

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00956/2017

Original Application No. 180/00148/2018

Original Application No. 180/00164/2018

Wednesday, this the 8th day of August, 2018

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member

Hon'ble Mr. Ashish Kalia, Judicial Member

1. Original Application No. 180/00956/2017 -

1. Sri. Mr. Gulshan Kumar, Aged 32 years, S/o. Late Vinod Pandey,
Inspector of Central Tax & Central Excise,
O/o. The Commissioner, Central Tax & Central Excise,
Head Quarter Preventive Unit, HQRS, GST Bhawan,
Press Club Road, Trivandrum,
Residing at Aathira, SNRA-18, TC 10/218/1,
SAP Camp, Near KV School, Swathy Nagar,
Peroorkada, Trivandrum – 695 005.
2. Sri. Gautam Kumar, Aged 31 years, S/o. Sri. Bharat Prasad,
Inspector of Central Tax & Central Excise,
O/o. The Superintendent of Central Tax & Central Excise,
Shreyas Building, GPO Lane, Pulimood,
Statute, Trivandrum – 695 001,
Residing at TC 24/1085/6, Lekshmi Nivas, Near Assumption Church,
Thycaud, Trivandrum – 695 014.
3. Sri. Abhijeet Singh, Aged 30 years,
S/o. Late Shri. Murli Manohar Singh,
Inspector of Central Tax & Central Excise,
Confidential Section, 3rd floor, CR Building,
IS Press Road, Kochi – 682 018,
Residing at Flat No. B5, Galaxy Arcade, Behind Mosque,
Abdul Rahiman Peediyekkal Lane,
SRM Road, Kaloore, Cochin – 682 018.
4. Sri. Sandeep Kumar, Aged 29 years, S/o. Late Ramjee Paswan,
Inspector of Central Tax & Central Excise,
O/o. The Superintendent of Central Tax & Central Excise,
Kolenchery Range, Ombalayil Towers, Hospital Junction,
Kolenchery, Ernakulam – 682 311,
Residing at Central Excise Staff Quarter, QTR No. 107, Kakkanad,
Near TV Tower, Ernakulam - 682 030.

- 5 Sri. Ashok Kumar, Aged 31 years, S/o. Sudheshwar Mahto,
Inspector of Central Tax & Central Excise, RTI & Training Cell,
4th Floor, CR Building, IS Press Road, Kochi – 682 018, Kerala,
Residing at Flat No. A5, Galaxy Arcade, Behind Mosque,
Abdul Rahiman Peediyekkal lane, SRM Road, Kaloor,
Cochin - 682 018.
- 6 Sri. Baleshwar Kumar Jha, Aged 38 years, S/o. Late Upendra Jha,
Inspector of Central Tax & Central Excise,
O/o. The Deputy Commissioner, Central Tax and Central Excise,
Shreyas Building, GPO Lane, Pulimood, Statue,
Trivandrum – 695 001,
Residing at TC 14/1564, OVRA 120, 1st Floor, Paris Road,
KBAC Junction, Vazhuthacaud, Trivandrum.
- 7 Sri. Viresh Mishra, Aged 32 years, S/o. Shri. Manish Chadra Mishra,
Inspector of Central Tax & Central Excise,
O/o. The Commissioner, Central Tax & Central Excise,
PRO Unit, HQRS, GST Bhawan, Press Club Road, Trivandrum,
Residing at C/o. Padma Kumar, PGRA – A22, Drainage Road,
Near Enchikal Junction, Trivandrum – 695 033.
- 8 Sri. Bhupal Kumar, Aged 30 years, S/o. Late Bhagirath Singh,
Inspector of Central Tax & Central Excise,
O/o. The Deputy Commissioner, AIR Customs, Trivandrum,
International Airport, Trivandrum, Kerala,
Residing at MGRA 105, Pettah, Near Moonamanikkal Temple,
Trivandrum – 695 024. **Applicants**

(By Advocate : Mr. Shafik M.A.)

V e r s u s

1. Union of India, represented by the Secretary,
Department of Revenue, Ministry of Finance,
North Block, New Delhi – 110 001.
2. The Chairman, Central Board of Excise and Customs,
North Block, New Delhi – 110 001.
3. The Joint Director (HRM-II),
Directorate General of Human Resource Development,
Central Board of Excise & Customs,
409/8, Deep Shika, Rajendra Place, New Delhi – 110 008.
4. The Chief Commissioner, Central GST & Central Excise,
Ranchi Zone, 1st Floor, C.R. Building (Annexe),
Birchand Patel Path, Patna – 800 001.

5. The Chief Commissioner, Central Tax & Central Excise,
Thiruvananthapuram Zone, 1st Floor, C.R. Buildings,
I.S. Press Road, Cochin – 682 018. **Respondents**

[By Advocate : Mr. E.N. Hari Menon, ACGSC]

2. Original Application No. 180/00148/2018 -

1. Pramod Kumar Savita, aged 38 years, S/o. Late Ram Asre Savita,
Inspector of CGST & CX, Air Customs, Airport Trivandrum,
Residing at : IInd floor, KERA-8, T.C. 36/1104(7) Building,
Ambady, Vallakadavu, Trivandrum – 695 008.
2. Kapil Dev Surira, aged 35 years, S/o. Rajnikant Surira,
Inspector of CGST & CX, Malappuram Division, Residing at :
C2 Runway Dale Apartments, EMEA College Road, Near
Calicut International Airport, Malappuram, Kerala-673647.
3. Manoj Kumar Yadav, aged 36 years, S/o. Rajnarayan Yadav,
Inspector of CGST & CX, Adjudication Cell, Calicut Hqrs.,
Residing at : Govt. Quarters, Near Kozhikode Beach,
Pin – 673032.
4. Ashok Kumar, aged 38 years, S/o. Bhagwati Prasad,
Inspector of CGST & CX, Office of the Principal Commissioner of
Central Tax & Central Excise, Technical Section Hqrs., C.R.
Building, I.S. Press Road, Cochin – 682 018, Residing at : Quarter
No. 62, Type II, Central Excise Staff Quarters, Kakkanad,
Cochin – 682037, Kerala.
5. Shyam Kumar Sharma, aged 34 years, S/o. Late Satyendra Nath
Sharma, Inspector of CGST & CX, Office of the Assistant
Commissioner of Calicut International Airport, Karippur,
Malappuram – 673647, residing at : Ground Floor, Pomona
Apartment, Near Hajj House, Airport Road, Karipur,
Malappuram – 673647.
6. Sunil Nagar, aged 37 years, S/o. Shri jagan Singh,
Inspector of CGST & CX, Air Customs, International Airport,
Trivandrum, Residing at : A-3, Apposse Serene, Tutors Lane,
Near BJP Office, Statute Trivandrum – 695 001.
7. Anant Vikram Singh, aged 32 years, S/o. Nand Kumar Singh,
Inspector of CGST & CX, EDP, Kochi Commissionerate,
Residing at : First floor, H. No. 136, TKCRRA Kanat Lane,
Vaduthala, Kochi – 682 023.

8. Prafull Bhandari, aged 27 years, S/o. S.S. Bhandari, Inspector of CGST & CX, Air Customs, Airport Trivandrum, Residing at : TC 79/1909-9, Kadhampally, Karikkakom Govt. High School road, Trivandrum – 695 008.
9. Ajeet Kumar, aged 35 years, S/o. Naresh Kumar, Inspector of CGST & CX, Office of the Assistant Commissioner of Air Cargo Complex, Shanghumugham, Trivandrum – 695 008, Residing at : Qtr. No. 6, Central Excise and Customs Quarters, Valiyathura Junction, Trivandrum – 695 008.
10. Bal Mukund, aged 32 years, S/o. Chunni Lal, Inspector of CGST & CX, Kakkanad Range-3, Residing at House No. 36, 2nd Lane, Udaya Nagar, Kaloor, Ernakulam, Kochi – 682 017.
11. Rajneesh, aged 35 years, S/o. Santosh Kumar Dixit, Inspector of CGST & CX, Air Customs, Trivandrum Airport, Residing at : SGRA 50A, ELANTRIS, Shanthi Gardens II, Street II, Kamaleshwaram PO, Manacaud, Trivandrum-695 009.
12. Shashi Kant Singh, aged 36 years, S/o. Rama Kant Singh, Inspector of CGST & CX, Audit Section, Kochi Commissionerate, Residing at : Quarter No. 105, Type III, Central Excise Staff Quarters, Kakkanad, Cochin, Kerala – 682 037.
13. Akshay Singh Bhadauria, aged 28 years, S/o. Krishna Pal Singh Bhadauria, Inspector of CGST & CX, Air Customs, International Airport Trivandrum, Residing at A-3, Appossee Serene, Tutors Lane, Near BJP Office, Statute Trivandrum – 695 001. **Applicants**

(By Advocate : Mr. Ravi K. Pariyanath)

V e r s u s

1. Union of India, represented by the Secretary, Department of Revenue, North Block, New Delhi – 110 001.
2. The Chairman, Central Board of Excise & Customs, North Block, New Delhi – 110 001.
3. Chief Commissioner of Customs, Central Goods and Services Tax (CGST) & Central Excise (CX), Central Revenue Buildings, I.S. Press Road, Cochin – 682 018.
4. Principal Chief Commissioner of Customs, Central Goods and Services Tax (CGST) & Central Excise (CX), Lucknow Zone, 7-A, Ashok Marg, Lucknow, UP – 226 001.

5. Chief Commissioner of Customs, Central Goods and Services Tax (CGST) & Central Excise (CX), (Meerut Zone), Meerut-250001.
6. Commissioner of Central Goods and Services Tax (CGST) & Central Excise (CX), Central Revenue Buildings, I.S. Press Road, Cochin – 682 018.
7. Commissioner of Central Goods and Services Tax (CGST) & Central Excise (CX), ICE Bhavan, Press Club Road, Thiruvananthapuram – 695 001.
8. Commissioner of Central Goods and Services Tax (CGST) & Central Excise (CX), Central Revenue Buildings, Mananchira, Kozhikode – 673 001.
9. Commissioner of Customs (Preventive), Customs Preventive Commissionerate, 4th Floor, Catholic Centre, Broadway, Ernakulam – 682 031. **Respondents**

(By Advocate : Mr. S.R.K. Prathap, ACGSC)

3. Original Application No. 180/00164/2018 -

1. Satyamendra Singh, aged 33 years, S/o. Indal Singh, Inspector of CGST & CX, Office of the Assistant, Commissioner of Customs, International Airport, Karipur, Residing at : Customs QTRS (New Block), Opposite Light House, Beach Road, Calicut, Kerala, Pin – 673032.
2. Abhinav Singh Bisht, aged 33 years, S/o. Govind Singh Bisht, Inspector of CGST & CX, Office of the Assistant, Commissioner of Customs, International Airport, Karipur, Residing at : Customs QTRS (New Block), Opposite Light House, Beach Road, Calicut, Kerala, Pin – 673032. **Applicants**

(By Advocate : Mr. Ravi K. Pariyanath)

V e r s u s

1. Union of India, represented by the Secretary, Department of Revenue, North Block, New Delhi – 110 001.
2. The Chairman, Central Board of Excise & Customs, North Block, New Delhi – 110 001.
3. Chief Commissioner of Customs, Central Goods and Services Tax (CGST) & Central Excise (CX), Central Revenue Buildings, I.S. Press Road, Cochin – 682 018.

4. Principal Chief Commissioner of Customs,
Central Goods and Services Tax (CGST) & Central Excise (CX),
Lucknow Zone, 7-A, Ashok Marg, Lucknow, UP – 226 001.
 5. Chief Commissioner of Customs, Central Goods and Services Tax
(CGST) & Central Excise (CX), (Meerut Zone), Meerut-250001.
 6. Commissioner of Central Goods and Services Tax (CGST) &
Central Excise (CX), Central Revenue Buildings, I.S. Press Road,
Cochin – 682 018.
 7. Commissioner of Central Goods and Services Tax (CGST) &
Central Excise (CX), ICE Bhavan, Press Club Road,
Thiruvananthapuram – 695 001.
 8. Commissioner of Central Goods and Services Tax (CGST) &
Central Excise (CX), Central Revenue Buildings, Mananchira,
Kozhikode – 673 001.
 9. Commissioner of Customs (Preventive), Customs Preventive
Commissionerate, 4th Floor, Catholic Centre, Broadway,
Ernakulam – 682 031.
- **Respondents**

(By Advocate : Mr. S.R.K. Prathap, ACGSC)

These applications having been heard on 02.08.2018, the Tribunal on the 08.08.2018 delivered the following:

ORDER

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member –

OAs Nos. 180/956/2017, 180/148/2018 & 180/164/2018 involve common issues of fact and law and hence are being disposed of through this common order.

2. The applicants in all three OAs are Inspectors of Central Tax and Central Excise working under the 5th respondent (in OA No. 180/956/2017) and at different places in Thiruvananthapuram zone (erstwhile Cochin zone).

3. OA No. 180/956/2017 is filed by Shri Gulshan Kumar & 7 Ors. who belong to the same category of Inspector of Central Tax and Central Excise. They are aggrieved by the refusal of the 4th respondent to accept their applications for Inter-Commissionerate Transfer (in short ICT) to the zone administered by the 4th respondent (Ranchi/Lucknow zones) and further by the action of the 4th respondent in reporting the entire vacancies of Inspectors to the direct recruitment quota for open recruitment through SSC Combined Graduate Level Examination (in short CGLE) without considering the request for ICT. The applicants are presently working as Inspectors under the 5th respondent. They were direct recruit Inspectors of Central Excise (Group-B non-gazetted) who joined on various dates in 2012 and 2013 after having qualified in the examination conducted by the SSC in the year 2011. As per Board letter F. No. A22015/23/2011-Ad.IIIA, dated 27.10.2011 a Group-B employee may apply for transfer from the jurisdiction of one cadre controlling authority to another, subject to availability of vacancies and certain terms and conditions (Annexure A2). The applicants had applied for ICT on various dates when they acquired the necessary eligibility for seeking the transfer. As no objection certificate along with the transfer applications were not forwarded by respondent No. 5, similarly placed officials had approached this Tribunal by filing OA No. 180/333/2016. This Tribunal after hearing the matter disposed of the OA by order dated 12.7.2016 directing the Department to formulate a policy regarding ICT. The Tribunal ordered:

“The respondents on the other hand have taken refuge in the argument that the right to transfer an employee is a right bestowed upon the office. While none has refuted this, this right has to be exercised in a

transparent/objective manner without any discrimination assigned. This cardinal principle does not appear to have been adhered to in this case. Arguments of large number of vacancies standing in the way of recommending personnel does not hold out in view of fourteen relatively junior people having been favoured with NOC. Viewed from this perspective, we have no hesitation in stating that respondent No. 3 has not acted in a fair and equitable manner in this case. An opaque system of selection in such case is a sure recipe for disaffection in any organisation. We would direct that a system urgently be put in place to deal with ICT requests. It has been pointed out that a large number of such requests are pending. Respondents Nos. 3 and 4 should immediately put together a set of guidelines clearly delineating eligibility norms, giving due weightage to various components such as seniority. Henceforth, this should act as a guide in deciding whose cases may be recommended and whose cannot be. Future orders on NOC requests will be strictly on the basis of such norms. This Tribunal on its first hearing dated 8.4.16 had stayed further action on the list of fourteen persons whose transfer has been recommended by respondent No. 3 to respondent No. 4. It is ordered that their case will also be considered only in line with the proposed system to be put in to operation. Although this is not one of the prayers made in the OA, it is necessary to order the above in the interest of equitable treatment.

These set of guidelines should be finalized and published as expeditiously as possible and in any case within three months of date of receipt of a copy of this order. The case of the applicants will also be considered along with others and their claims evaluated according to the prescribed transfer norms to be adopted. Hence, we desist from issuing any further orders on the claim relating to the applicants.”

4. In due compliance with the directions of this Tribunal a draft ICT policy was put out by the Board as per letter F. No. 22015/117/2016-Ad.IIIA, dated 2.1.2017 (Annexure A4). In line with the policy the 5th respondent as per communication dated 17.2.2017 (Annexure A5), forwarded the ICT applications submitted in the year 2014 to the 4th respondent but respondent No. 4 chose to remain silent on the same. Seeking information under RTI, it has been made known that there are total number of 56 vacancies under the 4th respondent for direct recruitment (Annexure A6) but it came to the notice of the applicants that respondent No. 4, instead of accommodating any or all of the applicants, had chosen to report all 56 available vacancies of Inspectors of Central Excise to DGHRD, respondent No.3, for open recruitment. This has been done in spite of the

direction contained in Annexure A7 letter dated 12.7.2016 of the 3rd respondent to all cadre controlling authorities to clear pending ICT applications first and thereafter report the fresh vacancies to the SSC. Further representations made to the 4th respondent did not elicit any favourable consideration.

5. As grounds, the applicants point out that similarly placed candidates such as the applicants, had been compelled to approach this Tribunal through OA No. 180/333/2016 due to the arbitrary and discriminatory treatment at the hands of the department. Responding to the pleas of the applicants therein, this Tribunal had ordered for putting in place a system which would govern ICT. As is known, ICT involves action at two ends – the sending Commissionerate forwarding the application and the receiving Commissionerate accepting the same. While it is true that action at the level of the 5th respondent, viz. the Cochin Commissionerate, has been initiated, the decision of the 4th respondent to reject these transferees, when adequate provision exists for ICT as per Annexure A7 is highly arbitrary and aimed at wrecking the system set up as per the intervention of this Tribunal. Even delay in accepting the transferees would cause permanent damage to the applicants' career prospects as they would lose seniority, their juniors who joined in the meanwhile being placed above them.

6. The orders of the Hon'ble Supreme Court in ***Radhey Shyam Singh & Ors. v. Union of India & Ors.***, dated 9.12.1996 and ***Bhupendra Nath Hazarika & Anr. v. State of Assam & Ors.*** - 2013 (2) SCC 516, reiterating

the right of the employees for seeking justified benefits in terms of zonal transfers support the stance of the applicants. The refusal of the 4th respondent to act in tune with other zones in accepting ICT transferees is causing considerable hardship to the applicants, many of whom have compelling personal reasons in seeking the transfer.

7. OA No. 180/148/2018 has been filed by Shri Pramod Kumar Savita and 12 others who are also Inspectors in the Department of Central Tax and Central Excise working at different places in the Thiruvananthapuram zone. The 4th respondent after getting recommendation from the Committee constituted for considering ICT, had been pleased to issue transfer orders to the applicants to the preferred zones and later were directed to join at their places of posting not later than 28.2.2018. However, they are aggrieved by the abrupt cancellation of the said order by Establishment order No. 1/A/CCSC/06/2018 dated 25.1.2018 (Annexure A2). The applicants are similarly placed Inspectors as in OA No. 180/956/2017 and had preferred applications seeking ICT to Lucknow/Meerut zone. They are aggrieved by the abrupt cancellation of their transfer order issued from the office of the 4th respondent dated 19.1.2018 (Annexure A1) by the impugned order at Annexure A2. The applications had been submitted in accordance with circular issued by the 2nd respondent dated 27.10.2011 (Annexure A3). The applicants pray for a favourable decision as in OA No. 180/959/2014 and OA No. 180/333/2016 in support of their claim for ICT.

8. This Tribunal in OA No. 180/333/2016 had decreed the tendency of the authorities to pick and choose applications for ICT and had directed that a system be put in place so that the exercise could be administered in a transparent and objective manner. The action of the 4th respondent is in contravention to the spirit and intent of this Tribunal's order and withdraws a facility accorded to the employees as per circular dated 27.10.2011 (Annexure A3).

9. OA No. 180/164/2018 is filed by Satyamendra Singh & Anr. who are also Inspectors of CGST and CX posted in different places under Thiruvananthapuram zone. They submit that they have been relieved by the 3rd respondent and have joined the place of posting allotted to them by the 4th respondent under ICT. Yet the transfer has been abruptly cancelled by Annexure A2 order dated 22.1.2018. Other circumstances relating to this case are identical to those of OA No. 180/148/2018.

10. The reply statement filed by the respondents are on similar lines in all three OAs. They sketch the history of ICT from the initial ban in 2004 and its subsequent relaxation in different phases. It is admitted that at present ICT are allowed for any willing Group-B, C and erstwhile Group-D employees vide Board's instruction F. No. A/22015/23/2011-Ad.IIIA dated 27.10.2011 (Annexure A2 in OA 180/956/2017). It is argued that while ICT are allowed, the said instruction “has not prescribed any methodology to be adjudicated for shortlisting of the applicants” and Ranchi zone (respondent No. 4 in OA No. 180/956/2017) has adopted “first in first out criteria”. It is

further argued that while Recruitment Rules promulgated in 2002 under Central Excise and Land Customs Department Inspector (Group-C posts) Recruitment Rules, 2002 provide recruitment through absorption from ICT from one cadre controlling authority to another, the subsequent Recruitment Rules promulgated in 2016 is silent on this issue.

11. It is further submitted that reporting vacancies to DGHRD is a continuing process and while reporting the vacancies, “existing rules and guidelines are followed”. In so far as the grievance of the applicants in OA No. 180/956/2017 is concerned, it is stated that all available vacancies have been reported to the competent authority for open recruitment. The respondents go on to contend that the direction of DGHRD vide the F. No. 8/B/68/HRD(HRM)2016 dated 12.07.2016 (Annexure A7) was limited only for the CGLE of 2016. As per the direction, existing ICT applicants were to be adjusted against available vacancies and remaining vacancies were to be reported to the CGLE, 2016. The respondents maintained that, for the year 2017, they are under no obligation to do so.

12. In OA No. 180/164/2018 also a similar reply has been filed. The logic followed in the reply is the same as in OA No. 180/956/2017. It is stated that guidelines/transfer policy does not confer upon Government employee any legally enforceable right to challenge it under Article 226. It is reported that the Recruitment Rules, 2016 has no provision for ICT/IZT.

13. In OA No. 180/148/2018 also the thread of the respondents' argument is the same. They go so far as to argue that "ICT is not permissible under Recruitment Rules, 2016". It is forcibly maintained that ICT and inter-zonal transfers in the cadre of Inspectors under Lucknow CCA is not acceptable as the provisions do not find a place in the Recruitment Rules, 2016.

14. Rejoinders have been filed in all the OAs. Additional reply statements have also been filed in OAs Nos. 180/148/2018 and 180/164/2018.

15. We have heard learned counsel for the applicants Shri Shafik M.A. in OA No. 180/956/2017, Shri Ravi K. Pariyanath in OAs Nos. 180/148/2018 and 180/164/2018, Shri E.N. Hari Menon, learned ACGSC for the respondents in OAs Nos. 180/956/2017 and 180/164/2018 and Shri S.R.K. Prathap, learned ACGSC for the respondents in OA No. 180/148/2018. Perused the records.

16. The Inspectors of Central Excise and Customs are Group-B employees with all India transfer liability. The applicants in all three OAs are direct recruit Inspectors working in Thiruvananthapuram zone, formerly called Cochin zone. Belonging to various states of the Indian Union they have applied for ICT after fulfilling norms prescribed in guidelines relating to ICT. At this point it would be necessary to emphasize that ICTs from one cadre controlling authority to another had been stopped by the order of CBEC on 19.2.2004. However, the facility was restored as per Board's

direction F. No. A 22015/23/2011 Ad.IIIA dated 27.10.2011 (Annexure A2 in OA No. 180/956/2017). Hence it can be undoubtedly inferred that the facility for ICT exists now.

17. In the background of wide spread complaints of discrimination and partiality in granting ICT applications, some Inspectors had approached this Tribunal by filing OA No. 180/333/2016, requesting that the procedures may be streamlined and made transparent. This Tribunal allowed the same and through its order dated 12.7.2016 directed all the Department to formulate a policy on ICT. Complying with these orders the Board as per letter F. No. 22015/117/2014-Ad.IIIA dated 2.1.2017 (Annexure A4 in OA No. 180/956/2017) issued draft guidelines covering ICT. It attempted to streamline the system by setting criteria and affixing priority. One would have expected that the system would work smoothly from this point onwards. As we can see, it did not.

18. In all three cases it is seen that Inspectors working in Thiruvananthapuram zone and seeking ICT to various other zones have been considered and lists, considering all such personnel prepared as per eligibility norms, forwarded to these zones. One would have thought that as the directions regarding ICT had been issued by the Board which has all India authority, these norms would be accepted and the candidates considered for postings in the zones they had requested for. However, the behaviour of the accepting zone has been bewildering and unexpected. In OA No. 180/956/2017 respondent No. 4 viz., Ranchi zone decided to

earmark all vacancies available for direct recruitment, effectively shutting the doors on the incoming aspirants. Even the guidelines issued for accommodating ICT transferees in 12.7.2016 has applicability only for that particular year, according respondent No. 4. In OAs Nos. 180/164/2018 and 180/148/2018 the accepting zone viz., respondent No. 4 first posted them and then abruptly cancelled the order.

19. The sequence of events having been explained above we have gone on to examine the reply of the respondents in detail. Unfortunately the statements filed by the respondents are sketchy and avoids the serious questions raised in the OAs. The argument that Recruitment Rules, 2016 has no mention of ICT is a specious one in the light of the directive of the Department issued in pursuance to the orders of this Tribunal in OA No. 180/333/2016. The reply statement for that matter, are entirely silent about these guidelines and the context in which they have been issued by the governing Board. We find it difficult to accept the manners in which respective zones have thumbed their nose at a direction issued by the Board. The other argument that a Government employee has no vested right for seeking a transfer etc. are irrelevant questions so far as the issue in the OAs are concerned.

20. After hearing the respective counsel and after going through all documents on file, we direct Respondent No.4 in OA No. 180/956/2017 to immediately accommodate the 8 applicants whose names have been forwarded in accordance with the guidelines issued by the Board. This shall

be done within 15 days from the date of receipt of a copy of this order. In OAs Nos. 180/148/2018 and 180/164/2018 we set aside Annexure A2 orders to the extent it cancels the transfers of the applicant as per Annexure A1 and direct that the applicants are entitled to get Annexure A1 implemented since they have been found eligible by the Committee constituted for ICT in terms of Annexures A3 and A6. The applicants who remain to be relieved from their current zone for transfer to Lucknow/Meerut zones will be relieved within 15 days from the date of receipt of a copy of this order. They will be duly accommodated in the posts in the new zones as already ordered. Others who have already reported in their new zones shall be allowed to join in their posted stations forthwith.

21. The Original Applications are disposed of as above. The interim orders dated 4.12.2017 in OA No. 180/956/2017, 6.2.2018 in OA No. 180/148/2018 and 8.2.2018 in OA No. 180/164/2018 merge with the final order passed in the above OAs. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 180/00956/2017

APPLICANTS' ANNEXURES

- Annexure A1** – True copy of the Letter C. No. II(39)13-ET/DRV/CCO/RZP/CCO/RZP/2014/7848 dated 20.07.2017 issued on behalf of the 4th Respondent.
- Annexure A2** – True copy of the letter F. No. A22015/23/2011-Ad.IIIA dated 27.10.2011 issued by the 1st Respondent.
- Annexure A3** – True copy of the application dated 19.09.2014 submitted by the 1st Applicant.
- Annexure A4** – True copy of the letter F. No. 22015/117/2014-Ad.IIIA dated 02.01.2017 issued on behalf of the 2nd Respondent.
- Annexure A5** – True copy of the letter C. No. II/13/32/2012 CC(KZ) IPT.I dated 17.02.2017 issued by the 5th Respondent.
- Annexure A6** – True copy of the letter C. No. II/(39)139-RTI/CCO/RZP/2017/10451 dated 15.09.2017 issued by the CPIO of 4th Respondent.
- Annexure A7** – True copy of the letter F. No. 8/B/68/HRD (HRM)/2016 dated 12.07.2016 issued by the 3rd Respondent.
- Annexure A8** – True copy of the Representation dated 11.05.2017 submitted by the 1st applicant.
- Annexure A9** – True copy of the Representation dated 23.08.2017 submitted by the 1st applicant.
- Annexure A10** – True copy of the letter C. No. II(39) 190-RTI/CCO/RZP/2017 dated 20.11.2017 issued by the CPIO of the 4th Respondent.
- Annexure A11** – True copy of the Letter C No. II(13)9-ET/ICT/INSPR/Pr. CCO/CGST&CX/KOL/2017/Part-3/6432 dated 23.3.2018 issued by the Jt. Commissioner, Kolkata Zone.
- Annexure A12** – True copy of the Letter C. No. II(26)122/CC/RTI/BBSR/2017/41427-A dated 04.12.2017 issued by the CPIO of the Commissioner.
- Annexure A13** – True copy of the Letter F. No. IV/17-239/RTI/PCCO/GST/2017 dated 04.12.2017 issued by the CPIO of Mumbai Zone.

- Annexure A14** – True copy of the Order C. No. II/3/11/2017-Estt dated 29.03.2017 issued by the Jt. Commissioner of the 5th Respondent.
- Annexure A15** – True copy of the Order C. No. II/3/11/2017-Estt dated 10.04.2017 issued by the Jt. Commissioner of the 5th Respondent.
- Annexure A16** – True copy of the Order C. No. II/3/11/2017-Estt dated 21.04.2017 issued by the Jt. Commissioner of the 5th Respondent.
- Annexure A17** – True copy of the Order C. No. II/3/11/2017-Estt dated 23.05.2017 issued by the Jt. Commissioner of the 5th Respondent.
- Annexure A18** – True copy of the Order C. No. II/3/15/2016-Estt dated 17.08.2017 issued by the Jt. Commissioner of the 5th Respondent.
- Annexure A19** – True copy of the Order C. No. II/3/21/2015-Estt dated 31.03.2017 issued by the 3rd Respondent.
- Annexure A20** – True copy of the Order C. No. II/3/21/2015-Estt dated 05.04.2017 issued by the 3rd Respondent.
- Annexure A21** – True copy of the Order C. No. II(3)12/ET/CCO/SH/2016/1455-60 dated 14.03.2017 of the Addl. Commissioner of Shillong Zone.
- Annexure A22** – True copy of the Order C. No. II(3)/12/ET/CCO/SH/2016/1461-67 dated 14.03.2017 of the Addl. Commissioner of Shillong Zone.
- Annexure A23** – True copy of the Order F. No. II/39-CCA-6/GST-MZ/2018/A3/2891 dated 30.05.2018 issued by the Addl. Commissioner, Mumbai.
- Annexure A24** – True copy of the Letter C. No. II-13(295) CCA/ICT/Inspr/To Delhi/2016/538 dated 03.04.2018 of the Addl. Commissioner, Delhi Zone.
- Annexure A25** – True copy of the Letter F. No. A-22015/78/2017-Ad.III. A dated 05.09.2017 of the Under Secretary of the 1st Respondent.
- Annexure A26** – True copy of the Letter F. No. II/3-61/CCC (Estt)/PZ/2017 dated 28.03.2018 issued by the Jt. Commissioner of Pune Zone.

RESPONDENTS' ANNEXURES

- Annexure R1** – True copy of the Central Excise and Land Customs Department Inspector (Group C posts) Recruitment Rules, 2002.
- Annexure R2** – True copy of the Central Excise and Customs Commissionerates Inspector (Central Excise, Preventive Officer and Examiner), Group 'B' Posts Recruitment Rules, 2016.

Original Application No. 180/00148/2018

APPLICANTS' ANNEXURES

- Annexure A1** – True copy of the establishment order No.1/A/CCSC/04/2018 issued from the office of the 4th respondent dated 19.1.2018.
- Annexure A2** – True copy of the establishment order No.1/A/CCSC/06/2018, issued from the office of the 4th respondent dated 25.1.2018.
- Annexure A3** – True copy of the circular F. No. A22015/23/2011-Ad.IIIA issued by the 3rd respondent dated 27.10.2011.
- Annexure A4** – True copy of judgment passed by the Hon'ble High Court of Kerala in OP (CAT) No. 77/2015, dated 14.9.2015.
- Annexure A5** – True copy of the order passed by this Hon'ble Tribunal in OA No. 333/2016 dated 12.7.2016.
- Annexure A6** – True copy of letter F. No. 22015/117/2014-Ad.IIIA issued by the 3rd respondent dated 2.1.2017.
- Annexure A7** – True copy of the letter with F. No.8/B/68/HRD(HRM)/2016 issued by the DGHRD, along with corresponding note sheets dated 12.7.2016 obtained through RTI dated 2.1.18.
- Annexure A8** – True copy of the the RTI reply furnished at the instance of DGHRD, with F. No. 8/B/03/HRD(HRM)/2014/Pt.1, along with letters issued by different CCA's on the subject of ICT, dated 11.5.2018.

- Annexure A9** – True copy of the complied report filed at the instance of DGHRD before the 2nd respondent about the practice adopted by the different CCA's in respect of ICT, after the advent of RR 2016, vide letter F. No. 8/B/40/HRD (HRM-II)/2018, dated 18.4.2018.
- Annexure A10** – True copy of the letter issued by the 2nd respondent to consider ICT under VIP reference, dated 5.9.2017.
- Annexure A11** – True copy of the letter issued by the 2nd respondent to consider ICT request under VIP reference, dated 25.4.2018.
- Annexure A12** – True copy of the letter issued by the Delhi zone vide letter C. No. II13(14*)CCU/ICT/Inspr/Out/2015 dated 17/5.17
- Annexure A13** – True copy of the letter C. No. II-13(295), CCA/ICT/Inspr/To Delhi/2016 dated 28.3.2018.
- Annexure A14** – True copy of the RTI reply issued by the 3rd respondent to the 12th applicant dated 16.2.2018.
- Annexure A15** – True copy of the RTI reply furnished at the instance of the 2nd respondent to a query with No. CBECE/R/2017/51663, dated 28.12.17 to the status of ICT dated 9.1.2018.

RESPONDENTS' ANNEXURES

- Annexure R1** – True copy of the order dated 21.12.2017 of the cadre controlling authority (CCA), Delhi zone.
- Annexure R2** – True copy of the DOPT, OM No. AB.14017/2/97-Estt(RR) dated 25.5.1998.
- Annexure R3** – True copy of the Central Excise and Land Customs Department Inspector (Group C posts) Recruitment Rules, 2002.
- Annexure R4** – True copy of the Central Excise and Customs commissionerate Inspector (Central Excise, Preventive Officer and Examiner), Group B Posts Recruitment Rules, 2016.
- Annexure R5** – True copy of the judgment in Union of India Vs. S.L. Abbas reported in (1993) 4 SCC 357.

Original Application No. 180/00164/2018

APPLICANTS' ANNEXURES

- Annexure A1** – True copy of the establishment order NO. 1/A/CCSC/04/2018 issued from the office of the 4th respondent dated 19.1.2018.
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RESPONDENTS' ANNEXURES

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- Annexure R3** – True copy of the Central Excise and Land Customs Department Inspector (Group C posts) Recruitment Rules, 2002.
- Annexure R4** – True copy of the Central Excise and Customs commissionerate Inspector (Central Excise, Preventive Officer and Examiner), Group B Posts Recruitment Rules, 2016.
- Annexure R5** – True copy of the judgment in Union of India Vs. S.L. Abbas reported in (1993) 4 SCC 357.

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