

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. No.3771/2017

New Delhi this the 30th day of October, 2017

**HON'BLE MR. JUSTICE PERMOD KOHLI, CHAIRMAN
HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)**

Ashish Kumar Sharma, Inspector, Group 'B',
Aged about 31 years,
S/o Shri Mohan Lal Sharma,
R/o Flat No.713, Silver Bell-A,
Shalimar City, Wazirabad Road,
Shalimar Garden, Sahibabad,
Ghaziabad, UP.

.... **Applicant**

(By Advocate: Shri M.k. Bhardwaj)

Versus

1. Union of India,
Through its Secretary,
Ministry of Finance,
Department of Revenue,
North Block,
New Delhi-01.
2. The Central Board of Excise and Customs (CBRC),
Through its Chairman,
North Block,
New Delhi-01.
3. The Chief Commissioner,
Central Excise and Custom, Delhi Zone,
C.R. Building,
I.P. Estate,
New Delhi.
4. The Chief Commissioner,
Central Excise and Custom, Mumbai Zone,
115, GST Bhawan, Maharshi Kurvey Road,
Opposite Church Gate Station,
Mumbai-20. **Respondents**

(By Advocate: Sh. Rajeev Kumar)

ORDER (ORAL)**Hon'ble Mr. Justice Permod Kohli, Chairman**

Heard learned counsel for the applicant.

2. Issue notice. Learned counsel Sh. Rajeev Kumar accepts notice.

3. The applicant was appointed as Inspector, Central Excise, in Mumbai Zone of the Central Excise and Customs on 10.09.2009 on his selection for the said post. He was confirmed in 2011 on completion of probation period. He requested for his transfer from Mumbai Zone to Delhi Zone under ICT on 20.01.2012. The cadre controlling authority of Delhi Zone vide letter dated 13.10.2014 granted no objection for the transfer of the applicant to Delhi Zone in terms of the Ministry's letter dated 27.03.2009. On that basis, the applicant was transferred from Central Excise Mumbai Zone to Delhi Zone vide order dated 31.10.2014. The applicant has now again requested for his transfer back to Mumbai Zone vide his request dated 02.05.2016. The representation of the applicant was forwarded by respondent no. 3 to respondent no. 4 for issuing no objection certificate for applicant's repatriation from Delhi to Mumbai Zone. However, no action has been taken pursuant to the said representation. In the meantime, the applicant submitted another representation dated 17.04.2017 which also remains unattended till date. The applicant has brought to our notice policy decision as notified vide circular dated 27.10.2011 regarding Inter Commissionerate Transfers. Such transfer was earlier permitted vide circular dated 19.02.2004. However, in

the year 2011, fresh policy decision was taken. The relevant part of the decision/circular reads as under:

“2. On consideration of all aspects in the matter of ICT, it has been decided by the Board now to lift the ban of ICT with immediate effect. Accordingly, any willing Group ‘B’, ‘C’ employees and the erstwhile Group ‘D’ employee may apply for transfer from the jurisdiction of one Cadre Controlling Authority (CCA) to another CCA subject to availability of vacancy and on the following terms and conditions:

(i) The concerned two Cadre Controlling Authorities should agree to the transfer.

(ii) The transferee will be placed below all officers appointed regularly to that post/grade on the date of his/her appointment on transfer basis in terms of Para 3.5 of DOP&T's OM dated 03.07.1986. In other words, such a transferee will be junior to those regularly appointed officers prior to his/her transfer. However, such transferred officer will remain his/her eligibility of the parent Commissionerate for his/her promotion to the next higher grade, etc.

(iii) On transfer he/she will not be considered for promotion in the old Commissionerate.

(iv) He/she will not be entitled to any joining time and transfer travelling allowance.

(v) Under no circumstances, request for ICT should be entertained till the officers appointed in a particular Commissionerate/post completes the prescribed probation period.

(vi) The seniority of the officers who were allotted ICT earlier by the various Cadre Controlling Authorities on the basis of Board's letters F.No.A.22015/19/2006-Ad.III.A dated 27.03.2009, F.No.22015/11/2008.Ad.IIIA. 27.09.2009 and F.No.22015/15/2010-Ad.III.A dated 09.02.2011 shall be fixed as per the present instructions.

(vii) Officers who are presently working on deputation basis from their parent Commissionerate to any other Commissionerate/Directorate and are willing to avail of the ICT in future will have to revert back to their parent Commissionerates first and apply afresh for ICT. The officers who have been continuously on deputation and

have been absorbed on ICT during the interim period from 19.02.2004 (i.e. the date from which the ban became effective) till date, their seniority will be fixed from the date of their joining on deputation in the transferred Zone/Commissionerate.

(viii) A written undertaking (in the enclosed format) to abide by the requisite terms and conditions will be obtained from the officers before the transfers are actually offered.

(ix) All pending Court cases where seniority question/ICT has been challenged may be handled appropriately in terms of these instructions and necessary compliance furnished to the Board in due course".

4. The grievance of the applicant is that despite the applicant being eligible under the aforesaid circular for Inter Commissionerate Transfer, the respondents have not taken any decision on his representations. The applicant has placed on record various orders whereby said Inter Commissionerate Transfers have been allowed. One such order dated 21.01.2016 is placed at Annexure A/7. The applicant also sought information under RTI regarding similar repatriation cases and vide answer dated 17.07.2017, he was informed about the repatriation/transfer of various officers from one zone to another. The applicant also claims that there is no impediment for his repatriation/transfer from Delhi to Mumbai Zone.

5. Keeping in view the fact that the respondents have taken no decision on the representation of the applicant despite a policy decision already having been taken, this application is disposed of at the admission stage itself with direction to the respondent nos. 3 and 4 to decide the representation of the applicant referred to hereinabove for his

Inter Commissionerate Transfer from Delhi to Mumbai Zone within a period of two months from the date of receipt of certified copy of this order. While taking decision on the representation of the applicant, the respondents would take into consideration the policy decision and similar cases already allowed. Needless to say that the representation will be disposed of by a reasoned and speaking order.

(K.N. SHRIVASTAVA)
MEMBER (A)

(JUSTICE PERMOD KOHLI)
CHAIRMAN

/ns/