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: 13763/1022/2023

In the matter of

Shri Deepak Kumar **…Complainant**

Versus

Respondent(s)

The Office of Pr. Chief Commissioner of Income Tax, (CCA) Bihar & Jharkhand

…(1)

The Office of Pr. Chief Commissioner of Income Tax (CCA), Delhi

…(2)

1. Gist of Complaint

1.1 The Complainant, Shri Deepak Kumar, an Inspector of Income Tax posted in Delhi Region, stated that he is a person with 60% locomotor disability and faces significant hardship in commuting and managing his health conditions while working in Delhi. He sought an inter-charge transfer from the Delhi Region to the Bihar & Jharkhand Region at Samastipur, which is his native place on disability grounds. The Complainant submitted that his earlier transfer application dated 26.06.2019 was forwarded with NOC by the Delhi office but was not approved by the Bihar & Jharkhand Region, citing withdrawal of the inter-charge transfer policy. He further contended that denial of transfer despite applicable relaxations for persons with disabilities caused continued hardship, and therefore prayed for sympathetic consideration and direction for his transfer to Samastipur at the same post. He submitted his complaint on 25-01-2023.

2. Notice Issued

2.1 The matter was taken up with the Respondent vide notice dated 06.03.2023 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, Joint Commissioner of Income Tax, submitted a reply vide letter dated 19.04.2023 and stated that the Complainant's request for transfer was reviewed by a duly constituted Screening Committee which found the application unsuitable for Inter Commissionerate Transfer (ICT) due to the absence of required remarks in the service records. Subsequently, the ICT Scheme was withdrawn and the PCCIT, Delhi was informed about the pending applications. It was clarified that inter-region transfers may now be considered only on a loan basis in exceptional cases and strictly on merit. Since the Complainant did not apply for a loan-basis transfer, no such consideration was made. The matter is currently pending adjudication before the competent court.

4. Rejoinder

4.1 The Complainant submitted the rejoinder vide email dated 02.05.2023 contesting the respondents' reply and reiterated his request for inter-charge/inter-state transfer from the Pr. CCIT (CCA), Delhi Region to the Pr. CCIT (CCA), Bihar Region at Samastipur on disability grounds. He clarified that the Respondents' claim regarding non-mention of acceptance for reversion in his service particulars is incorrect and misleading as he had duly indicated "No" in the relevant column and had completed more than six years in the same cadre. He submitted that his transfer application was forwarded for NOC to the Bihar & Jharkhand Region but no response or opportunity of hearing was ever given. Relying on CBDT and HRD instructions, he contended that Inter-Commissionerate transfers are to be adjusted against the Direct Recruitment. He further explained that he did not opt for a loan-basis transfer as it is temporary in nature and does not address his long-term hardship due to disability. Lastly, he clarified that the pendency of a group OA before the CAT does not bar relief, as he is the only person with disability in that case and no effective remedy has been granted and therefore prayed for sympathetic consideration and approval of his transfer at the same post.

5. Notice of Legal Framework

5.1 The matter was further taken up with the Respondent vide notice dated 31.01.2024 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. Action Taken Report submitted by the Respondents

6.1 The Respondent 1 submitted on 27-02-2024 that the Complainant Income Tax Inspector (PH), had applied for inter-charge transfer on permanent absorption from Delhi Region to Bihar & Jharkhand Region under the ICT Scheme dated 14.05.1990. His application was examined at the relevant time but could not be recommended as there was no vacancy under the promotion quota and he was unwilling to accept reversion to the feeder cadre, which was a prerequisite for adjustment against the direct recruitment quota. They further submitted that the ICT Scheme was subsequently withdrawn w.e.f. 22.12.2020 and all pending applications, including that of the Complainant were accordingly closed after due intimation to the cadre controlling authority. In compliance with the order dated 31.01.2024 of the Chief Commissioner for Persons with Disabilities, the matter was re-examined in light of constitutional provisions, the RPwD Act, 2016, and DoP&T guidelines; however, it was concluded that disability-related transfer benefits are applicable only within the jurisdiction of the concerned cadre controlling authority and not for permanent inter-cadre absorption after withdrawal of the ICT Scheme. They maintained that all applicable guidelines for persons with disabilities are being followed for employees under their jurisdiction and that no violation of statutory provisions or instructions occurred in this case; therefore, in the absence of vacancy and a valid scheme, no further action is possible at this stage.

7. Hearing

7.1. A hearing was conducted on 07.01.2026 in hybrid mode, wherein the following parties/representatives were present:

Sl. No.	**Name of the Parties / Representatives**	**On Behalf of**
1.	Shri Deepak Kumar	Complainant
2.	Shri Sanjay Kumar, Deputy Commissioner of Income Tax, DCIT (Hqrs.) (Admn.), Patna	Respondent 1
3.	Smt. Deepa, Joint Commissioner of Income Tax, JCIT (HQ) (Pers), Delhi	Respondent 2

8. Record of Proceedings

8.1 The Complainant, Shri Deepak Kumar, presently working as an Inspector of

Income Tax in Delhi, challenged the non-consideration of his request for an Inter-Charge Transfer (ICT) to his preferred zone in Patna. He submitted that his previous application for transfer, which was rejected by the Patna authorities, thereby compelling him to remain in the Delhi charge. The Complainant sought a transfer to Patna under the category for persons with disabilities, contending that his request warrants favourable consideration by the department. The Complainant maintained that he expects the transfer to be executed without any downgrading of his current professional rank.

8.2 During the proceedings, the representative for Respondent No. 1, the DCIT (Hqrs.) (Admn.), Patna, submitted that the Complainant's earlier application for ICT was not accepted in 2020 due to a total lack of vacancies under the promotion quota for the rank of Inspector in the Patna region. He stated that the Inspector rank currently operates on a strict 1:1 ratio between direct recruits and promotional quotas, and there are no vacancies available in the latter. He further submitted that a fresh communication from the Principal CCIT Delhi office regarding the Complainant's willingness was received recently on December 30, which is currently under active consideration and will be examined by the competent authority or committee on a priority basis to determine vacancy possibilities.

8.3 The representative for Respondent No. 2, the JCIT (HQ) (Pers), Delhi, clarified that the Delhi headquarter had duly processed and inquired into the Complainant's willingness to revert to the post of Tax Assistant (TA), the cadre in which he was initially recruited as a direct recruit, in order to facilitate the transfer. However, the Complainant formally submitted his unwillingness to go back as a TA, stating he would only join Patna as an Inspector. The Respondent further clarified that because Delhi is the sending region, the final decision regarding vacancy availability and absorption rests entirely with the recipient region of Patna, to whom the necessary correspondence has been routed and from whom a final administrative response is awaited.

8.4 The Court notes that the case cannot be kept pending indefinitely without concrete administrative clarity or a scientific calculation of vacancy timelines. The Court recommended the Respondents to process the fresh application through the competent authority or an internal committee on a priority basis. The Respondents were advised to submit a comprehensive Action Taken Report to this Court within sixty (60) days, detailing all aspects of promotional vacancy possibilities, direct quota status, and the placement of the Complainant on priority.

9. Observation and Recommendation

9.1 The Court observes that the Complainant's request for an Inter-Charge Transfer (ICT) from the Delhi Region to the Bihar & Jharkhand Region was originally processed under the ICT Scheme dated 14.05.1990. The screening committee did not find him fit for transfer because there was no vacancy available under the promotee quota for Income Tax Inspectors (ITI), and the Complainant formally declined a reversion to his direct recruitment feeder cadre of Tax Assistant (TA). Although the Court previously recommended the Respondents to look into the matter afresh, the Respondents have submitted that no violation of extant rules occurred, as the 1990 ICT scheme has since been withdrawn by the Board. Crucially, the documentation reveals that the Complainant is also a listed petitioner (Petitioner No. 28) in OA No. 2012/2021 before the Hon'ble Central Administrative Tribunal (CAT), Principal Bench, New Delhi, which pertains to the exact same subject matter regarding the enforcement of the 1990 ICT policy.

9.2 It is further brought to the notice of this Court that the department has since assailed the Hon'ble CAT's order by filing Writ Petition (C) No. 54/2026 before the Hon'ble High Court of Delhi. The Hon'ble High Court has actively intervened in the matter and stayed the contempt proceedings arising out of the Tribunal's directions. Since the core issue regarding the Complainant's transfer and the validity of the underlying ICT policy is currently pending adjudication before a superior constitutional court, the matter has become strictly sub-judice. In line with established legal principles, parallel proceedings cannot be entertained by this Commission while the higher judiciary is actively seized of the matter. Accordingly, no further recommendations can be issued at this stage, and the Court has determined that no further intervention is necessary in this case. The Court grants liberty to the Complainant to approach the appropriate forum depending upon the final outcome of Writ Petition (C) No. 54/2026.

10. Accordingly, the case is disposed of.

Digitally signed by
S Govindaraj
Date: 21-08-2026
09:18:03

(S. Govindaraj)

Commissioner for Persons with Disabilities