIT level officer from one charge to another for administrative needs within the same station.

3.4 The minutes of the meeting of the Placement Committee should be drawn up and approved by all Members within 24 hours in a meeting (not by circulation).

4.0 **POSTING POLICY FOR OFFICERS AT DIFFERENT LEVELS**

4.1 In case of Commissioners and Chief Commissioners/Director Generals, the Placement Committee will recommend both the station of posting and the specific charge.

4.2 For officers below the rank of Commissioner, the Placement Committee will:-

- (a) In CBDT, place the officers at the disposal of cadre controlling Chief Commissioner, for further posting; and
- (b) In CBEC, place the officers at the disposal of the Commissioner/Director General concerned, for further posting.

4.3 The normal practice is transfer on promotion. In individual cases this may give rise to hardship. Hence, this may be left to be decided by the Placement Committee. For this purpose, the grant of JAG shall not be treated as promotion.

4.4 Directly recruited Group 'A' officers shall be posted to a Class 'B' or Class 'C' station after completion of their training. 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 five years.

4.5 As far as possible, an officer should spend the first nine years of his service in field formations. In particular, during the first six years of his service, the officer should not be given any posting outside the Department or sent on deputation.

: 5 :

4.6 As far as possible, the senior most officer may be posted as Executive Commissioner.

5.0 **CLASSIFICATION OF STATIONS, FIXATION OF TENURES
OF POSTINGS AND ROTATION BETWEEN THEM**

5.1 The various stations where Group 'A' officers can get posted may be categorised as Class 'A', Class 'B' and Class 'C'.

5.2 Mumbai (including Thane and Kalyan), Delhi (including Faridabad, Ghaziabad, Gurgaon and NOIDA), Kolkata, Chennai, Ahmedabad, Hyderabad, Bangalore, Pune and Surat shall be categorised as Class 'A' stations.

5.3 The categorisation of the remaining stations in Class 'B' and Class 'C' shall be finalised by the respective Placement Committee with the approval of Revenue Secretary.

5.4 The continuous stay of a Group 'A' officer should not exceed six years in Class 'A' station, four years in Class 'B' station and should not be less than two years in Class 'C' station. A stay of more than three months in a station will be treated as a complete year, the period of stay getting counted from the date of joining.

5.5 An officer shall be rotated between the three different classes of station. After completing one cycle of posting in all the three categories i.e. Category A, B & C, the officer shall have to move out of the region, in case all his postings in the three classes of station have been in the same region. The officer can come back to the same region only after spending a cooling off period of six years outside that region. The division of the country in regions will be done with the approval of FM through Revenue Secretary.

5.6 For counting continuous stay at a station, only the period spent on the first deputation during the service shall be excluded. All subsequent deputation shall count towards continuous stay.

5.7 In order to encourage officers to seek postings in C-Category station, the Government shall sanction:-

- (a) At least one vehicle for office use in every C category station irrespective of the level of the officer heading the office; and
- (b) 100 per cent housing facilities at the Officer level.

5.8 The starting point for computing the stay in a Category 'A', 'B' or 'C' city shall be the date of joining at the present station, subject to the condition that until an officer gets promoted to the post of Chief Commissioner, the combined total tenure in Mumbai and Delhi shall not exceed 14 years.

: 7 :

6.0 **CATEGORISATION OF POSTS INTO SENSITIVE AND NON SENSITIVE**

6.1 All posts in both the Boards shall be classified into two categories with the approval of the Finance Minister:

- (a) Sensitive; and
- (b) Non-sensitive.

6.2 The normal tenure of an officer on Sensitive post should not exceed three years. An officer shall be shifted from and posted to a Sensitive post with the approval of the authority competent to approve the transfer proposal.

7.0 **POSTINGS IN INVESTIGATION DIRECTORATE (CBDT) AND DIRECTORATE OF REVENUE INTELLIGENCE (CBEC)**

7.1 In the Investigation Directorate and the Directorate of Revenue Intelligence, the respective DGs will propose a panel of names for the consideration of the Placement Committee. Individual officers will be selected by the Placement Committee and placed at the disposal of the DGs concerned for posting within the Directorate, after obtaining the approval of the Finance Minister through the Revenue Secretary.

7.2 The length of tenure in these Directorates may be fixed at three years, subject to the condition that no officer should spend more than six years during his entire service career in these Directorates.

8.0 **POSTING ON COMPASSIONATE GROUNDS**

8.1 In case, an officer seeks a posting to a particular station on medical grounds for himself or his family, the Placement Committee is empowered to take a decision on this plea. However, in case of doubt, the Placement Committee may refer the case to a Medical Board.

NON-DUALITY

8.2 In case of working couples, if the spouse of an officer is working outside the Department, posting in the same station as the spouse may be allowed if the officer is otherwise eligible for such a posting.

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 **OTHER FEATURES**

TRANSFER

9.1 **TRANSFER ON ADMINISTRATIVE GROUNDS**

Transfer may be made in the following cases for administrative reasons :

- (a) An officer against whom the CVC recommends initiation of vigilance proceedings, should not be posted or remain posted at the station where the cause of the vigilance proceedings originated. This restriction will remain in operation till such time the vigilance matter is not closed; and
- (b) Similarly, an officer should not be posted to any Class 'A' station if the CVC has recommended initiation of vigilance proceedings.

9.2 **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.

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ANNEXURE-II**CLASS 'B' STATION**

1. VISAKHAPATNAM
2. VIJAYAWADA
3. PATNA
4. RANCHI
5. JAMSHEDPUR
6. BARODA
7. VALSAD
8. MYSORE
9. PANAJI
10. MANGALORE
11. COCHIN
12. BHOPAL
13. INDORE
14. NASIK
15. NAGPUR
16. AMRITSAR
17. KARNAL
18. HISSAR
19. ROHTAK
20. BHUBANESHWAR
21. CUTTACK
22. AGRA
23. DEHRADUN
24. KANPUR
25. LUCKNOW
26. BAREILLY
27. ALLAHABAD
28. UDAIPUR
29. AJMER
30. COIMBATORE
31. KOLKATA
32. CHENNAI
33. SURAT
34. MEERUT

ANNEXURE-III**CLASS 'C' STATION**

1. GUNTUR
2. RAJAMUNDRY
3. TIRUPATI
4. DHANBAD
5. MUZAFFARPUR
6. BHAGALPUR
7. HAZARIBAGH
8. GANDHINAGAR
9. RAJKOT
10. JAMNAGAR
11. HUBLI
12. BELGAUM
13. GULBARGA
14. DEVENGERE
15. TRIVENDRUM
16. CALICUT
17. KOTTAYAM
18. TRICHUR
19. KANNUR
20. RAIPUR
21. BILASPUR
22. JABALPUR
23. UJJAIN
24. GWALIOR
25. AURANGABAD
26. KOLHAPUR
27. GUWAHATI
28. SHILLONG
29. DIBRUGARH
30. JORHAT
31. PATIALA
32. SHIMLA
33. BHATINDA
34. JALANDHAR
35. JAMMU
36. PALAMPUR
37. SAMBHALPUR
38. ROURKELA
39. BEHRAMPUR

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40. MUZAFFARNAGAR
41. ALIGARH
42. MORADABAD
43. VARANASI
44. GORAKHPUR
45. FAIZABAD
46. HALDWANI
47. KOTA
48. ALWAR
49. JODHPUR
50. BIKANER
51. SALEM
52. MADURAI
53. PONDICHERRY
54. TRICHY
55. SILIGURI
56. DURGAPUR
57. BURDWAN
58. ASANSOL
59. JALPAIGURI
60. REMAINING STATIONS

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(A. G. G. G.)

Annexure xc

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P.NO.A-35015/32/2004-Ad.VI (PL)

Government of India

Ministry of Finance

Department of Revenue

New Delhi, the 14th November, 2006All Cadre Controlling Chief Commissioners / Directors General of
Income TaxSubject:- Transfer/Placement Policy of Group 'A' officers of IRS, CBDT,
2005 - 1st amendment -

Sir,

I am directed to refer to the Transfer/Placement Policy of Group 'A' officers of IRS, CBDT, 2005 circulated vide this Department's letter No. A-35015/32/2004-Ad.VI dated 26th April, 2005 and to say that with the approval of the competent authority, it has been decided to amend the Transfer/Placement Policy so far as it pertains to deputation of officers under Central Staffing Scheme and under non-Central Staffing Scheme and the following new para 6 is added after para 5:-

Para 6 Deputation of officers under Central Staffing Scheme and under non-Central Staffing Scheme outside the Department of Revenue

6.1 An officer may be allowed to go on deputation outside the Department for not more than two terms in his entire career. However, each term of deputation shall not exceed 6 years and the total tenure of both the deputations shall not under any circumstances exceed 10 years.

6.2 The period of deputation outside the Department shall be excluded for counting towards stay in the station and an area tenure of the officer. However, the same shall be counted if the officer so desires.

6.3 There shall be a cooling off period of 3 years after completion of each period of deputation. During the cooling off period, the officer will be posted to a location other than the station in which he had been working while on deputation. Provided, in cases in which the officer has not completed his permissible tenure in that station,

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[Signature]
(Advocate)

(35)

the Board may consider posting him in any assignment in that location according to administrative need.

- 6.4 After return from deputation in Delhi/Mumbai stations, the officer shall ordinarily be posted to a different station for a minimum period of 2 years. If he is seen to have worked predominantly in 'A' station, he shall invariably be posted to 'D' or 'C' stations. After 2 years of such posting in 'B' and 'C' stations, the officer could be considered for posting in Delhi/Mumbai or any other 'A' stations in accordance with the transfer norms and availability of vacancy.
- 6.5 Requests from State Governments/Central Ministries/Department/Organizations asking for particular officers by name shall not be entertained. In all such cases, where there is a request for an officer of the Department, the Board shall first consider whether it is administratively feasible to release an officer on deputation. If it is found that it is administratively convenient, the offer will be circulated to all officers and willingness for deputation invited. A panel of short-listed officers will be forwarded for the approval of the competent authority of the concerned Department or Organization to select an officer.

2. The existing para No. 6, 7, 8, 9 and 10 & 11 of the Transfer Policy and their respective sub-para-stands renumbered as para 7, 8, 9, 10, 11 & 12 respectively.

3. The following sentences of para 8.4. stand deleted:-

"When an officer applies for cadre clearance for a deputation, his previous history of postings will be considered. An officer shall be transferred out of the station in which he was on deputation on his return if he has completed his tenure at that station."

Yours faithfully,


(P.C. Bhatt)

Deputy Secretary to the Govt. of India

15X

New Delhi, the 14th August, 2006

Order No. 112 of 2006

The following transfers/postings of the officers in the grade of Commissioners/Directors of Income tax are hereby ordered with immediate effect and until further orders:

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10.	G.M. Belagall	83008	CIT(A) Mysore	CIT(A)-II Bangalore	Vice P.K. Irasal
11.	G.D. Chandrasekhar	83039	CIT-II Coimbatore	CIT(Audit) Mumbai	Vice S.R. Malik
12.	A.K. Thatai	85022	CIT(A) Bhatinda	CIT(A) Jammu	Vacant
13.	Harish Kumar	85027	CIT(A) XIII Chennai	CIT(CSO) Systems Delhi	

2. Officers at Sl. Nos. 5, 7, 8 and 11 have been retained/posted till 1/4/2007 on compassionate/medical grounds.

3. The CCIT(CCAs) shall also ensure that the officers under order of transfer out of their respective regions submit their Resume/Self-Assessment and also report/review the ACRs of their subordinates and submit them to the CCIT(CCA)/Reviewing/Reporting Officer, as the case may be.

4. With this order, all representations for postings and transfers in the grade of Commissioners/Directors of Income Tax stand disposed off. Henceforth representations for transfer/posting from officers of this rank shall be entertained only after they are received through the concerned CCIT(CCAs) after the concerned officer has joined the new place of posting in terms of Para 10 of the Transfer Policy. The CCIT(CCAs) shall consolidate all such representations relating to their respective Regions and forward the same to the Board with specific recommendations on a monthly basis only. No direct representations shall be entertained whatsoever.



(P.C. BHATT)

DEPUTY SECRETARY TO THE GOVT. OF INDIA

1. Officers concerned
2. All Chief Commissioners of Income Tax/ Directors General of Income Tax
3. Principal Chief Controller of Accounts, New Delhi.
4. Zonal Accounts Officer, CBDT, C/o. CCIT concerned.
5. DIT(M)/DIT(R&A)/DIT(Admin), DIT(Vig.), DIT(Systems), DIT(C&IS), DIT(Inv.).
6. PSs to FM/ MOS(R)/Advisor to FM / Secy.(R)/ AS(R)/ Chairman, CBDT/ Members, CBDT/All JSs/CITs, CBDT/JS(P)/DS(Admin.)/DS(Hqrs.)/
7. Directors, CBDT/D.Ss., CBDT.
8. US(Hqrs.)/Pers.DT/US(Adm.)/US(Ad.VI/Ad.VII(A)/Ad.VII/ITCC/OT/ Cell/Incl. Section.
9. General Secretary, ITDO/ITP/ITP A/ITP B.


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(P.C. BHATT)

DEPUTY SECRETARY TO THE GOVT. OF INDIA

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 (Adm.)

New Delhi, the 6th October, 2006Order No. 136 of 2006

The following transfers/postings of the officers in the grade of Commissioners of Income tax are hereby ordered with immediate effect and until further orders:-

S. No.	Name & Present posting S/Shri/Ms.	Code No.	From	To	Remarks
1.	S.K. Sen	77022	CIT, Muzaffarpur	CIT(A), Jamshedpur	Vacant
2.	Smit Rekha Vishnoi	77055	Return from study leave	CIT, Gwalior	Vacant
3.	Meeta Namblar	82013	CIT(A)-IV Kolkata	CIT(OSD)-ITAT Delhi	Vacant
4.	Sangeeta Gupta	84028	CIT(DR)-ITAT Lucknow	CIT(A)-XIX Delhi	Vacant

2. Posting of the Officers at Sl. No. 1, 3 & 4 above will be effective only till 1/4/2007 and has been done on compassionate/medical grounds on request. They will not be entitled to claim TA for term of SR 114.

3. With this order, all representations for promotion and transfer in the grade of Commissioner/Chief of Income Tax stated department till No further action will be taken till 1/4/2007 and for the balance time period till 1/4/2007.

(Rajul Kashyap)

OFFICIAL SECRETARY TO THE GOVT. OF INDIA

1. Officers concerned
2. All Chief Commissioners of Income Tax/ Director General Income Tax
3. Principal Chief Controller of Accounts, New Delhi
4. Joint Accounts Officer, CITE, C/o CTT concerned
5. DIT(IT)/DIT(RSI&PR)/DIT(Audit)/DIT(Vig.)/DIT(Systems)/DIT(O&MS)/DIT(Spl. Inv.)
6. PSs to FM/ MOS(R)/Advisor to FM / Secy.(R)/ AS(R)/ Chairman, CBDT/ Members, CBDT/ All JSs/ CIs, CBDT/JS(R)/DS(Admin.)/DS(Hqrs.)/
7. Directors, CBDT/ D.S., CBDT.
8. US(Hqrs.)/Pers.DT/US(Ad.I)/US(Ad.VI)Ad.VI(A)/Ad.VII/ITCC/OT/ Coll/Hindi Section.
9. General Secretary, ITGOA/IRS Association.

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For the Secretary to the Govt. of India
(Advocate)

**SRI SANKARADEVA
NETHRALAYA**

Unit of SKSHEF (Regd. As Charitable Trust)
Belitola, Guwahati- 781 028
Phone : (0361) 2305516, 2228879, 2228921-22
FAX : (0361) 2228878
E-Mail: sanghy1@sify.com

Name: Mr. Pradip Kr Roy.

MRD No.: 143607/2004.

Period of treatment: 5th August 2006 to
25th November 2005

BRIEF CASE SUMMARY

COMPLAINT: Came to our institute for regular check up. ~~He~~ He was suffering from POAG and myopia of both eyes and was a known case of diabetes. He was using Iobet eye drop and his mother also had glaucoma.

VISION: with R_x OD: 6/6, N6 OS: 6/6, N6

ACCEPTANCE: OD: -8 DS / -0.5 DC OS: -3.25 / -1.25 DC x 180°
x 30°

ADD: OD: +2.5 DS OS: +2.5 DS

OCULAR MOTILITY: OU: Full ocular movement,
Orthophoric.

SLIT LAMP EXAM: OD: Lens - Early changes. OS: Lens - Early changes.
Other features within normal limit.
Other features within normal limit.

INTRA OCULAR PRESSURE: OD: 19 mm Hg. OS: 19 mm Hg.

GONIOSCOPY 360° angle open up to SS

INVESTIGATIONS: Advised :- Optic disc photography, HRT - II
30-2 Test : Glaucomatous field defect (Arcuate defect in superior haemifield) in right eye and left eye within normal limit.

FUNDUS: OD: Cobal stone degeneration in periphery. OS: Cobal stone degeneration in periphery.
Paripapillary atrophy. C:D 0.7.
C:D 0.9 Tilted disc.
Tilted disc.



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(Date)

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DIAGNOSIS:

POAG under medication (OU).
Myopia (OU)
Anisometropia.
Diabetes

TREATMENT:

Xalatan eye drop: 1 drop once at 08:0 PM.
Rev after 1 month.

The nature of the disease, possible treatment and outcome of treatment is explained.



Heaney

Signature of Consultant

Medical Director
Sri Sankaradeva Nethralaya
A unit of SKSHEP
(Regd. as Charitable Trust)
Bellola, Guwahati - 28

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[Signature]
(Associate)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA 1510/2006

WITH

OA 1305/2006, OA 1306/2006,
OA 1307/2006, OA 1356/2006, OA 1372/2006,
OA 1373/2006, OA 1374/2006, OA 1375/2006,
OA 1376/2006, OA 1377/2006, OA 1378/2006
and OA 1391/2006

New Delhi, this the 13th day of October 2006

HON'BLE MR. V.K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

OA 1510/2006

Mr. Alok Johri,
Additional Commissioner of Income Tax,
Range-26(2), Mumbai
54, Central Revenue Appts.,
Narayan Dabhokar Marg, Malabar Hill,
Mumbai - 400 006.

☐ Applicant.

OA 1305/2006

Manoj Kumar Gupta,
S/o Sh. Mahesh Chandra
R/o 2625, Hudson Lane,
GTB Nagar,
New Delhi - 110 009.

☐ Applicant.

OA 1356/2006

Mr. Joe Sebastian,
S/o Mr. O.V. Sebastian,
Aged about 41 years,
Additional Commissioner of Income Tax,
Range 7(3), Mumbai.
Residing at
Flat No.10, 4th floor, Central Revenue Apts.,
Narayan Dabholkar Road, Malabar Hill,
Mumbai - 400 006.

☐ Applicant.

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Bung
(Advocate)

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OA 1372/2006

Mr. Om Prakash Sharma
Additional Commissioner of Income Tax,
Range 12(2), Mumbai
Residing at
4, Central Revenue Apt. N D Road
Off Nepean Sea Road, Mumbai 400 006.

☐ Applicant.

OA 1373/2006

Mr. Jayaram Raipura, IRS
Additional Commissioner of Income Tax
Range-14(3), Mumbai
Residing at
B-11, Income Tax Colony,
Pedder Road, Mumbai 400 026.

☐ Applicant.

OA 1374/2006

Mr. Vivek Batra
Additional Commissioner
of Income Tax, Range-I
Residing at
B-2, Income Tax Colony,
Pedder Road, Mumbai 400 026.

☐ Applicant.

OA 1375/2006

Mr. Sandip Garg
Additional Commissioner of Income Tax,
Range-18(2), Mumbai
Residing at
C-27, Income Tax Colony,
Pedder Road, Mumbai 400 026.

☐ Applicant.

OA 1376/2006

Mr. Surendra Kumar
Additional Commissioner
of Income Tax, Range-18(1),
Residing at
C-10, Income Tax Colony,
Pedder Road, Mumbai 400 026.

☐ Applicant.

OA 1377/2006

Mr. Anurag Srivastava
Joint Commissioner of Income Tax,
Range-23(2), Mumbai
Residing at
24/402, Oshiwara MHADA Complex,
Income Tax Officers Quarters,
Off New Link Road,
Andheri (West), Mumbai 400 053.

☐ Applicant.

OA 1378/2006

Mr. Amardeep
Additional Commissioner
of Income Tax, Range-16(3)
Residing at
9, Cassimitha, Central Revenue Apartment
Narayan Dabholkar Road, Nepean Sea Road,
Mumbai 400 006.

☐ Applicant.

OA 1391/2006

Mr. Harsh Prakash,
Additional Commissioner of Income Tax,
Range-14(1), Mumbai, Earnest House,
Nariman Point, Mumbai.

☐ Applicant.

(By Advocates: Shri Shibashish Mishra in OAs 1510 & 1391/2006
Shri R.R. Shetty with Sh. Sandeep Marney in OA 1376/2006 &
Shri A.K. Behera, Advocate in remaining OAs.)

VERSUS

1. The Union of India, through
The Secretary, Ministry of Finance,
Department of Revenue,
North Block, New Delhi.
2. The Chairman,
Central Board of Direct Taxes,
Ministry of Finance,
Department of Revenue,
North Block, New Delhi.

☐ Respondents.

(By Advocates : Sh. R. Venkataramini, Sr. Advocate with Sh. V.P. Uppal, Sh. R.R. Bharati & Sh. Ashok Panigrahi)

OA 1306/2006

Krinwant² Sahay
Flat No.6453, C-6, Vasant Kunj,
New Delhi - 110 070.

☐ Applicant.

OA 1307/2006

Sanjay Kumar Srivastava
Flat No.6492, C-6, Vasant Kunj,
New Delhi - 110 070.

☐ Applicant.

(Applicants in person in OAs 1306 & 1307 of 2006)

VERSUS

1. The Union of India, through
The Secretary, Ministry of Finance,
Department of Revenue,
North Block, New Delhi-110001.

2. Ministry of Finance
Department of Revenue through
Deputy Secretary CBDT,
North Block, New Delhi.

☐ Respondents.

(By Advocate : Sh. R. Venkataramini, Sr. Advocate with Sh. V.P. Uppal, Sh. R.R. Bharati & Sh. Ashok Panigrahi)

ORDER

By Mr. -----Mukesh Kumar Gupta, Member (J):

As the question involved for consideration & determination is same in this bunch of cases, we propose to decide them by this common order. For brevity, facts are delineated from OA No.1356/2006.

2. Basic challenge has been made to order No.69 of 2006 of CBDT dated 31st May, 2006 vide which a large number of officials in the grades of Additional/Joint Commissioners of Income Tax have been posted / transferred from one region to another region. Para 3 of aforesaid order states that: 'Officers who had completed 8 years at class 'A' station(s) in the present cycle of 16 years have been transferred out of Delhi and Mumbai are to be posted to B/C Stations for 6 years as per Transfer Policy. The CCIT (CCAs) shall take this aspect into consideration while deciding posting of such officers.'

Representations filed against aforesaid transfer order had also been rejected vide communication dated 26.06.2006, which is also impugned herein.

3. It is an admitted case of the parties that aforesaid transfer order is based on transfer/posting policy notified by Respondents in the year 2005, known as 'Transfer / Placement Policy for Group 'A' Officers of the Indian Revenue Service, Central Board of Direct Taxes - 2005'. According to applicants, the impugned transfer / posting order is not in consonance with aforesaid Policy, rather the same has been issued in complete derogation and in violation of said Policy. Per contra, respondents' stand in specific is that impugned transfer / posting order is based on provisions of aforesaid Policy and, therefore, it requires no interference.

4. Applicant belongs to Indian Revenue Service having been appointed as Direct Recruit Group 'A' Officer & posted as Assistant Commissioner of Income Tax on 01.04.1992. Thereafter he was promoted to post of Deputy, Joint and Addl. Commissioner of Income Tax. He was in Bangalore from 01.04.1992 to 01.06.1995 and transferred to Mangalore from 01.07.1995 to 01.06.1998. He was posted to Mumbai on 01.06.1998. In Mumbai he served in different capacities, i.e., Assistant, Deputy, Joint & Addl. Commissioner. Though he is yet to complete a cycle of 8 years in Mumbai region, he has been transferred to Karnataka region vide the impugned order. Initially he filed OA No.307/2006 before the Mumbai Bench of this Tribunal, which was disposed of vide order dated 08.06.2006, directing him to submit representation as well as directing Respondents to take a decision thereon within the prescribed time limit. Till then status quo was to be maintained. He submitted a representation on 14.06.2006 and pointed out various illegalities and violation of policy, yet it had been rejected vide communication dated 26.06.2006 maintaining that his stay at Class 'A' station including stay in exempted category of post had been 9 years, out of which 7 years in Mumbai and his stay in Class 'B' & Class 'C' stations has been of one year only. Therefore, his transfer is 'within the ambit of the provisions of the transfer policy' and his request for cancellation cannot be acceded to.

5. Before we proceed to consider the contentions raised by respective parties, it would be expedient to notice the basic features of said transfer policy, relevant extracts of which reads thus:

1. Introduction

The Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, is the Cadre Controlling Authority for IRS (IT) officers. In order to increase transparency, and also to provide better opportunities to offices for excellence and a more planned approach to cadre planning, a proper placement / transfer policy is a vital ingredient. This placement policy has been formulated to address the needs of the Department as well as the Human Resource Development aspects and career management of officers as a whole.

1.1 The Salient features of the Transfer /Placement Policy for Group 'A' Officers of the service (hereinafter referred to as the Placement Policy) are follows:

2. Salient features

The policy shall come into effect from the date of issue.

All annual transfer orders shall normally be issued by 30 April and, in any case, not later than 31 May of the year.

All transfers and postings of group 'A' shall be effected by the Placement Committee or on its recommendation, as stated hereinafter.

2.1 A posting policy has been formulated for officers at different levels.

2.2 All stations have been categorized in three classes and tenure in different classes of stations have been prescribed.

2.3 All posts have been divided into two categories, namely, sensitive and non-sensitive.

2.4 Guidelines for dealing with different types of ☐ compassionate grounds cases have been laid down.

2.5 The transfer guidelines shall not be applicable to the transfer and posting of Chief Commissioners/ Directors General.

2.6 A correct and complete data base is a sine qua non for operationalizing the policy. The Board shall ensure that a data base containing the profiles of all group 'A' officers is created and regularly updated.

3. x x x x x x x x x x x x x x x x x x

4. x x x x x x x x x x x x x x x x x x

5. Classification of stations, fixations of tenures and rotation between them.

The various stations where Group 'A' officers can be posted have been categorized as Class 'A', Class 'B' and Class 'C'. Such categorization is based on the twin criteria of revenue collection and the number of Commissioner level posts at a station. (Appendix I).

5.1 All suburbs of metro towns have been clubbed with the respective metro town in this classification.

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

5.3 1) the country will be divided into four areas, viz., East, West, North and South.

The existing CCIT regions will be divided into the four Areas as under:

North	- NWR, Delhi, UP (E), UP (W), Rajasthan
East	- West Bengal, Bihar, Orissa, NER
West	- Gujarat, MP, Maharashtra, Mumbai, Nagpur
South	- AP, Kerala, TN, Karnataka

2) A total posting period of 16 years in a region shall be counted as a 'cycle'. In Mumbai and Delhi regions, since there are no Class 'B' and Class 'C' stations, one cycle will be of 8 years.

3) An officer shall not serve for more than one cycle in a region during his entire service up to and including the rank of Commissioner.

4) An officer shall be posted to another region after he has completed one cycle of posting.

5) The maximum tenure at a Class 'A' station in a 'cycle' will be 8 years, the remaining period will be spent in Class 'B' and Class 'C' stations.

6) The minimum tenure at Class 'B' + Class 'C' stations in each cycle shall be 6 years.

7) The maximum total tenure in Class 'A' stations during service up to and including the rank of Commissioner shall be 16 years.

8) An officer shall be posted to another 'Area' when he is promoted to the level of Commissioner of Income Tax, provided he has remained in only one 'Area' for 16 years or more till his promotion as Commissioner.

9) The minimum and maximum tenures on a post shall ordinarily be 2 and 3 years respectively.

10) Once posted to another 'area' on promotion as Commissioner, an officer may be posted back to the same 'area' after he has served in 'areas' other than that of long stay for a minimum of 5 years.

11) Exceptions on compassionate / administrative grounds may be made by the Placement Committee.

12) When a certain number of officers are due for moving out of a station to a new station or to new postings in the same station for reason of having completed their tenure, but cannot be so moved due to inadequate number of vacancies available, the officers who have served for longer periods will be moved first as far as possible.

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

14) A stay of more than nine months at 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.

5.4 All postings in the Board and in the Directorates of Vigilance, Systems and Administration, technical posts in the Department of Revenue, deputations / postings to Central Economic Intelligence Bureau (CEIB), Enforcement Directorate, Authority for Advance Rulings (AAR), Competent Authorities (CAs), Appellate Tribunal for Forfeited Property (ATFP), Income Tax Appellate Tribunal (ITAT) and Settlement Commission shall ordinarily 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 / posting to any one of the aforesaid bodies shall not ordinarily be considered for another deputation / posting to any of the aforesaid organizations without completing the minimum prescribed cooling off. When an officer applies for cadre clearance for a deputation, his previous history of postings will be considered. An officer shall be transferred out of the station in which he was on deputation on his return if he has completed his tenure at that station.

5.5 In order to encourage officers to seek postings at 'C' category stations, the Government shall sanction:

(a) At least one vehicle for office use at every 'C' category station irrespective of the level of the officer heading the office; and

(b) 100 per cent housing facility for officers.

5.6 The starting point for computing stay at Class 'A', 'B' or 'C' stations shall be the date of joining at the station.

5.7 Officers who complete 3 years of tenure at National Academy of Direct Taxes, Nagpur, Regional Training Institutes and the Vigilance Directorate, and whose performance has been excellent, will get preference, as far as possible, in posting to stations of their choice. Officers who have served in the North Eastern Region and J&K would get preference in posting to stations of their choice.

6. Sensitive / non sensitive posts

6.1 Posts in Investigation and Central charges are classified as sensitive.

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

7. x

8. Postings on compassionate grounds

8.1 Cases of postings on medical / compassionate grounds will be examined by the Placement committee which may refer medical ground cases to Medical Boards, if required.

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

9.1 Notwithstanding anything contained in this Policy the Government may, if necessary to do so in public interest, transfer or post any officer to any station or post.

9.2 In between two Annual General Transfer exercises, on administrative exigencies, the Placement Committee may shift a Commissioner from one charge to another charge in the same station. The Placement Committee may also shift officers of the rank of Additional Commissioners and below from one region to another.

9.3 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. This restriction will remain in operation till such time as the vigilance matter is not closed. However such an officer shall under no circumstances be posted to a sensitive charge.' (emphasis supplied)

6. We have heard S/Shri A.K. Behera, R.R. Shetty with S.K. Sandeep Marney, Shibashish Mishra for applicants besides applicants, in person, in OAs No. 1306, 1307 and 1375 of 2006. We also heard Shri R. Venkataramini, Sr. Advocate appearing along with S/Shri V.P. Uppal, R.R. Bharati and Ashok Panigrahi appearing for Respondents at length and perused documents and material placed on record carefully.

7. Opening the case for applicants, Shri A.K. Behera, learned counsel, contended that transfer / posting policy has been codified with minute details with a view to increase transparency, provide better opportunities to officers for excellence and a more planned

approach to cadre planning. The said policy, as per its para-1, has been formulated 'to address the needs of the Department as well as the Human Resource Development aspects' besides 'career management of officers as a whole'. As per the salient features of the Policy, all annual transfers should normally be issued by 30th April and not later than 31st May of the year. It covers the officers at different levels including 'the rank of Commissioner'. All posts have been divided into two categories, namely, sensitive and non-sensitive. All transfers and postings shall be effected by Placement Committee and as per para 3.1.(b), the Placement Committee is the final authority for transfer and allocation of region. Approval of the Government is required to be taken only in case of 'deviation from the existing guidelines'. In other words, transfer / placement policy is akin to statutory rules. The normal practice is transfer on promotion. Grant of senior scale and NFSG are not to be treated as promotion. Para-5 deals with classification of stations, fixation of tenure and rotation between them. The entire country has been divided into four areas, viz., East, West, North and South and the entire CCIT regions into four areas as detailed under para 5.3.1. A total Posting period in a region has been prescribed as 16 years, which is treated as 'a cycle'. However, in Mumbai and Delhi regions, since there are no Class 'B' and Class 'C' stations, the posting cycle has been prescribed as 8 years. In other words, Mumbai and Delhi are exceptions to the normal posting of 16 years in a region. As per para 5.3.4, an officer becomes liable to be posted to 'another region after he has completed one cycle of posting'. The maximum and minimum tenure at stations 'in each cycle' has also been prescribed. The maximum 'tenure in a Class 'A' station' during service up to and including the rank of Commissioner shall be 16 years. As per para 5.4 certain postings are exempted towards calculation of stay at a particular station / area. Para-8 deals with compassionate posting, while para-9 deals with transfer on administrative ground / public interest. Annexure-I appended to said Policy provides details of Class 'A', 'B' & 'C' stations.

8. The first and foremost contention raised has been that as per Para-5.3.14, a stay of more than 9 months 'at a station' as on 31st December of the previous year will be treated as 'a complete year', and the length of period of stay is counted from the date of joining. As the applicant joined Mumbai on 1st June, 1998, he had rendered only seven years of service as on 31.12.2005 and as such he had not completed '8 years' in Mumbai region. Therefore, he was not liable to be transferred, contended Ld. Counsel. Para 5.3 of the Policy is the centre of entire grievance. The term '8 years' has been interpreted by Respondents 'irrespective of the region' as reflected in Respondents' reply, which is impermissible. The Chief Commissioner of Income Tax, Mumbai had issued certificate supporting applicant's claim that he was not due for transfer. The phrase 'irrespective of region' has not at all been employed under the aforesaid Policy and it cannot be introduced by the Respondents indirectly.

9. Further contention raised was that posting in different regions cannot be clubbed together for determination of 8 years in a cycle. The term '8 years' is confined to Delhi and Mumbai regions alone. The conclusion drawn by Respondents in rejecting his representation vide para 12 is misplaced and contrary to the intent and object of the Policy.

10. When there are detailed guidelines issued on transfer policy, norms of transfer and operative guidelines are required to be followed meticulously and the same cannot be by-passed under the cover of administrative instructions. In none of the cases, viz. Shilpi Bose, S.L. Abbas judgments etc. there had been a challenge to the policy. In S.L. Abbas it was emphasized that the guidelines should be followed 'as far as possible'. In all other cases, the transfer policy was neither under consideration nor its challenge was the subject matter. On the other hand, whenever there had been an occasion to examine the policy, the Courts including the Hon'ble Supreme Court emphasized that the 'policy' should be followed.

11. Shri R.R. Shetty, learned counsel emphasized that the transfer / placement policy for Group 'A' officers was formulated in the year 2005 to check the mischief prevalent in the system. Therefore, the intention of the rule making authority was to ensure that the policy is transparent and free from political & other interferences. The learned counsel contended that Para 5.3.4 of the Policy was intentionally, deliberately and purposefully not relied upon by the respondents even when they filed their reply affidavit. It is not the case of Respondents that impugned transfer order had been issued in the administrative exigencies as well as in public interest under para 9 of the said policy. On the other hand, it has been their specific case that transfer order had been issued under Para-5 of the said Policy. The principles & rules of construction would apply in interpreting such policy as it will certainly check the mischief which had been the avowed object of the policy.

12. Para 5.3.4, which had been inconvenient part of policy had been ignored by the respondents making the transfer policy otiose, forcefully contended Ld. Counsel. Intention of the concerned authority has to be respected while constructing such provisions. A view, which results in rejection of words employed under a policy, has to be avoided. On the other hand, the literal and grammatical construction should be followed. The allegations of discrimination had not been explained by Respondents. There were no administrative exigencies requiring the Officers to be posted out of Mumbai and Delhi regions, particularly when they have not completed the prescribed period/tenure under a cycle.

13. There remain reasons to suspect their bonafides as the respondents had followed the said Policy in letter and spirit in the year 2005, which stand had been completely reversed in the year 2006 and there is no denial to this contention raised under Para 4.15 of the OA. The transfer order suffers from malafides. Policy is sacrosanct. Irrelevant purpose and improper motive have weighed in the mind of authorities while issuing transfer orders. Even if the applicants are allowed to be retained in Mumbai region and the officials, who have been so transferred to Mumbai region are allowed to join the posts in question, there still remain a large number of vacancies at Mumbai in the grade of Addl./Joint Commissioner of Income Tax.

14. Shri Shibashish Mishra, learned counsel forcefully contended that the policy notified is not retrospective in nature and the tenure to be calculated has to be in respect of period after the said policy was notified and not otherwise. Earlier, transfer policy was issued in the year 1999 which has not been repealed and, therefore, it remains in

operation. Which policy will take precedence, either of 1999 or 2005 remains unclear. How to calculate tenure/cycle in a region is the basic issue raised in present proceedings. It was further contended that clubbing of tenures in different regions and stations is impermissible. It was further contended that various facets of contentions raised in respect of Annexures A-10 - A-13, which provide details of officials who have completed more number of years than the applicants, has neither been disputed nor rebutted by Respondents, rather they evaded from making any concrete statement.

15. The applicant in OA No.1307/2006 stated that the Respondents have treated his home State as Karnataka though he belongs to Bihar and, therefore, the statement made by the Respondents that he has been transferred to his own State ☐ Karnataka ☐ is factually incorrect and unwarranted. Moreover, the transfer has been effected in the mid academic year. He belongs to 1987 batch and, therefore, should have been exempted from such transfer as he is due for promotion in less than one year period. Respondents are taking different stands suiting their convenience, which is unjust and arbitrary. It was pointed out that the applicant has an autistic daughter, which fact had been pointed out vide Para-6 of his representation, which remains undisposed of. In view of the provisions of the Policy, his case is squarely covered by the medical ground under para 8 of the Policy and therefore he should have been exempted. Applicants in other OAs, namely, 1306 and 1375 of 2006 also adopted the contentions raised by the learned counsel.

16. Shri Harsh Prakash, applicant in OA No.1391/2006, who was represented through Shri Shibashish Mishra, contended that Para-8 of the Transfer Policy deals with posting on medical/compassionate grounds. As his father had been operated at Breach Candy Hospital, Mumbai for cancer, in the year 2005, his representation dated 11th August, 2006 should have been given due consideration. It was pointed out that similarly placed official, namely, Shri Sanjay Shivam, who appears at serial No.81 of the impugned transfer order was allowed such benefit. Therefore, Respondents' action is arbitrary, discriminatory and violates Article 14 of the Constitution.

17. Reliance was placed on the following judgments:-

i) (1993) 1 SCC 148 - Rajendra Roy v. Union of India & Anr. - particularly para 7, which reads as under:

'Unless such order is passed mala fide or in violation of the rules of service and guidelines for transfer without any proper justification, the Court and the Tribunal should not interfere with the order of transfer.'

ii) 1995 Supp (4) SCC - Abani Kanta Ray v. State of Orissa - (Para-10), wherein again it was observed that:

'It is settled law that a transfer which is an incident of service is not to be interfered with by the courts unless it is shown to be clearly arbitrary or vitiated by mala fides or infraction of any professed norm or principle governing the transfer.'

iii) (2001) 8 SCC 129 - Union of India v. Mamta Anurag Sharma & Anr. - (Paras 8, 9 & 12), relevant excerpts of which read as under:

'8. In our view, there is much substance in the contention raised by the learned Additional Solicitor-General appearing for the appellant Union of India as it appears that the High Court has not considered the new guidelines of inter-cadre transfers of all-India services officers in the proper perspective.

9. It appears that the High Court has not taken into consideration the first part which is the preamble of the aforesaid policy.

12. In view of this policy there was no question of directing the Central Government to consider the case of Respondent 1 to transfer her to Andhra Pradesh IPS cadre.'

With reference to above judgments, learned counsel Shri A.K. Behera emphasized that 'policy' has to be implemented in letter and spirit.

iv) (2004) 12 SCC 299 - Kendriya Vidyalaya Sangathan v. Damodar Prasad Pandey & Ors. - which had followed Abani Kanta Ray v. State of Orissa as well as noticed Union of India v. S.L. Abbas. The learned counsel emphasized that the prescribed norms and principles governing the transfer and the operative guidelines has to be respected. ✓

v) (2005) 3 SCC 153 - Suresh Chandra Sharma v. Chairman, U.P. SEB & Ors. (Paras 2 & 8)

vi) (2003) 11 SCC 740 - Sarvesh Kumar Awasthi v. U.P. Jal Nigam & Ors., wherein it was emphasized that : 'transfer of officers is required to be effected on the basis of set norms or guidelines.' Vide para-3, it has also been emphasized that: 'The power of transferring an officer cannot be wielded arbitrarily, mala fide or an exercise against efficient and independent officer or at the instance of politicians whose work is not done by the officer concerned.'

vii) Judgment dated 28.09.2004 in W.P. No.24056 of 2004 - A. Kaliaperumal v. Union Bank of India & Ors. - particularly, paras 8, 9, 10 & 13. Relevant excerpts of paras 8, 9, 10 & 13 read as under:

'8. in order to challenge an order of transfer, the petitioner must show that it was passed mala fide or it is made in violation of the statutory provisions, and in the absence of the same, the writ petition must be dismissed.

9. The revised transfer policy for the officers of the first respondent bank, which would, no doubt, bind the parties, has come into effect from 18.12.2003. The order under challenge has been passed by the third respondent only on 22.5.2004, and hence, the order of transfer should be in conformity with the transfer policy dated 18.12.2003.

10. According to the Bank, the petitioner has not worked outside the zone in the recent past, and hence he has got to be transferred. In the face of the guideline referred to above, which would bind the Bank, they cannot be permitted to state that the petitioner has not worked outside the zone in the recent past, and hence, he has got to be transferred.

The contention of the management that the petitioner has not shown any mala fide on the part of the third respondent in passing the said order of transfer cannot be countenanced. In the instant case, the petitioner has clearly averred that the impugned order of transfer was an outcome of mala fide and is also able to show that the transfer has not only been made without sufficient reason to justify the same, but also against the transfer policy, and hence, such transfer cannot, but be held only as mala fide.' (emphasis supplied)

viii) Judgment of Hon^{ble} Delhi High Court in W.P. No.5522 of 2002 dated 29.10.2002 - O.P. Sharma, Registrar (Admissions), National Institute of Fashion Technology vs. The National Institute of Fashion Technology - wherein it has been held that: 'transfer policy to be given meaningful interpretation and not interpretation which renders it nugatory'.

Vide para 16, it was further held that:

'If the interpretation given by the Institute is accepted, then it will mean that an employee may, after the first refusal of a transfer, consistently refuse to accept subsequent transfers and yet claim promotions in the same place of posting. This renders the policy toothless. This interpretation also makes the policy inapplicable after the first refusal of a transfer and promotion, which could certainly not have been the intention while framing the policy. The policy has to be given a workable interpretation and to make it workable, it must be construed so as to mean that whenever an employee is transferred out from the center in which he is working on promotion to some other center, and he declines to accept the transfer, he will not be offered a promotion for a period of one year from the date of his (first) refusal to accept the transfer. This may happen more than once and every time an employee is transferred out from his center.' (emphasis supplied)

ix) Gujarat High Court Judgment dated 28.02.2006 in Special Civil Application Nos. 10232 and 10234 of 1996 - Dipika Kantilal Shukla vs. State of Gujarat & 2 Ors. - wherein an emphasis was laid that when employer itself framed certain guidelines for certain categories of employees, with a clear intention, then the action of the concerned authorities should have a reasonable nexus with the objectives sought to be achieved. Very objective of framing the policy would be defeated in its implementation, which would result in arbitrariness and discrimination. Transfers should be in consonance with the policy/guidelines framed.

x) Lastly, reliance was placed on Mohammad Akbar Teeli & Ors vs. State of J&K, (2001) 1 J&K LAW REPORTER 72, wherein following judgments in Dr. Amarjit Singh

v. State of Punjab [AIR 1975 SC 984] and Shilpi Bose vs. State of Bihar [AIR 1991 SC 532], it was observed that: 'In case the order is based on mala fides or passed in violation of any rule of service and guidelines without any proper justification the court has the power to interfere'. In view of the legal position, Respondents therein were directed to reconsider the case of the petitioners within the parameters of instructions noticed therein.

18. Shri R.R. Shetty, learned counsel strongly relied upon Suresh Chandra Sharma vs. Chairman, UPSEB & Ors (supra) and Mithilesh Singh vs. Union of India & Ors 2003 (3) SCC 309, which reads as under:

'The intention of the legislature is primarily to be gathered from the language used, and as a consequence a construction which results in rejection of words as meaningless has to be avoided. It is not a sound principle of construction to brush aside word(s) in a statute as being inapposite surplusage; if they can have appropriate application in circumstances conceivably within the contemplation of the statute. In the interpretation of statutes the courts always presume that the legislature inserted every part thereof for a purpose and the legislative intention is that every part of the statute should have effect. The legislature is deemed not to waste its words or to say anything in vain.'

19. Further reliance was placed on Sardar Pratap Singh vs. State of Punjab [1964 (4) SCR 733 = AIR 1964 SC 72] to contend that where an authority exercising a power has taken into account as a relevant factor for something, which it could not properly take into account, the exercise of the power would be bad. Where the purposes sought to be achieved are mixed, some relevant and some alien to the purpose, the difficulty is resolved by finding the dominant purpose which impelled the action, and where the power itself is conditioned by a purpose, the courts would invalidate the exercise of the power when an irrelevant purpose is proved to have entered the mind of the authority and it is not correct to say that mala fides in the sense of improper motive could be established only by direct evidence. A bad faith can be deduced as a reasonable and inescapable inference from proved facts. The improper purpose can be easily established by an examination of the impugned order, transfer policy and the file notings. The ostensible purpose for which the transfer has been effected in the impugned order is 'balancing the aspirations of IRS officers' - those who have not worked at Class 'A' stations and are desirous of working at Class 'A' stations and those who have completed the maximum number of years at class 'A' stations, as reflected in respondents reply. This is not the purpose for which the transfer policy can be violated. Most of the officers, who have been transferred to Delhi and Mumbai have already spent substantial period in Class 'A' stations. The learned counsel further contended that if the purpose of 'balancing the aspirations' is held as the proper purpose, it will lead to absurd result as every year there would be a large number of officers who have completed 8 years at a class 'A' station just after spending 1 - 2 years in Delhi/Mumbai and would face the transfer orders. Carrying out transfer orders of large number of officers out of Delhi and Mumbai alone is neither in consonance with Para 5 nor Para 9 of the Policy. Respondents' plea that impugned transfer order was issued for 'balancing the aspirations of IRS officers' is outside the purview of the Policy and cannot stand the test of

reasonableness. Reference was also made to *E.P. Royappa v. State of Tamil Nadu* [1974] 4 SCC 3] to contend that the transfer order suffers from mala fides as where the operative reason for State action, as distinguished from motive inducing from the antechamber of the mind, is not legitimate and relevant but is extraneous and outside the area of permissible considerations, it would amount to mala fide exercise of power and that is hit by Articles 14 & 16 of the Constitution. The mala fide exercise of power and arbitrariness are different lethal radiations emanating from the same vice; in fact the latter comprehends the former, but both are inhibited by Articles 14 & 16.

20. Shri R. Venkataramini, Ld. Sr. Advocate appearing for Respondents, forcefully contended that certain facets of rights do not fall within the matter of legal right. Rather 'Transfer' is a liability of employee, but a right of employer. Guidelines issued by Respondents cannot be elevated to the pedestal of 'conferring a right'. There are certain rights, infringement of which can be interfered by the Courts like those under Company Law, statutory rights, legal rights and constitutional rights. Bonafide reading of law laid on the administrative aspect lead to bonafide reading that the Court cannot interfere in the matter of transfer as of right. Government is not averse to consider representation of certain applicants wherein extreme cases of medical or other pressing grounds have been highlighted. Transfer policy is a culmination of exercise undertaken over a period of time and is done on annual basis. The Placement Committee is a final authority in terms of Para 3.1(b). A conjoint reading of Paras 5.3.2, 5.3.4 and 5.3.5 shows that applicants are under legal obligation to serve 'B' & 'C' stations for a minimum period of six years or more up to the rank of Commissioner. The obligation is not to act arbitrarily. Para 5.3.3 has an outer limit. The court and litigant could not be allowed to re-write the transfer policy. Once an official is promoted as Commissioner, he is not under an obligation to serve in 'B' & 'C' stations. When the minimum as well as maximum tenure is prescribed under paras 5.3.5 and 6, how it could be termed as mala fide as the number of years provided to be served in a particular station has a rationale. It is the longest stayee in a station, who is to be posted out. New cycle does not begin with every posting. Paras 5.2 and 5.3 speak of 'total posting period'. Policy does not preclude Government to take into consideration different spells of posting in Stations 'A'. It is not the posting at a particular station, which is material, but what is material is that the maximum and minimum tenure is prescribed for different classes of stations. Even if para 5.3.4 is deleted and ignored, it would not make any material change. Neither it adds any extra benefit provided under Paras 5.3.2 & 5.3.3. The expression 'shall be posted to another region' under Para 5.3.4 cannot be read as 'shall not be posted' before completing one cycle of posting. Government acted fairly and not in a discriminatory manner. Revenue collection is a test for determining station. Preamble of transfer policy itself indicates how to operate it and includes several features and aspects. The object and contents of Policy have not been disregarded. The Minister of State (R) applied his mind before giving effect to the impugned transfer proposal and it cannot be contended that the 3 Members of Placement Committee acted arbitrarily. In the absence of rules and regulations, the composition of Placement Committee cannot be challenged. Reliance was placed on 1972 (3) SCC 383 *Shri Ishwar Chandra vs. Satya Narayan*. In any case no prejudice has been caused to the applicants. It is no doubt true that the Government has received inputs from the Chief Commissioners of Income tax of different regions, it is not precluded from taking a

different view in the matter. Chief Commissioner is not in the hierarchy for making a policy decision. Transfer policy do not contemplate Chief Commissioner, Income Tax, to play a decision making role in the matter of posting & transfer of Group 'A' Officers. Government has not deviated from the professed norms. It is not a case of fraud on powers. Reliance was placed on Express Newspapers Pvt. Ltd. vs. Union of India & Ors. 1986 (1) SCC 133, to contend that there is a distinction between exercise of power in good faith and mis-use in bad faith. The misuse in bad faith arises when the power is exercised for an improper motive, say, to satisfy a private or personal grudge or for wreaking vengeance of a Minister as in S. Pratap Singh v. State of Punjab. A power is exercised maliciously if its repository is motivated by personal animosity towards those who are directly affected by its exercise. Use of a power for an 'alien' purpose other than the one for which the power is conferred is mala fide use of that power. Same is the position when an order is made for a purpose other than that which finds placed in the order.

21. In the reply affidavit filed, it was stated that the applicant completed 9 years stay in Class 'A' station and his stay in 'B' & 'C' stations has been one year only, therefore, he has been transferred to Karnataka region to complete his stay of six years in 'B' & 'C' stations in terms of option given by him. As officers presently posted in Delhi & Mumbai completed 8 years at 'A' stations and have not completed the mandatory tenure of 6 years at 'B' & 'C' stations have to be posted to 'B' & 'C' Stations. No officer has a statutory right to continue for 8 years at any post/station which is the only maximum period allowable as per the guidelines. Provisions of para 5.3 cannot be read in isolation and a cumulative view of the entire Policy has to be taken in its right perspective. If read together, the provisions contained in Paras 5.3.2 to 5.3.6 stipulate that officers who have completed the maximum period of 8 years in a class 'A' station irrespective of the region and had not completed minimum 6 years in 'B' & 'C' stations, irrespective of the region, will become due for transfer. Provision of transfer policy has been made to ensure that the officers do not remain posted at a single Chief Commissioner of Income Tax's charge for more than 16 years in their entire career. Transfer policy was formulated because of such incidents of abuse of tenure at specific stations/posts by a small group of officers to the detriment of others. The plea of the applicants if accepted would lead to discrimination against those who have been working at 'B' & 'C' stations only. Representation submitted by IRS Association is not justified and smacks of vested interests of persons serving in Delhi and Mumbai. Transfer orders have been issued for 'balancing the aspirations' of officers of IRS - those who have not worked at 'A' stations and are desirous of working at 'A' stations and those who have completed the maximum number of years at 'A' stations. (Reply para 4.14). The Placement Committee looked into the option forms of officers who are due/not due for transfers and made specific requests for transfer on various grounds and also opinion of CCIT(s) while forwarding option forms. Officers of 1985 and 1986 batches who were likely to be promoted to the grade of CIT have been excluded from transfer from one station/region to another except on compassionate grounds. Such officers are likely to be promoted during the year and would be transferred at that point of time. Similarly, officers who are retiring within two years are not to be shifted out from the present station/region except on requests. Preference has been given to those who have not served in Class 'A' stations - Delhi /

Mumbai for posting to Delhi / Mumbai or other class 'A' stations. It was not possible in the interest of administration to transfer a large number of officers simultaneously who have become due for transfer during the Annual General Transfer - 2006. The transfer orders have been issued 'within the policy guidelines' and such policy was applied 'in true spirit during AGT - 2005'.

22. Respondents have also filed their additional affidavit.

23. Applicants, on the other hand, filed their detailed rejoinder reiterating various contentions raised vide their OAs, stating that the reply filed by Respondents is misconceived and evasive and there has been a systemic violation of the transfer policy, which is arbitrary, discriminatory and malafide.

24. Shri R. Venkataramani, Ld. senior counsel placed on record respondents communication dated 6th October, 2006 addressed to him and further made a statement that Tribunal may pass appropriate orders in respect of S/Shri Amardeep, Harsh Prakash and S.K. Srivastava, with liberty to post them against appropriate posts i.e. non-assessment/non-sensitive in nature. In case of S.K. Srivastava (OA No. 1307/2006), on perusal of material & records placed before us we find that he has an autistic child and a daughter in Xth standard, which fact has not been mentioned by him initially at the time of submitting option, but brought to respondents notice subsequently. However, the fact remains that he is facing such a problem. In case of Harsh Prakash (OA No.1391/2006), it was pointed out that he made a representation dated 11.08.2006 to Respondents, in continuation of his earlier representation, stating that his father had been operated for cancer at Breach Candy Hospital, Mumbai in 2005 and follow up treatment still continues. He is likely to be operated once again. Documents evidencing treatment of his father were also annexed thereto. It was clarified that his father was residing at Muzaffarpur and he being the only son is required to take his care. We have perused the relevant documents on this aspect to satisfy ourselves. Similarly, in case of Amardeep (OA No.1378/2006), we find that he vide para 11.1 of representation dated 15.06.2006 stated that his daughter Ms. Aarushi Rana was suffering from acute lungs problem, namely, 'Sequesterian Lung' since last several years and had been operated upon in March, 2005 at Jaslok Hospital, Mumbai, a major surgical operation. Therefore, she requires constant health care and check ups.

25. On merits, issues which require consideration are whether impugned transfer/posting order dated 31st May, 2006 is in consonance & accordance with Para-5 of the Transfer Policy? It needs further elaboration as to whether Respondents stand as reflected vide Para-3 of impugned transfer order that 'Officers who had completed 8 years at class 'A' station(s) in the present cycle of 16 years have been transferred out of Delhi and Mumbai are to be posted to B/C Stations for 6 years as per Transfer Policy' is reasonable, justified, tenable or not? Similarly, the term 'irrespective of the region(s)' as projected by Respondents vide reply para 4.10 and repeated time and again, in effecting the transfer order is justified? It remains an undisputed fact that Mumbai and Delhi are though 'A' stations, but a 'region' in themselves and the normal posting of 16 years 'in a region' is not applicable to such stations/cities or regions, as the cycle of tenure for the

same consists of '8 years'. Similarly, emphasis has been laid under Para-5 about computing of tenure with reference to cycle 'in a region'. The term 'in a region' has to be construed based on grammatical and natural meaning. In our considered view posting in Delhi and Mumbai cannot be clubbed to determine as to whether one has completed posting of '8 years'. It is not like a running account, which could be opened for all 'A' & other stations and the entries made thereon being posted to said stations i.e 'A', 'B' or 'C'. The emphasis on term 'shall' under Clause 5.3.4, amounts to positive mandate, which cannot be breached except in circumstances enumerated under para 9. Furthermore, the aforesaid Clause states that an officer shall be posted to 'another region' after he has completed one cycle of posting. 'One cycle of posting' has a correlation and a relation with the term 'region'. Mumbai and Delhi are two different and distinct regions.

26. On an analysis of Para-5 & its sub-paras of Policy, we find four different terms have been used namely, area, region, a cycle and tenure in a cycle. In the same para-5, cycle is prefixed with word 'a', which conveys a special meaning. Similarly, the region has also been prefixed with 'a' and wherever the intention of the authority had been to club more than one cycle station or region, the grammatical word 'a' has not been employed. This in itself conveys the distinction kept in mind while framing the aforesaid Policy. If the intention of the authorities had been to club the tenure of two different stations to decide whether one has rendered the maximum tenure at a class 'A' station, the wording would have been different than what has been presently employed under the aforesaid para. The word 'shall' mean positive and mandatory direction, which is unfettered and unrestricted. It is not disputed by Respondents that none of the applicants have rendered 8 years posting in Mumbai / Delhi exclusively. What has been emphasized by respondents is that 'taken together', they have completed 8 years posting in Delhi/Mumbai regions. The term 'taken together' is not found to be employed under Para-5 anywhere. Similarly, it has not been disputed that the construction laid and the transfer order issued in earlier year, i.e. 2005 was at variance with the present construction. The postings 'in spells' at different stations and regions cannot be pooled together or taken cumulatively. Such a stand as projected by Respondents, in our considered view, is not in consonance with the present Policy. If the intention of the authority had been that different postings at stations as well as regions should be pooled or taken together, the language employed vide Para-5 would have been totally different & distinct. In our opinion, Union of India is competent to amend, reframe & change the said policy accordingly, which certainly would have to be prospective and cannot be applied retrospectively in the given circumstances. Para 5.3.4 is an important aspect and feature of the Policy, which has to play its due role particularly when a person is transferred to another region. According to said sub-para, the posting to another region is circumscribed & conditioned by completion of 'one cycle of posting'. As already noticed, a cycle is 16 years in a region with an exception in cases of Mumbai and Delhi regions where it is of 8 years. It appears that mandate of policy is that once an officer is posted to a region, he cannot be transferred to another region, though he can be shifted/posted/transferred within a region till he completes 'one cycle of posting', including different categories of stations. In other words, once a person is posted to a region, he should be allowed to

complete 'one cycle of posting' except in cases covered under para-9, i.e. public/administrative grounds. 181

27. On bestowing our careful consideration to entire aspect of the matter, we do not find justification in Respondents' plea that read together, the provisions contained in Para-5.3.2 to 5.3.6 stipulate that the officers who had completed the maximum period of 8 years in Class 'A' station 'irrespective of the regions where their stay had been, the official is liable to be transferred'. The term 'irrespective of region', at the cost of repetition, we may say is alien to the aforesaid Policy. These crucial words cannot be allowed to be inserted or read therein, as it was not the object and intent of the Policy. The maximum tenure and the minimum tenure prescribed under Para 5.3.5 and 5.3.6 has to be read in the context of said sub-paras. Similarly, the emphasis under Para-5.3.9 has to be in relation 'on a post' and not either with the region or the rank. The post and rank are two different and distinct connotations, which mean that one may hold the rank for more than a maximum and the minimum tenure prescribed under the said para. As per para 5.3.12, it is the longest stayee, who has to be moved first.

28. On examining the case law cited by parties, we find justification in the contention raised by applicants that emphasis has been laid by the Courts that transfers should as far as possible be based on guidelines & department should follow professed norms & principle governing the transfer. Further, the transfer should be effected based on 'said norms or guidelines'. The reasons for following such policy, formulated after due exercise is to exclude the arbitrariness as well as to demonstrate that such decisions are taken in a transparent manner, free from bias or mala fides. The policy so formulated becomes sacrosanct and should be followed as far as possible. This approach is also in consonance with the well settled law that the administrative decisions should be fair and reasonable. It is well settled that fairness is a rule to ensure that vast power in the modern State is not abused but properly exercised. The State power is used for proper and not for improper purposes. (1990 (2) SCC 48 - Management of M/s. M.S. Nally Bharat Engineering Co. Ltd. vs. State of Bihar & Ors.). It is also well settled law that governmental action must be based on utmost good faith, belief, and ought to be supported with reason on the basis of the state law - if the action is otherwise or runs counter to the same, the action cannot but be ascribed to be mala fide and it would be a plain exercise of judicial power to countenance such action and set the same aside for the purpose of equity, good conscience and justice. Justice of the situation demands action clothed with bona fide reason and necessitates of the situation in accordance with the law. [2001 (5) SCC 664 - Tandon Brothers v. State of W.B. & Ors].

29. We may also note that: 'The first and most elementary rule of construction is that it is to be assumed that the words and phrases of technical legislation are used in their technical meaning if they have acquired one, and otherwise in their ordinary meaning, and the second is that the phrases and sentences are to be construed according to the rules of grammar.' It is further settled that where the language is plain and admits of but one meaning, the task of interpretation can hardly be said to arise. Similarly, where, by the use of clear and unequivocal language capable of only one meaning, anything is enacted by the legislature, it must be enforced however harsh or absurd or contrary to common

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sense the result may be. [refer Chapter 2 General Principles of Interpretation, Maxwell on The Interpretation of Statutes].

30. Keeping in view the aforesaid discussion & analysis, we do not find justification & reasons to accept the respondents' stand & accordingly overrule their objections & contentions advanced. We may also observe that based on material placed on records, the request of S/Shri Amardeep, Harsh Prakash & S.K. Srivastava for their retention in Mumbai on medical consideration ought to have been allowed by respondents themselves.

31. In view of the discussion made hereinabove, we have no hesitation to conclude that none of the applicants have rendered 8 years in a region either in Delhi or in Mumbai exclusively and it is only when their tenure in both stations is taken cumulatively, i.e., Mumbai and Delhi put together, they complete 8 years and not otherwise. Since they had not completed 8 years posting 'in a region' exclusively, they were not liable to be transferred out in terms of existing Para-5 of the aforesaid Transfer Policy. Such being the case, Respondents' action cannot be sustained in law.

32. Taking a cumulative view of the matter, and examining the contentions from all angles, as noticed hereinbefore, we quash and set aside the impugned transfer order dated 31st May, 2006 qua applicants only. ~~As far as applicants in OA Nos. 1307, 1378 and 1391 of 2006 are concerned, the Respondents would be at liberty to post them in same region on a non-assessment/non-sensitive post. Accordingly, OAs are allowed. No costs.~~

(Mukesh Kumar Gupta)
Member (J)

(V.K. Majotra)
Vice-Chairman (A)

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(Advocate)