



न्यायालय मुख्य आयुक्त दिव्यांगजन

COURT OF THE CHIEF COMMISSIONER FOR PERSONS WITH DISABILITIES (DIVYANGJAN)

दिव्यांगजन सशक्तिकरण विभाग/Department of Empowerment of Persons with Disabilities (Divyangjan)

सामाजिक न्याय और अधिकारिता मंत्रालय/Ministry of Social Justice & Empowerment

भारत सरकार/Government of India

5वाँ तल, एन.आई.एस.डी. भवन, जी-2, सेक्टर-10, द्वारका, नई दिल्ली-110075; दूरभाष : (011) 20892364

5th Floor, N.I.S.D. Bhawan, G-2, Sector-10, Dwarka, New Delhi-110075; Tel.: (011) 20892364

Email: ccpd@nic.in; Website: www.ccdisabilities.nic.in

Case No: 13628/1022/2023

In the matter of:

Complainant(s):

Sh. Dilip Prasad

Respondent(s):

The Chief Commissioner
Central Excise, Cochin Zone

1. Gist of Complaint :

1.1 Sh. Dilip Prasad, a person having 90% locomotor disability, has been serving as a Tax Assistant in the Customs Commissionerate, Cochin (Kerala) since 18.04.2016. He states that his native place is in the Gaya district, Bihar, approximately 3000 kilometres from his current place of posting. Due to a lack of direct connectivity and the significant distance, he faces considerable difficulties. Moreover, his family is unable to accompany him, further

complicating his challenges. Despite multiple attempts to secure a transfer closer to his hometown, the department has not made a decision so far. In light of this situation, he prayed for his transfer to Gaya or a nearby location.

2. Notice Issued to the Respondents:

2.1 A notice dated 16.01.2023 was issued by this Court under Sections 75 and 77 of the Rights of Persons with Disabilities Act, 2016 (hereinafter referred to as “the RPWD Act”), directing the Respondents to furnish their comments on the complaint and place on record supporting documents and justifications, if any.

3. Submissions made by the Respondents:

3.1 Sh. George Joseph, Deputy Commissioner (CCO), in his response dated 31.01.2023, stated that the Complainant was appointed as a Tax Assistant at the Custom House, Cochin, on 18.04.2016 through the SSC Combined Graduate Level Examination 2014 under the OH and OBC categories. In a letter dated 16.12.2022, the Complainant requested a transfer to his hometown, Gaya. A similar request was previously submitted in June 2022, but could not be approved due to a severe staff shortage, with only 16 Tax Assistants in position against a sanctioned strength of 52, representing just 30% of the required manpower at the time.

3.2 Furthermore, the Recruitment Rules 2022 for the post of Tax Assistant (Group 'C') under the Central Board of Indirect Taxes and Customs (CBIC) do not include any provision for absorption or special clauses for Inter Zonal or Inter Commissionerate Transfers (IZT/ICT). As such, transfers are not permissible within this cadre. Furthermore, any decisions regarding transfer policies fall under the purview of

CBIC and are beyond the authority of the answering respondent.

4. Leave to file Rejoinder:

4.1 A copy of the Reply received from the Respondent was forwarded to the Complainant vide letter dated 09.03.2023 for filing of the rejoinder, but no Rejoinder was filed by the Complainant.

5. Communication of the Legal Framework Governing Posting and Transfer of Persons with Disabilities:

5.1 This Court vide letter dated 14.01.2024, conveyed to the Respondent the legal framework related to Posting/Transfer/Retention of employees with disabilities and caregivers to dependent persons with disabilities, seeking a response within one month. No reply to the same was received from the Respondents.

6. Hearing (I):

6.1 A hearing in hybrid mode (online/offline) was conducted on **14.05.2025** at the Office of the Chief Commissioner for Persons with Disabilities, Dwarka. The following parties/representatives were present during the hearing:

S. No.	Name of the Party/Representative	Mode of Attendance	Appearing for
1.	Shri Dilip Prasad, Tax Assistant	Online	Complainant
2.	Shri Shreedhar E, Assistant	Online	Respondent

	Commissioner, Respondent Cochin Zone		
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7. Record of Proceedings:

7.1 The Complainant raised a grievance regarding his transfer to Bihar, clarifying that he had applied for an Inter-Commissionerate Transfer (ICT) in 2018 before the ban on ICTs in 2019, but his request was never considered. The Court referred to the Rights of Persons with Disabilities (RPwD) Act, 2016 and emphasised that employees with disabilities are entitled to special provisions for posting and transfer, which the ICT ban cannot override. The Court also cited a DOPT Office Memorandum granting exemptions from routine transfers, preference in posting and the ability to choose preferred posting locations for persons with benchmark disabilities. The Respondents were criticised for being unprepared and failing to present relevant documents, leading to an adjournment. The Respondents were directed to submit their written responses with the next hearing scheduled for 26th May 2025.

8. Hearing (II):

8.1 A second hearing was held on **26.05.2025**. The following parties were present:

S. No.	Name of the Party/Representative	Mode of Attendance	Appearing for
1.	Shri Dilip Prasad, Tax Assistant	Online	Complainant
2.	Shri Shreedhar E, Assistant Commissioner, Respondent	Online	Respondent

	Cochin Zone		
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9. Record of Proceedings:

9.1 At the outset, the Court noted that it had reviewed the Respondent's reply, which raised two main points:

(a) The Complainant's transfer was not feasible between 2018 and 2022 due to manpower shortage,

(b) Any relaxation in the Inter-Commissionerate Transfer norms could only be approved at the Headquarters level, not by the Chief Commissioner. The Court sought confirmation of this position and the Respondent affirmed it.

9.2 The Court noted the Complainant's statement that he is due for promotion next year and does not wish to pursue the complaint as it may affect his prospects. Upon seeking confirmation, the Court recorded that the Complainant chose to withdraw the complaint.

9.3 The case is accordingly disposed of .

(S. Govindaraj)
Commissioner for Persons with Disabilities