

**Central Administrative Tribunal  
Principal Bench**

OA No. 1862/2019

and

OA No.1863/2019

Order reserved on : 18.07.2019

Order pronounced on: 27.08.2019

***Hon'ble Mr. S.N.Terdal, Member (J)***

***Hon'ble Mr. Pradeep Kumar, Member (A)***

**OA No.1862/2019**

1. Kharade Vinayak Sudhir,  
Son of Kharade Sudhir Nivritti,  
Inspector of Central Goods and  
Service Tax and Central Excise,  
Office of Principal Chief  
Commissioner of CGST & CE, Division X,  
Mumbai (E) Commissionerate,  
9<sup>th</sup> Floor Lotus Infocentre, Parel,  
Mumbai-400012  
Aged about 34 years, residing at  
1/80, Ramdutt Building, M.Palav Marg,  
Lalbagh, Mumbai 400 012.
2. Kendre Yogesh Annasaheb,  
Son of Kendre Annasaheb Dadarao,  
Inspector of Central Goods and  
Service Tax and Central Excise,  
Aged about 31 years,  
Residing at Favdewadi, Post: Pangaon,  
Taluka: Renapur, District Latur.
3. Palkar Ravindra Maruti,  
Son of Palkar Maruti Kuldalik,  
Inspector of Central Goods and  
Service Tax and Central Excise,  
Aged about 36 years,  
Residing at Post Palkarwadi, Taluka: Radhanagari  
District-Kolhapur, Pin 416221.
4. Manjari Kumari,  
Daughter of R.L.Pandit  
& Wife of Mithilesh Kumar

Inspector of Central Goods and  
Service Tax and Central Excise,  
Aged about 30 years,  
Residing at Omega Paradise, Flat No.402,  
Wakad, Pune Pin-411057.

5. Nilesh Vijendra Tiwari,  
Son of Vijendra B. Tiwari,  
Preventive Officer (Inspector) of  
Custom Department,  
Aged about 27 years,  
Residing at C/207, Jay Prakash Nagar,  
CHS Ltd. Rajawadi Road No.7,  
Vidya Vihar (East), Mumbai 400077.
6. Deepak, son of Dharmvir,  
Preventive Officer (Inspector) of  
Custom Department,  
Aged about 27 years,  
Residing at Orrin-702, Kesar Exotica,  
Sector-10, Kharghar,  
Navi Mumbai-420210.
7. Arpita Khare,  
Daughter of Anand Khare,  
& Wife of Gaurav Kumar Srivastava,  
Preventive Officer (Inspector) of  
Custom Department,  
Aged about 25 years,  
Residing at Flat No.204, Red Rose CHS,  
Sector 02, Vashi, Navi Mumbai-400703.

... Applicant

(By Advocate: Sh. Shakul R. Ghatole)

## **VERSUS**

1. Union of India  
Through the Secretary,  
Ministry of Finance,  
Department of Revenue,  
Central Excise of Indirect Taxes  
And Customs, North Block,  
New Delhi-110001.

2. The Principal Commissioner of  
CGST & CX  
Mumbai Zone, GST Bhawan,  
M.K.Road, Mumbai – 400 020.
3. The Commissioner of Customs  
(General) having its office at  
New Custom House, Ballard Estate,  
Mumbai – 400 001.

... Respondents

(By Advocate: Sh. Gyanendra Singh)

### **OA No.1863/2019**

Swati Kumawat  
Age 30 years  
W/o Sh. Manoj Kumar Kumawat  
Working as Inspector of CGST & CX  
In the Office of Principal Chief  
Commissioner of CGST & CX  
Mumbai Zone, residing at  
701, Gharkul Society, Chincholi Bunder  
Malad (West), Mumbai 400 064.

... Applicant

(By Advocate: Sh. Nilansh Gaur)

### **VERSUS**

1. Union of India  
Through the Secretary,  
Ministry of Finance,  
Department of Revenue,  
Central Excise of Indirect Taxes  
And Customs, North Block,  
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2. The Principal Commissioner of  
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Mumbai Zone, GST Bhawan,  
N.K.Road, Mumbai – 400 020.

... Respondents

(By Advocate: Sh. Gyanendra Singh)

**ORDER****By Hon'ble Mr. Pradeep Kumar, Member (A)**

In OA No.1863/2019 the applicant was appointed as a fresh direct recruit Inspector of Central Excise in Hyderabad zone on 11.06.2014 and she joined on 07.07.2014. She applied for Inter Commissionerate Transfer (ICT for short) to Mumbai Zone on 08.07.2016 through proper channel. It was pleaded that her husband was working in a private company at Mumbai and his was a non-transferable job and she is agreeable to be transferred on bottom seniority. The representation of the applicant was forwarded by Hyderabad zone on 07.11.2016. Order for transfer to Mumbai zone was issued on 05.01.2017. In due course she was relieved from Hyderabad and joined Mumbai zone on 30.01.2017.

2. Meanwhile some similarly placed Inspectors at Thiruvananthapuram zone had also filed applications for ICT. Their cases were recommended by a Committee constituted to assess such request and transfer orders were also issued. However, these orders were subsequently cancelled.

Feeling aggrieved, they filed OAs No.956/2017, 148/2018 and 164/2018 before Ernakulam Bench of the Tribunal. The department pleaded that as per Recruitment

Rules-2016 (RRs for short), there was no mention of ICT and as such ICT was not permissible. The Tribunal, however, did not agree with this plea and vide orders dated 08.08.2018, the department was directed to implement the transfer orders already issued.

3. In this context, the applicant brings out that the RR of 2002 which was notified on 29.11.2002 had a provision of ICT vide Rule 4 which reads as under:

“4. Special provision:- (i) Each Commissionerate shall have its own separate cadre unless otherwise directed by the Central Board of Excise and Customs:

(ii) Notwithstanding anything contained in sub-rules (1), the jurisdictional chief Commissioner of Central Excise may, if he considers to be necessary or expedient in the public interest so to do and subject to such conditions as he may determine having regard to the circumstances of the case and for reasons to be recorded in writing, order any post in the Commissionerate of Central Excise to be filled by absorption of persons holding the same or comparable posts but belonging to the cadre of another Commissionerate of Directorate under the Central Board of Excise and Customs”.

4. It appears that certain problem arose with implementation of ICT. The processing of applications was banned on 09.02.2004. However, this ban was relaxed vide orders dated 27.10.2011 under certain conditions which were brought out in the OA. The conditions as per letter dated 27.10.2011 read as under:

“A. The basis of spouse ground, compassionate appointment and physically handicapped employees from time to time;;

B. And accordingly it was directed that any willing in Group B, C and D employee can apply for transfer from jurisdiction of one Cadre Controlling Authority (CCCA) to another CCA subject to availability of vacancy and on the terms and conditions specified in the said letter.”

5. The applicant pleaded that each Commissionerate is the cadre controlling authority for the purpose of these RRs. The RRs of 2002 were amended on 26.12.2016. These rules specified the method of recruitment and cadre controlling authority. However, they do not make any mention about ICT. The relevant part of these rules-2016 read as under:

“4. **Method of recruitment, age-limit qualifications, etc.**-The method of recruitment, age-limit, qualifications and other matters relating thereto shall be as specified in columns (5) to (13) of the aforesaid Schedule.

5. **Special provision.** – Each Cadre Controlling Authority (CCA) shall have its own separate cadre, unless otherwise directed by the Central Board of Excise and Customs.”

6. The applicant pleads that even though the amendments were issued on 26.12.2016, the letter permitting ICT which was issued on 27.10.2011 was not withdrawn. It was also pleaded that while RRs deals with the recruitment and service conditions, ICT is an administrative matter and not governed by the RRs. Applicant pleads that another letter has now been issued on 20.09.2018 which reads as under:

“Subject : Instructions in respect of Inter-Commissionerate Transfer (ICT) in the light of new Recruitment Rules, 2016-regarding.

These instructions are being issued in terms of “Central Excise and Customs Commissionerate Inspector (Central Excise, Preventive Officer and Examiner) Group B Posts Recruitment Rules, 2016”

2. Any executive instructions in contravention of the Recruitment Rules will be void in accordance with the ratio of the judgment of the Hon’ble Supreme Court of India in the case of UOI & others Vs. Somasundram Viswanath & Ors. Dated 22.09.1988 {1990 SC 166 (10) which held as follows:-

(1) “It is well settled tht the norms regarding recruitment and promotion of officers belonging to the civil Services can be laid down either by a law made by appropriate Legislature or by rules made under the proviso to Article 309 of the Constitution of India or by means of executive instructions issued under article 73 of the Constitution of India in the case of Civil Services under the Union of India and under Article 162 of the constitution of India in the case of Civil Services under the State Governments. If there is a conflict between the executive instructions and the rules made under the proviso to Article 309 of the Constitution of India prevail. “Thus, the Recruitment Rules formulated under Article 309 will prevail over any executive instruction that may be contradictory to it”

3. It has come to the notice of this office that various CCAs (Cadre Control Authorities) are taking divergent stands on the issue of Inter Commissionerate Transfers (ICT) of officers in the cadre of Inspector on the basis of guidelines issued vide F.No. A 22015/23/2011-AD IIIA dated 27.10.2011. The issue of Inter Commissionerate Transfer under “Central Excise and Customs Commissionerate Inspector (Central Excise, Preventive Officer and Examiner) Group B Posts Recruitment Rules, 2016” has been examined by the Board and following has been observed.

4. The ICT applications were being considered under Rule 4 of erstwhile Central Excise and Land Customs Department Inspector (Group ‘C’ Posts) Recruitment Rules, 2002 which stated that :

“Rule 4: Special Provision – (i) Each Cadre Controlling Authority (CCA) shall have its own separate cadre unless otherwise directed by the Central Board of Excise and Customs.

(ii) Notwithstanding anything contained in sub-rule 9 (i), the jurisdictional Chief Commissioner of Central Excise may, if he considers to be necessary

or expedient in the public interest so to do and subject to such conditions as he may determine having regard to the circumstance of the case and for reasons to be recorded in writing, order any post in the Commissionerate of Central Excise to be filled by absorption of persons holding the same or comparable posts but belonging to the cadre of another Commissionerate or Directorate under the Central Board of Excise and Customs.

However, under Recruitment Rules, 2016 the corresponding provision containing the special provision under Rule 5 provides that "Each Cadre Controlling Authority (CCA) shall have its own separate cadre unless otherwise directed by the Central Board of Excise and Customs."

5. From the above, it is clear that Recruitment Rules, 2016 do not have any provision for recruitment by absorption and accordingly, no ICT application can be considered after coming into force of the Recruitment Rules, 2016.

6. In exceptional circumstances depending upon the merit of each case such as extreme compassionate grounds, such transfers may be allowed on case to case on loan basis along keeping in view the administrative requirements of transferee and transferred Cadre Controlling Authority. However, maximum tenure of such transfer will be three years and can be extended with the specific approval of the Board for a further period of two years depending upon the administrative requirement. It is further reiterated that the officials transferred on the loan basis shall not be considered for promotion unless they re-join their parent cadre.

7. Now, therefore, it is hereby clarified that an office order for Inter Commissionerate Transfer in the Grade of Inspectors issued on or after 26.12.2016 (i.e. from the date of enactment of RR, 2016) will be non-est and accordingly any officer who has joined another zone in pursuance of such order shall be treated as a deemed case on loan basis w.e.f. 26.12.2016. These officers shall be on deemed loan till 31.03.2019, on which date the officers shall stand relieved and be reverted to their parent zone.

All CCA are directed to take necessary steps in this regard immediately."

7. Now in compliance to the letter dated 27.09.2018, applicant's transfer to Mumbai zone, which was already



ordered on 05.01.2017 and stood implemented on 30.01.2017, though after 26.12.2016, was cancelled and she was treated as 'on loan basis' to Mumbai zone up to 31.03.2019 and the applicant will be continued to remain on the strength of her erstwhile parent zone, namely, Hyderabad for all administrative purposes. Accordingly, the order was issued on 01.11.2018 in respect of a total of five officials. Name of applicant appears at Sl. No. 1 of this letter.

This cancellation of transfer order to Mumbai zone was challenged in OA No.730/2018 at Mumbai Bench of the Tribunal which has since been transferred to Principal Bench and has been renumbered as OA No.1863/2019, i.e. the instant OA.

8. In regard to applicants in OA No.1862/2019, the details in respect of applicant, namely, Sh. Kharade Vinayak Sudhir are exactly similar to that in OA No.1863/2019, with the difference that he was initially recruited at Chennai zone and was sent on request transfer to Mumbai zone and joined there on 24.04.2017. His transfer has also been cancelled vide letter dated 01.11.2018. His name appears at Sl. No.4 in this letter and this cancellation letter has been challenged by filing OA No.84/2019 before Mumbai Bench. This has since

been transferred to Principal Bench and renumbered as OA No.1862/2019.

9. The said notification dated 20.09.2018 (para 6 supra) was the subject matter of adjudication before the Bangalore Bench of the Tribunal and was quashed vide order dated 15.11.2018. On the basis of this judgment by Bangalore Bench, Jaipur Bench also decided a similar OA No.542/2018 vide orders dated 07.01.2019.

The decision of Bangalore Bench was challenged by the Department before Hon'ble High Court of Karnataka and since many cases were under adjudication before different benches, the Department preferred a TA before Principal Bench under OA No.100/62/2019 which was allowed vide order dated 31.05.2019. Accordingly, OA No.84/2019 filed by Sh. Kharade at Mumbai Bench (para 8 supra) was transferred to Principal Bench and re-numbered as OA No.1862/2019.

Since the subject matter in these two OAs (OA No.1862/2019 and OA No.1863/2019) is exactly similar, both were heard together and a common order is being passed.

10. The applicants plead that RR is only for recruitment whereas transfer is an administrative matter and hence cancellation of transfer order, on the plea that RR is silent on

the issue of ICT, is not acceptable. Since the applicants had already been transferred from their parent zone, their links have already been severed and they have been fixed in the new zone at Mumbai at bottom seniority. On this basis their transfer order need not be opened and needs to be upheld.

11. The applicants relied upon a judgment by Hon'ble High Court of Delhi in **R.Jayshree vs. Union of India**, WP (C) No.1710/2013 dated 21.07.2014. The details of this case are noted by Hon'ble High Court and decision thereupon is reproduced below:

"3. The petitioner was working as Inspector of Customs and Central Excise. She was promoted by order of 27.3.2008 to Superintendent of Customs and Central Excise, which post she joined on 2.4.2008. The petitioner was allowed an ICT to Delhi, without loss of seniority, by establishment order of 30.9.09, which posting she commenced on 7.10.2009. ....

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6. On 3.2.2012, purportedly in accordance with the July 2011 CAT order, the order of this Court and the 2011 circular lifting the ban on ICTs, the second respondent repatriated the petitioner from Delhi back to the Commissionerate, Chennai and her ICT (issued by the order of 30.9.2009) was cancelled, by Establishment Order no. 29/2012 issued on 3.2.2012 by an order dated 3.2.2012 ("repatriation order"). She was also informed that the period during which she served in Delhi would be treated as on deputation basis.

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8. The petitioner challenges the CAT's order on the ground that it does not address the primary controversies before it, i.e. first, whether her repatriation of the petitioner and the cancellation of the ICT was lawful, and second, whether treating the period spent by the petitioner in Delhi could have validly been treated as on deputation basis.

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15. As observed earlier, save and except the plea of seniority, which affected the aggrieved employees, of the Ernakulam Commissionerate (an issue which was to be finally settled by the DOPT), there was no question of any cloud on the CBEC's authority to frame policies. There is also no dispute that in terms of the 2009 circular, the petitioner was transferred to Delhi; the circular issued in 2011 clarified that she would not secure any seniority. Given these circumstances, the findings of the CAT cannot be sustained. There cannot be any quarrel with the general proposition that in matters of transfer, judicial intervention is ordinarily not called for. At the same time, the Courts have underlined that wherever existing rules or regulations having statutory force are involved, the right of the employee to be considered in the context of those rules has to prevail. Similarly, where guidelines exist, the Courts have insisted that such guidelines should be ordinarily adhered to (UOI v. S.L. Abbas, (1993) 4 SCC 357. In the present case, the 2009 circular as well as the subsequent 2011 circular, in between which the petitioner was transferred to Delhi, did not disqualify her from seeking in ICT. A subsequent circular dated 15.02.2012, almost three years after her joining of service, barring gazetted Group-B officers from seeking such ICT, could not, therefore, be a valid reason to repatriate her, in effect, a denial of a right that vested in her in 2009.

16. For the foregoing reasons, the impugned order of the CAT in the petitioner's application is hereby set-aside. Consequently, the order transferring the petitioner back to Chennai dated 03.12.2012 is hereby quashed. The writ petition is allowed in the above terms."

12. Applicants pleaded that keeping the above in view, the transfer orders to Mumbai zone needs to be upheld.

13. Respondents opposed the OA. Several grounds have been raised as under:

13.1 It was pleaded that the provisions of RRs have to prevail over other executive orders and specially so, if there is any contradiction between the RRs and any executive order. This ratio was laid down by Hon'ble Apex Court in the case of

**UOI & Ors. Vs. Somasundram Viswanath & Ors.** dated  
22.09.1988 {1990 SC 166 (10) which held as follows :-

“(1) “It is well settled that the norms regarding recruitment and promotion of officers belonging to the Civil Services can be laid down either by a law made by appropriate Legislature or by rules made under the proviso to Article 309 of the Constitution of India or by means of executive instructions issued under article 73 of the Constitution of India in the case of Civil Services under the Union of India and under Article 162 of the constitution of India in the case of Civil Services under the State Government. If there is a conflict between the executive instructions and the rules made under the proviso to Article 309 of the Constitution of India, the rules made under proviso to Article 309 of the Constitution of India prevail.”

Thus, the Recruitment Rules formulated under Article 309 will prevail over any executive instruction that may be contradictory to it.

13.2 In the instant case since the transfer orders which have been pleaded by applicants to be upheld, were issued after the RR was already notified on 26.12.2016, and these RRs do not have any provision of ICT, the said transfer orders are without any authority and as such non-est. With a view to effect uniform implementation across all zones and keeping in view that certain difficult situation may occur and with a view to reduce the difficulty of concerned staff, clarificatory instructions were issued on 20.09.2018. A transition period has been planned and accordingly following has been specifically averred in the counter reply also:

“the Board vide letter F.No. A-22015/117/2016-Ad.111.A dated 20-9-2018 has issued clarifications that an Office Order for the Inter Commissionerate transfer in the grade of Inspectors issued in or after 26-12-2016 (i.e. from the date of enactment of RR, 2016) will be non-est and accordingly any Officer who has joined another zone in pursuance of such order shall be treated as a deemed case on loan basis w.e.f. 26-12-2016. These Officers shall be on deemed loan till 31-03-2019, on which date the Officers shall stand relieved and be reverted to their parent Zones. Thereby the Establishment Order No.113/2018 dated 01-11-2018 was issued.”

It is in compliance to the orders dated 20.09.2018 that the orders for the five candidates, including two instant applicants, were issued on 01.11.2018. It is in keeping with rules and required to be implemented.

13.3 It was further brought out that the Staff Selection Commission selects the candidates on all India basis. A merit list is prepared. Selected candidates exercise their option and indicate their zone of preference and it is only thereafter that the zone is allocated as per merit and option. In this regard following specific averment has been made:

“The Staff Selection Commission (SSC) makes the recruitment for selection of the Inspectors on all India basis.

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After completing the selection process, the SSC sends the list of successful candidates in order of merit. The selected candidates exercise their option and indicate Zone and preference for allocation. Based on the order of Merit, Vacancies in the Zone and Preference indicated, the Inspectors are allotted to the Zones under the CCA strictly as per rules and procedure.

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A candidate joining as Inspector in a particular Zone gets next promotion to the post of Superintendent in the same zone. The prospect of promotion to the grade of Superintendent differs from Zone to Zone.”

13.4 It was also pleaded that the Inspectors/Superintendents in one zone have been seeking ICT and thereafter claiming seniority in the new zone over their erstwhile batchmates from the same batch who may have secured a higher meritorious position but who may not have been promoted yet in the new zone. This has led to a plethora of litigations across the country where issues of arbitrariness, seniority and contempt have been raised and in this regard following has been specifically averred in the counter reply:

“The transfers under ICT from one Cadre Controlling Authority to another is not merely a transfer from one station to another or from one charge to another or change in posting. It entails change in Cadre from one Cadre Controlling Authority to another Cadre Controlling Authority. It amounts to fresh appointment/recruitment that adversely affects the seniority in the Zone and distorts the order of merit.

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the guidelines issued by Board on 27-10-2011 vide F.No.A.22015/23/2011-Ad.III A for Inter Commissionerate Transfer (ICT) does not prevail after coming into force of the Recruitment Rules, 2016, which do not have any provision for recruitment by absorption.”

13.5 It was also pleaded that the ratio of **R.Jayshree** (supra) judgment by Hon’ble High Court of Delhi is not

applicable in the instant case. The specific averment has been made which reads as under:

“the reliance of the Applicant on the judgment of Hon’ble Delhi High Court in the case of R. Jayshree Vs. Union of India & Ors. is not relevant to the present O.A. The issue involved in the case stated supra is Inter Commissionerate Transfer (ICT) in the cadre of Gazetted Group ‘B’ Officers, which is govern by separate Recruitment Rules and of maintenance of seniority consequent to ICT. In the present case, after coming into force of the Recruitment Rules, 2016, there is no provision for recruitment by absorption on or after 26-12-2016 (i.e. from the date of enactment of Recruitment Rules, 2016)....”

14. The respondents also drew attention to a judgment of Principal Bench of this Tribunal passed in OA No.93/2018 and batch delivered on 01.05.2019 (**Jugan Singh vs. Union of India and others**) which was in the context of ICT of similarly placed candidates. The observations by the Tribunal and the decision thereupon are as under:

“3. However, Shri. S. Sunil, learned counsel appearing for the applicants in some of the OAs submits that though various grounds raised in the instant batch of OAs have already been answered by the Hon’ble High Court of Kerala at Ernakulam but the issue “whether the applications made by the applicants prior to the issuance of 2016 Rules for inter commissionerate transfer requires different treatment from that of the applications made after the issuance of 2016 Rules”, was neither raised nor examined by the Hon’ble High Court of Kerala at Ernakulam and hence, the said issue may be required to be dealt with in these batch of OAs.

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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.

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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."

15. It was finally pleaded that in keeping with the above, the OAs are without merit and are required to be dismissed.

16. Matter has been heard at length. Sh. Nilansh Gaur, learned counsel appeared on behalf of the applicant in OA No.1863/2019, Sh. Shakul R. Ghatole, learned counsel appeared on behalf of applicants in OA No.1862/2019 and Sh. Gyanender Singh, learned counsel appeared on behalf of respondents in both the OAs.

17. It is the view of this Tribunal that the RRs, as amended from time to time, have to prevail in matters of recruitment and service conditions. While RRs of 2002 had some provision in respect of ICT, the same led to serious administrative difficulty. Accordingly, ICT was barred in the

year 2004. It was only much later that certain relaxations were permitted in the year 2011. However, the transfer orders issued, drew strength from the provision in RRs and the relaxations granted in the year 2011. However, a new RR was notified in the year 2016. This does not have a provision of ICT at all. The ICT orders issued subsequent to this notification of RR on 26.12.2016, even by those authorities who were competent to issue ICT as per earlier RRs are, therefore, without authority which has to necessarily flow from RRs.

It is in this context that a clarification was issued on 20.09.2018. It has been made applicable w.e.f. 26.12.2016, as the powers with the competent authorities have to necessarily flow from Recruitment Rules. Accordingly, keeping in view the circumstances of this case, the letter dated 20.09.2018 cannot be faulted by raising the ground of retrospective implementation.

It is noted that keeping in view the administrative and personal difficulties of the affected candidates, for whom transfer orders were issued after 26.12.2016 but prior to 20.09.2018, such candidates were retained in the new zone till 31.03.2019 to provide for a smooth transition period. Therefore, really speaking it is not a case of retrospective

implementation. Accordingly, the pleas by the applicant, to quash the letter dated 20.09.2018 is without merit and is not acceptable.

18. The transfer order of the applicants back to their parent zone cannot be said to have prejudiced them in any way with regard to their service benefits. They may be facing certain personal difficulty, however, the same has to give way to the provision of RR and administrative exigency. The pleas of the applicants to quash the order dated 01.11.2018, which flows from letter dated 20.09.2018, is therefore also without merit and is not acceptable.

19. In regard to the judgment relied upon by applicants, **R.Jayshree** (para 11 supra), the Tribunal is of the view that the same is of no help as that is in a different context as brought out by Respondents (para 13.5 supra). The Tribunal has also noted that the question of ICT came under adjudication earlier also and OAs were dismissed (para 14 supra).

20. In the event, the OAs are without merit and the same are dismissed. It goes without saying that on transfer back to the parent zone, the applicants will be fixed at the seniority position which was held by them when they were initially

transferred out and they are to be considered for promotions in their parent zone on this basis vis-a-vis their juniors following due procedure. No order as to costs.

(Pradeep Kumar)  
Member (A)

( S.N. Terdal )  
Member (J)

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