



न्यायालय मुख्य आयुक्त

COURT OF 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 and Empowerment

भारत सरकार/ Government of India

Case No. CCPD/15109/1022/24

Dated: 30/03/2026

Case No. 15109/1022/2024

In The Matter Of:

Complainant(s):

Ms. Gayatri Laxman Pagar

Respondent(s):

The Chairman,

Central Board of Direct Taxes

Gist of Complaint:

1.1 Ms Gayatri Laxman Pagar, a person having 100% visual impairment, filed a complaint on 07.02.2024 regarding the rejection of her request for an inter-divisional transfer within the Income Tax Department. She joined the Income Tax Office, Mumbai, as a Multitasking Staff (MTS) in December 2023 and has since made several attempts, through emails, written communications and personal visits, to secure a transfer to Nashik. She submitted that her current posting has adversely affected her personal and professional well-being.

1.2 She also stated that she is residing separately from her visually impaired husband, who is employed with Canara Bank in Nashik, and is the primary caregiver of their 7-month-old infant. Due to these circumstances, the continued separation and associated challenges have impacted her health, and she seeks urgent, compassionate and equitable intervention for resolution of her grievance.

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2. Notice Issued To The Respondent:

2.1 The matter was taken up with the Central Board of Direct Taxes, New Delhi, on 12-02-2024, referencing relevant statutory provisions and government instructions, including but not limited to Section 20 of the RPwD Act and the Department of Financial Services, Ministry of Finance's letter No. 3/13/2014-Welfare dated 18.11.2014.

3. Submissions made by the Respondent:

3.1 The Deputy Directorate of Income Tax (Human Resource Development) in its response dated 26.03.2024, stated that the Income Tax Department consists of 18 Cadre Controlling Authorities (CCAs). Recruitment to Group-C posts is conducted centrally by the SSC, and candidates are allocated to different regions based on merit and preference. It was submitted that the inter-charge transfer policy was withdrawn vide letter dated 22.12.2020 due to adverse administrative consequences, including increased litigation, imbalance in staffing and disputes relating to seniority. Under the existing framework, inter-region transfers are permissible only on a loan basis and under limited circumstances.

3.2 The Respondent further referred to the Hon'ble Supreme Court judgment in **S.K. Naushad Rahaman vs. Union of India (2022)**, affirming that transfer is an incidence of service and not a vested right. It was also clarified that the DoPT OM dated 02.02.2024 relates only to intra-zone transfers for Divyangjan employees and does not provide for inter-zone movement. Therefore, it was concluded that the Complainant's request cannot be acceded to, as no policy currently exists to allow such inter-charge transfers and granting relaxation in an individual case may lead to administrative difficulties.

4. Letter containing legal framework Issued:

4.1 The Letter containing the legal framework concerning the posting, transfer and retention of employees with disabilities, as well as caregivers of dependent persons with disabilities, was issued on 18-10-2024, to the Respondent.

5. Hearing:

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5.1 A hearing in hybrid mode was conducted on 17.07.2025, wherein the following parties/representatives were present during the hearing :

S. No.	Name and Designation of the Party/Representative	For Complainant/Respondent	Mode of attendance
1.	Ms. Gayatri	Complainant	Online
2.	Sh. Anand Ratkal, DCIT Personnel, Mumbai	Respondent	Online
3.	Smt. Indrani Singh Chaudhary - DCIT, HRD Directorate, CBDT	Respondent	Online

6. RECORD OF PROCEEDINGS

6.1 The Court sought an update from the Complainant regarding the present status of her case. In response, she submitted that she is facing considerable hardship, as she travels nearly four hours daily for work while also caring for her young child and elderly in-laws. The Court further inquired whether she had approached the cadre-controlling authority prior to filing the complaint and what action the organisation had taken. The Complainant stated that she had informed the department of her circumstances within one month of joining.

6.2. The representative of the DCIT Mumbai submitted that the Complainant may apply for a transfer on a loan basis, which could be considered in December after completion of two years of service. The representative of CBDT added that she may also apply for transfer under the "extreme compassionate grounds" category, upon which an appropriate decision would be taken.

7. Observation

7.1. The Court observes that the Respondent has failed to comprehend the statutory provisions and the instructions around it in its totality. They have cited the decision of the Hon'ble Supreme Court in **S.K. Naushad Rahaman vs. Union of India (2022)** to argue that transfers and postings are not vested rights of employees. This Court has no

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disagreement with that assertion, and that is also not an issue before this Court. The issues here are -

- (a) Whether the Respondent has a posting-transfer policy giving reasonable accommodation to employees with disabilities, an enabling recommendation under Section 20 (5) of the RPwD Act, 2016?
- (b) Whether they have published an Equal Opportunity Policy in accordance with Section 21 of the Act, read with Rule 8 of the RPwD Rules, 2017, mandating preference in posting and transfer of employees with disabilities? and
- (c) Whether their blanket ban on inter-Commissionerate transfer is in conformance with the above statutory provisions?

7.2 The aforementioned case law is completely irrelevant as the facts are not comparable. In SK Naushad, the matter before the Apex Court involved a request for transfer on spousal grounds, which is governed by executive instructions, unlike the case of employees with disabilities, for whom the statute itself stipulates enabling and mandatory provisions more than once.

7.3 There is no material in the records of the case that indicates any reasonable accommodation for employees with disabilities in the matter of transfer and posting in the Respondent's establishment. Para 3.1 of the reply of the Respondent dated 26.03.2024 is relevant here, which is quoted below:

*"3.1 In this regard, it is pertinent to mention that the Income Tax Department is divided into 18 (eighteen) Regions with each region administering tax collection and recovery based on the regional specificities at the field level. **Direct Recruitment in the Income Tax Department in Group C cadres is carried out by the Staff Selection Commission (SSC) in a centralized manner and on recruitment the selected candidates are allotted to one of the eighteen (CCA) regions as per their merit and preference, and in accordance with the relevant Recruitment***

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Rules.”

7.4 From the above, it is clear that the posting of a direct recruit in the Respondent's establishment is strictly on the basis of the merit and preference of the candidate and disability status of the candidate has no role to play in determining this. Such a policy is in conflict with Section 21 of the RPwD Act, 2016, read with Rule 8 (3) (c) of the RPwD Rules, 2017, which mandates preference not only in the matter of transfer, but also in postings covering the direct recruitments.

7.5 The Court also noted with due concern that despite the original notice of this Court dated 12.02.2024 itself clearly mentioning these statutory provisions and pursuant instructions, and the subsequent letter dated 18.10.2024 conveying the legal framework concerning the posting, transfer and retention of employees with disabilities, as well as caregivers of dependent persons with disabilities in a very detailed way, due diligence was not shown in examination of the issues involved.

7.6 The Court also observed that the Respondent did not submit a copy of their EOP or provide the details of the GROs appointed by them. The records held by the office of the Chief Commissioner for Persons with Disabilities reveal that neither has any EOP of the Respondent been registered with it, nor has any information been forwarded to it about the GRO. The Respondent needed no notice or litigation to take these actions, as the corresponding provisions of Sections 21 and 23 of the Act, read with Rules 8 and 10, respectively, ipso facto became applicable to the Respondent's establishment upon the promulgation of these statutes.

7.7 The failure of the Respondent to inform compliance with their statutory obligations under sections 21 and 23 of the RPwD Act, 2016, despite a clear mention at paras 3 & 4 of the Notice dated 12.02.2024, particularly in the light of the specific requisition of this Court at para 6 of the Notice, is not only a serious lapse and lack of due diligence on the part of the Respondent, it is in clear violation of Section 93 of the RPwD Act, 2016 which makes non-furnishing of information sought under the RPwD Act, 2016, a punishable offence.

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7.8 Lastly, the submission of the Respondent at Para 6 of their reply dated 26.03.2024 stating that - the circulars/instructions referred to in this Court's Notice including DOPT OM No. 36035/44/2023-Estt. (Res-II) dated 02.02.2024 refers to the **Special Considerations to be made for the welfare of Divyangjan w.r.t. Intra Zone transfers, nor for the Inter Zone Change**- is not borne out of the referred instructions themselves, but is reflective of the understanding of the instructions by the department.

7.9 The Hon'ble Delhi High Court in its judgment dated 02nd April 2025 in the matter of NPTI Vs. Mukesh Kumar held that the DoPT instructions issued vide OM dated 02.02.2024 carry the essence of the statutory provisions of the RPwD Act, 2016, namely, sections 20 (5) and 21 read with Rule 8 (3) (c) of the RPwD Rules, 2017. Accordingly, it has enabled employers to exempt persons with disabilities from routine and rotational transfers, and to give them preference with regard to transfers and postings, and to post them near their native place, subject to administrative exigencies. The Hon'ble Delhi High Court, in its Order dated 02.04.2025 in Mukesh Kumar Vs NPTI, has held that employers will have to specify the "administrative exigency" for not relying on these enabling provisions. The relevant extracts from the Order are as under:

“Exigency for transfer can arise from administrative and operational needs, such as organization’s requirements, the employee’s skills and suitability for a specific role/location, and overall strategic necessity. Such valid reasons may justify transfer even if contrary recommendations exist, provided they are properly communicated.”

8. Conclusion and Recommendation:

8.1 In view of the foregoing, this Court finds that the answers to all three questions framed by it at Para 7.2 are negative. This Court also concludes that the Respondent has displayed a lack of adequate sensitivity in the formulation of its policy and in its replies to the Notice and further communication of this Court. The blanket ban on inter-Commissionerate transfer is found to be devoid of reasonable accommodation for employees with disabilities and caregivers. Further, this Court is constrained to conclude that the Respondent has failed

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to comply with the statutory provisions of sections 21, 23 and 93 of the Act.

8.2 The Respondent is recommended to take the following actions:

(a) Review their posting-transfer policy, including the ban on inter-Commissionerate transfer in the light of sections 20 and 21 of the RPwD Act, read with Rule 8 of the RPwD Rules, 2017.

(b) Prepare an Equal Opportunity Policy in accordance with Section 21 of the RPwD Act, read with Rule 8 of the RPwD Rules, 2017 and forward the same for registration by the CCPD in accordance with Section 21 (2).

(c) Appoint GROs in adequate numbers in accordance with Section 23 of the RPwD Act, read with Rule 10 of the RPwD Rules, 2017 and inform the same to the CCPD in accordance with Section 23 (1).

(d) The request of the Complainant for transfer be considered on loan basis without further delay.

8.3 An Action Taken Report shall be filed within 90 days in accordance with Section 76 of the RPwD Act, 2016.

9. Accordingly, the matter was disposed of.

Yours faithfully,

**(S. Govindaraj)
Commissioner**

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