

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

**M.A.No.063/01431/2019 &
O.A.NO. 063/01240/2018 Date of order:- 24.9.2019**

**Coram: Hon'ble Mr. Sanjeev Kaushik, Member (J)
Hon'ble Mr. A.K.Bishnoi, Member(A).**

1. Annu Saini d/o Sh. Rajesh Saini, working as Inspector in the office of Central Goods & Services Tax (CGST), Commissionerate, Shimla, HP-171005 (resident of gali No.2 Vineet Nagar, Roorkee, Uttarakhand) Pin-247667.
2. Arvind Gulia s/o Sh. Rajinder Singh, working as Inspector in the office of Central Goods & Service Tax (CGST), Audit Commissionerate, Ludhiana(resident of V.P.O.Badli, Pana-Choudhran, Distt. Jhajjar, Haryana). Pin 124 105.
3. Pankaj s/o Sh. Ved Praakash, working as Inspector in the office of Central Goods & Services Tax (CGST) Division-II, Patiala (Patiala) (resident of V.P.O. Gorla, Tehsil Matanhail, Distt. Jhajjar, Haryana-124 142).
4. Chetan Gupta s/o Charan Dass Gupta, working as Inspector in the office of Central Goods & Services Tax (CGST), Commissionerate Jammu, (resident of H.No. 193, Lane No.7, Shakti Nagar, Jammu-180001).
5. Pardeep Kumar s/o Harikishan, working as Inspector in the office of Ludhiana Customs (resident of No.29, Ground floor, Golen Leaf, Palm Garden, G.T.Road, Sahnewal, Ludhiana-141 120).
6. Arwind Kajal s/o Dalawar Singh, working as Inspector in the office of CCU, Chandigarh(resident of V.P.O. Nidana, near Samargopalpur, Rohtak Haryana 124 514).
7. Ritesh Maanday s/o Balwant Singh, working as Inspector in the office of DRI Ludhiana, 213, Rani Jhansi Road, Civil Lines, Ludhiana (resident of H.No.56, Sector 1, HUDA, Shahabad Markanda, Distt Kurukshetra, Haryana Pin 136 135.
8. Rakesh Kumar Yadav s/o Ramesh Kumar, working as Inspector in the office of Central Goods & Services Tax (CGST) Division-III, Jalandhar (resident of 13/1, Fouji Road, Opposite Vajra Officers Institute, nearby Jalandhar Cantt Main Post Office, Jalandhar-144 005).
9. Lalit Goyal s/o Rajinder Goyal, working as Inspector in the office Jalandhar headquarters (resident of H.No.108, New Grain Market, Sangrur) Pin 148 001.

10. Channy Bansal s/o Naresh Bansal, working as Inspector in the office of Central Goods & Services Tax (GST), Div. Sangrur (resident of H.No.139, W.No.10C, Shiv Puri Dhuri) Pinj 148024.
11. Gagandeep Raj s/o Janak Raj, working as Inspector in the office DGCEI Regional Unit, Jammu, (resident of H.No.40, Prabhat Colony, Peer Baba Road, PO Satwari, Jammu Cantt.-180003).
12. Rahul Gupta s/o Vijay Kumar Gupta, working as Inspector in the office Central Goods & Services (CGST), Commissionerate Jammu (resident of H.No.1/F-31, Vishal Nagar, Talab Tilo, Jammu-180002).
13. Genius Bansal son of Sh. Raj Kumar Bansal, working as Inspector in the office of Central Goods & Services Tax (CGST), Division-I, Chandigarh (resident of House NO.11-A, Gobind Colony, Rajpura, District Patiala-140 401).

.....Applicants.

(By Advocate :- Mr. D.R.Sharma)

Versus

1. Union of India through the Secretary, Government of India, Ministry of Finance, Department of Revenue, Nehru Place, New Delhi-11 0019.
2. The Secretary, Central Board of Excise & Customs (CBEC), Government of India, Ministry of Finance, Secretariat Building, New Delhi-110 001.
3. The Chief Commissioner, Goods & Service Tax, Chandigarh Zone, Central Revenue Building, Plot NO.19, Sector 17-C, Chandigatr-160017.

...Respondents

(By Advocate : Mr. Sanjay Goyal).

ORDER (Oral).

Sanjeev Kaushik, Member (J):

Thirteen applicants have jointly challenged the impugned circular dated 20.9.2018 (Annexure A-1) and Establishment order dated 3.10.2018 (Annexure A-2) and further seek issuance of a

direction to the respondents to allow them to continue in Chandigarh Zone of respondent department as they have been transferred and posted in the year 2017 by virtue of inter-commissionerate transfer policy dated 27.10.2011(Annexure A-3).

2. The facts broadly are not in dispute. The applicants are directly recruited Inspectors selected by the Staff Selection Commission through the Combined Graduate Level Examination. They were selected and appointed to the post of Inspector of Central Excise and were posted in different CCAs in Chennai zone, Cochin zone, Mumbai zone, Vadodra zone in terms of recruitment rules known as Central Excise & Land Customs Department Inspector (Group C Post) Recruitment Rules, 2002. The respondents issued a letter dated 27.10.2011, regarding lifting of ban on Inter-commissionerate Transfers (for short ICTs) in respect of willing officers in Group 'B' , 'C' , & 'D' posts under the CBEC. In terms of the aforesaid circular, the applicants herein applied for ICT on different dates during the period from 2013-2016. After the issuance of requisite No Objection Certificate, all the applicants were transferred and posted in Chandigarh zone in the year 2017. The Recruitment Rules of 2002 were superseded and were substituted by new Rules known as The Central Excise & Customs Commissionerates Inspector (Central Excise, Preventive Officer and Examiner) Group 'B' Posts Recruitment Rules, 2016. Subsequently, the respondent Board issued impugned circular dated 20.9.2018 providing that the inter-commissionerate transfer in the grade of Inspectors issued on

or after the date of enactment of Recruitment Rules, 2016 will be nonest and accordingly any officer who has joined another zone in pursuance of such order shall be treated as a deemed case on loan basis with effect from 26.12.2016. Further these officers shall be deemed to be on loan till 31.3.2019 on which date the officers shall stand relieved and reverted to their parent zone. Against the impugned circular, the applicants are before this Court in the present OA.

3. The respondents have filed written statement and Misc. Application No.1431 of 2019 annexing two judgments one by the Kerala High Court at Ernakulam in the case of **Union of India & Ors.** versus **Gulshan Kumar & Ors.** (OP(CAT) No.173 of 2018 decided on April 10, 2019 and another order dated May 1, 2019 passed by the Principal Bench of the Tribunal disposing of various OAs, leading one in the case of **Jugan Singh** versus **Union of India & Ors.** (O.A.No.98 of 2018) after relying upon the judgment dated 10.4.2019 passed in the case of Gulshan Kumar(supra) by the Kerala High Court at Ernakulam, and have submitted that this issue has already been settled by the Hon'ble High Court as well as by the Division Bench of the Tribunal by upholding the circular. Thus, they have prayed that the present OA be dismissed.

4. Today when the matter came up for hearing, learned counsel for the parties are in agreement that the issue raised in the present petition has already been put to rest in the above two

indicated judgments. Therefore, they have prayed that this petition be also dismissed in the same terms as in the case of Jugan Singh (supra).

5. We have gone through the pleadings available on record and the judgments cited by the learned counsel for the respondents and are of the view that this petition deserves the same fate as in the case of Jugan Singh (supra). Relevant paras 7 to 11 of the said order is reproduced hereunder:-

" 7. We have carefully perused the judgment in Union of India & Ors. vs. Gulshan Kumar & Ors. and batch(supra) and found that the submission of the learned counsels appearing for the respondents is valid and in fact, the subject matter of these batch of OAs is squarely covered by the said decision.

8. The learned counsel appearing for the applicants submits that the applicants become eligible for seeking inter commissionerate transfer and accordingly, made applications prior to the issuance of 2016 Rules and hence, their cases were required to be considered as per 2002 Rules. According to him, the cause of action arose for the applicants when they have made the applications and hence, rejecting their claims basing on the 2016 Rules is illegal

9. The learned counsel to buttress his contentions placed reliance on the decision of the Hon'ble Apex Court in Canara Bank & Anr. Vs. M. Mahesh Kumar (Civil Appeal No. 260/2008) and another judgment of the Hon'ble High Court of Allahabad in the case of Vikrant Tomar & Ors. v. State of UP & Ors.(Writ No. 59295 of 2015) wherein the judgment in M. Mahesh Kumar was considered in support of his contentions.

10. We cannot accept the contention of the applicants. The cause of action for the applicants arose when their applications were rejected, i.e., after the issuance of the 2016 Rules. Hence, we do not find any irregularity in the action of the respondents in enforcing 2016 Rules to the applicants' claim. The decisions on which the learned counsel placed reliance are pertaining to the issue of

compassionate appointments. The facts of the said issue cannot be made applicable to the facts of the applicants" case.

11. In the circumstances and for the reasons mentioned above, we do not find any merit in the contentions raised by the applicants" counsel. Accordingly, these batch of OAs are dismissed in terms of the judgment of the Hon'ble High Court of Kerala at Ernakulam."

6. Accordingly, for the parity of reasons given in the indicated case, the present OA is dismissed, leaving the parties to bear their own costs.

(SANJEEV KAUSHIK)
MEMBER (J)

(A.K.BISHNOI)
MEMBER(A).

Dated:-24.9.2019.
Kks

