सत्यमेव जयते
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: 14248/1022/2023

In the matter of

Shri Ankur Gupta **…Complainant**

Versus

Respondent(s)

1. The Chairman, Central Board of Indirect Taxes and Customs, New Delhi

2. The Principal Chief Commissioner of GST and Central Excise, Tamil Nadu & Pondicherry Zone, Chennai

1. Gist of Complaint

1.1 The Complainant, Shri Ankur Gupta, a person with 75% locomotor disability, submitted a grievance dated 27.06.2023. He stated that he joined the Central Excise & Customs department as an Inspector of GST and Central Excise through direct recruitment under the Cadre Controlling Authority (CCA), Chennai Zone, after qualifying the SSC Combined Graduate Level Examination (CGLE) 2020. He took charge on 29.01.2023 and is currently posted in the Chennai Outer Commissionerate. He has requested an Inter-Commissionerate transfer on a loan basis from the Chennai Zone to the Meerut Zone. His representation, dated 10.04.2023, was forwarded by the Chennai Outer Commissionerate to the Office of the Principal Chief Commissioner of GST & Central Excise, Tamil Nadu & Puducherry Zone. Upon follow-up, he was informed that a policy decision regarding the transfer and substitution of physically handicapped employees on a loan basis is still pending. Consequently, his application will not be forwarded to the CGST Meerut Zone until further clarification is received.

2. Notice Issued

2.1 The matter was taken up with the Respondent vide notice dated 11.07.2023 citing provisions u/s 75, 77, 3, 20(5), 21 and 23 of the Rights of Persons with Disabilities Act, 2016 read with Rule 8 of the RPwD Rules, 2017. A final reminder was issued on 22-03-2023.

3. Respondent's Reply to the Notice

3.1 The Respondent, Additional Commissioner (PCCO), Office of the Principal Chief Commissioner of GST & Central Excise, Tamil Nadu & Puducherry, in their reply dated 26.07.2023, stated that the Complainant as an Inspector, joined the Chennai GST Zone on 30.01.2023, less than six months prior. He was posted in a CGST Commissionerate in Chennai city based on his own representation at the time of joining. His current posting aligns with his first preference, with Puducherry, Coimbatore, Madurai, Salem, and Trichy listed as subsequent choices within the Chennai CGST Zone. In his representation dated 10.04.2023, the Complainant requested a transfer on loan basis to Bareilly–I Division under the Meerut GST Commissionerate, citing proximity to his hometown in Bareilly, Uttar Pradesh. The Complainant proposed that while he be posted in Meerut, his salary and emoluments continue to be drawn from the Chennai CGST Zone. The department stated that although such requests are generally considered under DoPT OM No. AB 14017/16/2002-Estt (RR) dated 13.03.2002, his allocation to the Chennai Zone was made in line with the merit-cum-preference policy, as 20 other PwD candidates with higher merit ranks had to be accommodated first. Furthermore, since the officer joined on 30.01.2023 and is still within his two-year probation period, granting a loan posting at this stage would undermine the CBIC's deployment policy.

4. Rejoinder

4.1 The Complainant, in his rejoinders dated 08.08.2023, 10.05.2024, and 16.07.2024, reiterated his original complaint and emphasized his request for a temporary transfer to the Meerut Zone (Bareilly Division) on a loan basis.

5. Notice of Legal Framework

5.1 The matter was further taken up with the Respondent vide notice dated 19.01.2024 stating provisions under Article 41 of the Indian Constitution, Sections 20(2), 20(5), 21, 4, 16, 24, 27, 38, Rule 8(3), DOP&T OM No 36035/3/2013-Estt. (Res) dated 31.03.2014, DOP&T OM No. 42011/3/2014-Estt. (Res) dated 06.06.2014, DOP&T OM No. 42011/3/2014-Estt (RR) dated 08.10.2018, and Ministry of Finance OM F.No. 302/33/2/87-SCT (B) dated 15.02.1988.

6. Respondent's reply to the Notice of Legal Framework

6.1 The Respondent, represented by Under Secretary to the Government of India, in their reply dated 16-02-2024 stated that the matter pertains to the decentralized cadre structure of the Central Board of Indirect Taxes and Customs (CBIC), and any decision regarding the request would require interdepartmental consultations and clarifications from the DoPT. Therefore, an extension of at least 60 days was requested to allow sufficient time to explore all possible options. Subsequently, on 08.07.2024, the Under Secretary submitted a detailed response referencing various DoPT Office Memoranda dated 10.05.1990, 13.03.2002, 31.03.2014, 06.06.2014, and 08.10.2018, along with relevant policy notices. It was affirmed that CBIC generally adheres to all applicable instructions and guidelines issued by DoPT and the Department of Empowerment of Persons with Disabilities (DoEPwD) concerning Persons with Benchmark Disabilities (PwBDs). The CBIC has adopted an Equal Opportunity Policy in July 2022, which has been circulated to all field formations, and a committee has been constituted in accordance with the RPwD Act to assess the suitability of posts for various disabilities. It was also submitted that PwBDs are given overriding priority in zonal allocation, subject to the availability of vacancies.

6.2 Further, it was submitted that the Board is reviewing the Annual General Transfer (AGT) policy within zones to incorporate specific provisions for PwBDs, aiming to facilitate their posting near their hometowns within the same zone, wherever administratively feasible. The reply emphasized that CBIC functions with a decentralized cadre system for Group B and C posts, where separate rosters and promotion channels are maintained for each cadre. As per the applicable Recruitment Rules, Inter-cadre transfers are not permissible, a position reiterated in CBIC's circular dated 20.09.2018, which has also been upheld by the Hon'ble Supreme Court in the *Naushad Rahman* case. While the Court, in paragraph 53 of the judgment, suggested a review of the Inter-Cadre Transfer (ICT) policy, the government has decided to maintain the current policy due to multiple factors: Inter-zonal transfers would undermine the merit-cum-preference basis of zonal allocation, including for PwBD candidates; they would disrupt existing seniority lists in the absence of provisions regarding loss of seniority on such transfers; and they could lead to the unintended creation of PwBD vacancies, which are determined annually based on separate cadre-wise rosters.

6.3 Accordingly, the CBIC maintained that while it continues to support the rights and accommodations of PwBD employees, Inter-zonal transfers remain outside the scope of permissible administrative action under the current policy framework.

7. Hearing

7.1. A hearing was conducted on 26.06.2025 in hybrid mode, wherein the following parties/representatives were present:

Sl. No.	Name of the Parties / Representatives	On Behalf of
1.	Mr. Ankur Gupta	Complainant
2.	Mr. Gopalakrishnan R, Assistant Commissioner	Respondent 2

8. Record of Proceedings

8.1 The Complainant, Shri Ankur Gupta, challenged the administrative inaction and structural roadblocks imposed by the CBIC and the Chennai CGST Zone regarding his request for an Inter-Charge Transfer or deployment to his preferred native division in the Meerut Zone. He stated that despite living with a 75% locomotor disability and enduring extreme domestic hardships related to his mother's terminal neurological condition, the department failed to apply its welfare guidelines dynamically, instead demanding that he source an identical personal substitute to secure his relocation.

8.2 The Respondent department maintained that while they recognize the severe personal challenges faced by the Complainant, administrative exigencies and a staggering 43% operational vacancy rate within the southern inspectorate require them to enforce a rigid 10% ceiling cap on outward loan transfers. They submitted that since the Complainant has achieved formal cadre confirmation as of last week, they are prepared to favourably evaluate his file and forward a conditional No Objection Certificate to the Meerut Zone, provided the borrowing entity formally consents to absorb him against their localized working strength.

9. Observation and Recommendation

9.1 The Court observed that while government instructions spanning from 1990 to the recent circular dated February 2, 2024, explicitly direct departments to post persons with disabilities at or near their native districts, these guidelines contain internal caveats prioritizing administrative exigency. A person with a benchmark disability must realize that under established public service jurisprudence, there exists no absolute, unconditioned right to demand a transfer to a native station if there are zero operational vacancies or if such a shift destabilizes established merit ranks and regional staffing ratios.

9.2 However, the complete absence of a distinct, specialized framework for evaluating persons with disabilities within the department's loan transfer policy reflects a lack of structural adjustment. When processing such applications, public authorities must look past strict operational quotas and handle highly complex medical crises pragmatically rather than hiding behind parallel administrative filters.

9.3 Consequently, the Court notes that the positive assurance given by the Chennai CGST Zone to re-verify and expedite the Complainant's loan transfer post-confirmation offers an immediate path forward. The Complainant is advised to submit a fresh, streamlined representation to his cadre controlling authority, and he should accept the impending loan deployment as a viable interim remedy.

9.4 The Respondent is recommended to process the Complainant's transfer file with maximum administrative speed, coordinate seamlessly with the Meerut borrowing zone, and complete the entire logistical exercise within one month from the issuance of this order. The Respondent shall submit a comprehensive Action Taken Report to this Court within a period of 30 days from the date of receipt of this Order. Failure to do so may compel this Court to initiate action as per Sections 89, and 93 of the Act. Consequently, the Court has determined no further intervention is necessary.

10. Accordingly, the case is disposed of.

Digitally signed by
S Govindaraj
Date: 10-07-2026
15:40:58

(S. Govindaraj)

Commissioner for Persons with Disabilities