



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.: CCPD/16510/1022/26

In the matter of:

Complainant

Shri Manoj Jain (father of Master Abhinav Jain)

Versus

Respondent(s)

1. **The Secretary**, Department of Revenue
2. **The Chairman**, Central Board of Indirect Taxes and Customs (CBIC)
3. **The Principal Commissioner of Customs (General)**, Mumbai
4. **The Commissioner of Customs (General)**, Jawahar Custom House, Nhava Sheva

1. Gist of the Complaint:

1.1 The Complainant, Shri Manoj Jain, father of Master Abhinav Jain, a 10-year-old child with 75% Benchmark Intellectual Disability and Autism Spectrum Disorder (ASD), submitted a grievance dated 23.09.2025 against Preventive Service Order No. 06/2025-26 dated 15.09.2025, whereby he was transferred from Zone-II (Nhava Sheva) to Zone-I (Mumbai). The Complainant submitted that his son is 100% dependent on others for Activities of Daily Living (ADL) and requires continuous care and support. He specifically stated that the child had been abandoned by his mother on 14.09.2020 and that, since then, he had been the child's sole caregiver. The Complainant submitted that he was posted at

Jawaharlal Nehru Custom House, Nhava Sheva, while his son resided with him at Navi Mumbai, and that his proximity to the child was essential for ensuring his care, rehabilitation and well-being. He therefore contended that his transfer away from his existing place of posting would cause significant hardship to both the child and the caregiver.

1.2 The Complainant further submitted that, pursuant to the Annual General Transfer (AGT)-2025 process and the relevant transfer guidelines, he had submitted a representation dated 02.04.2025 requesting retention at his existing place of posting, specifically bringing to the notice of the Respondents his status as the sole caregiver of a child with benchmark disability. He relied upon the DoPT O.M. dated 06.06.2014 and subsequent instructions concerning exemption of government employees who are caregivers of children with disabilities from routine/rotational transfer. He alleged that despite the said representation and the special circumstances of the child, his request was not appropriately considered before issuance of the impugned transfer order. The Complainant also referred to Section 20 of the Rights of Persons with Disabilities Act, 2016, and various DoPT instructions concerning reasonable accommodation and posting/transfer of caregivers of persons with disabilities. He further relied upon judicial and quasi-judicial decisions recognising the need to consider the welfare and care requirements of children with disabilities while determining the posting of their caregivers.

1.3 The Complainant alleged that the impugned transfer order did not disclose any specific administrative exigency or other reason explaining why his request for retention could not be accommodated despite his circumstances as the sole caregiver of a child with significant disability. He contended that the Respondents were required to consider his representation in accordance with the applicable statutory provisions and DoPT instructions before effecting his transfer. On these grounds, he sought appropriate intervention for consideration of his representation dated 02.04.2025 and modification of Preventive Service Order No. 06/2025-26 dated 15.09.2025 so as to accommodate his circumstances as the sole caregiver of Master Abhinav Jain. He also prayed for such other relief as may be considered appropriate in the facts and circumstances of the case.

2. Notice of Admissibility

2.1 A Notice under sections 75 & 77 of the Rights of Persons with Disabilities Act, 2016 (RPwD Act, 2016) was issued to the above-mentioned respondent for a hearing on 28.10.2025 to determine the admissibility of the case and find out if this can be resolved without a quasi-judicial intervention of this Court.

3. Hearing (I):

3.1 A preliminary hearing was conducted on 28.10.2025 wherein the following parties/representatives were present:

S. No.	Name of the Parties / Representatives and Designation	Parties	Mode of attendance
1.	Sh. Manoj Jain (F/o Complainant, Sh. Abhinav Jain)	Complainant	Online
2.	Smt. Himabindu Mudumbai, Joint Secretary, Dept. of Revenue	Respondent No. 1	Online
3.	Shri Arjun Tripathi, Commissioner of Customs (General), Mumbai	Respondent No. 3	Online

4. Record of Proceedings (I):

4.1 During the proceedings, the Respondents submitted that Shri Manoj Jain had already completed a stable three-year tenure at Nhava Sheva (Zone II), with an additional one-year supplementary extension previously granted on compassionate grounds. The Respondents argued that the new assignment to Zone I does not shift the employee's residential base or significantly alter physical transit distance, thereby causing no structural or geographical discomfort to the dependent child,

and that the transfer was driven entirely by administrative exigencies and standard tenure rotation rules.

4.2 The Court evaluated the statutory framework under Section 20(5) of the RPwD Act, 2016, Rule 8(3)(c) of the RPwD Rules, 2017, and DoPT OM dated 02.02.2024. Referencing the Division Bench ruling of the Delhi High Court in *Mukesh Kumar v. NPTI*, the Court noted that executive authorities cannot bypass protective instructions unless an administrative exigency is conclusively demonstrated.

4.3 Accordingly, vide Interim Order dated 08.07.2026, the Court overruled the preliminary objections raised by the Respondents, admitted the complaint for regular adjudication, and recommended the Respondents to file a detailed para-wise reply to the complaint within 15 days.

5. Hearing (II):

5.1 After registering the complaint vide Case No. 16510/1022/26, a hearing was conducted on 29.07.2026 wherein the following parties/representatives were present:

S. No.	Name of the Parties / Representatives and Designation	Parties	Mode of attendance
1.	Adv. Nishant Kumar Tyagi	Respondent No. 3	Online
2.	Shri Ajay Pandey, Principal Commissioner of Customs (General), Mumbai	Respondent No. 3	Online

6. Record of Proceedings (II):

6.1 Representatives on behalf of the Complainant were not present in the hearing due to personal exigencies. During the proceedings, the Respondents submitted that Respondent Nos. 1 and 2, namely the Secretary, Ministry of Finance and the Chairman, Central Board of

Indirect Taxes and Customs (CBIC), had been unnecessarily impleaded in the matter, as the representation relied upon by the Complainant had neither been addressed to nor required any action from the said authorities.

6.2 On merits, the Respondents submitted that the impugned transfer of Shri Manoj Jain, father and caregiver of the minor Complainant, did not necessitate any change in residence, government accommodation, or the Complainant's educational, therapeutic or familial environment. It was submitted that the transfer merely altered the place of work of the caregiver and resulted in an additional travel time of approximately 10-15 minutes. The Respondents further submitted that the transfer had been effected strictly in accordance with the applicable Transfer and Placement Guidelines. It was stated that Shri Manoj Jain had already completed his normal tenure and had thereafter been granted a one-year extension beyond the prescribed period. The Respondents submitted that any further extension was not permissible under the prevailing policy.

6.3 The Respondents also sought time to place their detailed written submissions and supporting documents on record, submitting that the learned Counsel had only recently been engaged in the matter.

7. Issue of Notice

7.1 The matter was taken up with the Respondent vide Record of Proceedings-cum-First Notice dated 03.08.2026 stating the details of the hearing held on 29.07.2026 and the provisions u/s 3, 21, 23, 75, and section 20 (3), Rule 8(3), and DOP&T OM No. 36035/44, 2023 Estt. (Res.-II) dated 02.02.2024.

7.2 As no response was received from the Respondents within the stipulated period specified in the Notice, the Court subsequently issued a Show-Cause Notice to the Respondents vide letter dated 21.08.2026, calling upon them to explain the non-submission of their response within the prescribed timeline.

8. Respondent's Reply

8.1 The Respondents No. 2 and 3, comprising the Department of Revenue, CBIC and the Principal Commissioner of Customs (General), Mumbai, submitted a reply vide email dated 21.08.2026 stating that the

transfer of Shri Manoj Jain, father and caregiver of the minor Complainant, from Zone-II to Zone-I was effected in accordance with the applicable transfer and rotation policy and after due consideration of his representation dated 02.04.2025 by the competent Placement Committee. They contended that the RPwD Act, 2016 does not confer an absolute or indefeasible right upon a caregiver to remain posted at a place of his choice, and that the protection available to caregivers primarily flows from the DoPT Office Memoranda dated 06.06.2014, 08.10.2018 and 02.02.2024, which themselves contemplate administrative constraints. The Respondents further submitted that the impugned transfer was confined to the Mumbai Metropolitan Region, with the Complainant's residence and Government accommodation remaining unchanged. The distance between the previous and present places of posting was stated to have increased from approximately 26 km to 36 km, which, according to the Respondents, did not disturb the child's existing education, medical treatment, rehabilitation or caregiving arrangements.

8.2 The Respondents No. 2 and 3 further submitted that Shri Manoj Jain had already been granted relaxation during AGT-2024 on the same grounds and had remained in Zone-II beyond the prescribed normal tenure of three years, having served there since 27.09.2021. They relied upon the applicable Standing Order No. 04/2025 dated 02.09.2025 and the CVC guidelines concerning rotational transfers from sensitive posts, contending that the transfer was made in larger public interest and after consideration of the relevant disability-related instructions. The Respondents distinguished the judicial precedents relied upon by the Complainant on the ground that those cases involved displacement to another city and consequent disruption of the child's established support system, whereas the present transfer did not require relocation or alteration of the existing caregiving arrangements. They accordingly sought that the complaint be dismissed and that Respondent Nos. 1 and 2 be removed from the proceedings on the ground that the matter fell within the competency of the Principal Commissioner of Customs (General), Mumbai.

8.3 The Respondent No. 4, Commissioner of Customs (General), Mumbai Customs Zone-II, submitted a reply vide email dated 24.08.2026, stating that complainant Shri Manoj Jain, Superintendent

(Preventive), was transferred from Mumbai Customs Zone-II to Mumbai Customs Zone-I vide AGT-2025 Order dated 15.09.2025 issued by Mumbai Customs Zone-I as the Cadre Controlling Authority. The respondent submitted that the transfer order explicitly barred representations prior to joining the new posting, and pursuant thereto, the officer was duly relieved from Zone-II vide Stand Relieving Order dated 04.11.2025 to report to Zone-I. However, no joining report has since been received from the officer. Contending that the transfer and posting decisions fall under the administrative purview of Mumbai Customs Zone-I and that Zone-II has fully complied with the orders by relieving the officer, the respondent prayed that Mumbai Customs Zone-II not be made a co-noticee and that the Principal Commissioner of Customs (General), Mumbai Customs Zone-I, represent the Customs Department in the ongoing proceedings before this Court.

9. Rejoinder

9.1 The Complainant, Shri Manoj Jain, filed a rejoinder dated 23.08.2026 responding to Respondent No. 3's (Pr. Commissioner of Customs, Mumbai Zone-I) reply. The complainant submitted that Respondent No. 3 and Respondent No. 4 (Commissioner of Customs, Nhava Sheva/Zone-II) repeatedly failed to file replies on earlier occasions despite statutory mandates, while Respondent No. 4 actively harassed the caregiver by obstructing his leave and refusing his joining report in violation of an oral status quo. It was strongly contended that the caregiver is legally entitled to exemption from rotational transfer and reasonable accommodation under relevant DoP&T guidelines (including O.M. dated 02.02.2024), the RPwD Act, 2016, and established judicial precedents, as the commute to Zone-I (2-3 hours) compared to Zone-II (30 minutes) would severely disrupt the child's rehabilitative therapies and daily survival support. Pointing out that the respondents failed to establish any non-negotiable administrative exigency and that replies from Respondents No. 1, 2, and 4 are still not on record, the complainant prayed that the respondents' request for discharge be rejected, appropriate penalties and directions for sensitization under Sections 39, 89, and 93 of the RPwD Act be initiated, and the matter be disposed of expeditiously with a relief-oriented approach pursuant to directions of the Hon'ble High Court of Bombay.

10. Observations and Recommendations:

10.1 At the outset, the Court notes that the present complaint raises a preliminary issue regarding the person in whose name the complaint has been filed. The grievance in the present matter is essentially against the transfer/posting of Shri Manoj Jain, who is a government employee, on the ground that he is the caregiver of his minor son, a person with benchmark disability. Ordinarily, a grievance relating to the service conditions, transfer or posting of an employee ought to be instituted by the employee himself; where such protection is claimed on caregiver grounds, the employee may seek such protection in his capacity as the caregiver of a person with disability. The minor child, although directly affected by the transfer of his caregiver, cannot seek a service-related relief on behalf of his father. Therefore, the complaint, as presently filed in the name of the minor child, is not properly framed insofar as it seeks relief against the father's transfer.

10.2 At the same time, the Court is conscious of the circumstances placed before it by the Complainant and the difficulties faced by Shri Manoj Jain in caring for his minor son. The Court has taken note of the fact that the child has benchmark disability and requires substantial support from his caregiver. It is for this reason that, despite the above procedural issue, the Court had admitted the matter for further proceedings and called upon the Respondents to place their position on record. The Court considers that the circumstances of the child and the caregiving responsibilities of his father merit consideration, and therefore proceeds to make the following recommendations in the interest of the child and to ensure that the applicable provisions relating to caregivers of persons with disabilities are duly considered.

10.3 The Court expresses its dissatisfaction with the manner in which the matter has been dealt with by the Respondents. The Respondents were given an opportunity to place their response and relevant documents on record pursuant to the Record of Proceedings-cum-First Notice dated 03.08.2026, and the response was required to be submitted by 10.08.2026. However, no response was received within the prescribed period. The Respondents submitted their response only vide emails dated 21.08.2026 and 24.08.2026, after the Show-Cause Notice dated 21.08.2026 had already been issued calling upon them to explain their failure to comply with the direction of the Court. The Court also notes that, despite the matter having been taken up on two earlier

occasions and despite the Respondents relying upon various administrative decisions, policies and proceedings, no supporting documents have been placed before the Court to substantiate the grounds taken in their reply.

10.4 The Court further notes the absence of detailed para-wise response alongwith substantial evidential documents by the concerned Respondents within the time granted recommended as part of the first proceedings in the present case. Such conduct, particularly in a matter concerning the rights and welfare of a child with benchmark disability, is viewed seriously. The Respondents are reminded that compliance with the directions of this Court and timely production of the relevant records is expected from all concerned authorities. The Court considers such non-compliance to be a matter warranting serious consideration under Section 93 of the Rights of Persons with Disabilities Act, 2016, which provides for consequences in respect of contravention of the provisions of the Act or rules made thereunder, as applicable. The Court therefore condemns the failure of the Respondents to comply with the directions within the prescribed period and recommends that such lapses be avoided in future.

10.5 On consideration of the merits of the matter, the Court finds that the principal justification advanced by the Respondents is that the Complainant has not been displaced from his residence and that both his previous and present places of posting fall within the Mumbai Metropolitan Region. The Respondents have also relied substantially upon the completion of the normal tenure of Shri Manoj Jain and the applicable rotational transfer policy. The Court, however, is of the view that the absence of residential displacement by itself does not answer the question whether the transfer of a caregiver of a child with benchmark disability is reasonable in the facts of the case. The relevant consideration is also the effect of the transfer on the caregiver's actual availability to the child and his ability to provide the care, rehabilitation and daily support required by the child.

10.6 The Court notes that the Respondents have stated that the transfer from Zone-II to Zone-I would involve only an additional travel time of approximately 10-15 minutes. However, the material before the Court records that the distance between the Complainant's residence and his previous place of posting was approximately 26 km, whereas the

distance to the present place of posting is approximately 36 km. The Court is therefore not inclined to assess the impact of the transfer merely on the basis of the Respondents' stated additional travel time. In the case of a child who is substantially dependent upon his father for Activities of Daily Living, therapy, rehabilitation and other day-to-day support, the commuting burden upon the primary caregiver is a relevant consideration.

10.7 The Court further observes that the DoP&T O.M. No. 36035/44/2023-Estt.(Res-II) dated 02.02.2024 recognises the need to consider exemption from routine/rotational transfer in the case of a Government employee who is a caregiver of a dependent son/daughter with specified disability, subject to administrative constraints. The protection contemplated under the said instructions is intended to ensure that the caregiving and rehabilitation requirements of persons with disabilities are duly considered while taking decisions concerning the posting of their caregivers.

10.8 In the present case, however, the Respondents have not placed before the Court any material demonstrating the specific administrative exigency which required Shri Manoj Jain to be transferred from his existing place of posting. No document relating to the decision of the Placement Committee, the particular administrative requirement necessitating the transfer, or any other material demonstrating why his retention at a reasonably proximate place could not be accommodated has been produced before the Court. The Respondents have primarily relied upon the general rotational transfer policy and the completion of the prescribed tenure. While the Court does not seek to interfere with or substitute its own view for the internal transfer and placement policies of the Respondents, such policies are required to be considered alongside the specific circumstances of an employee who seeks protection on account of his responsibilities as the caregiver of a person with disability.

10.9 In this regard, the Court also takes note of the judgment of the Hon'ble Delhi High Court in *IRCON International Ltd. v. Bhavneet Singh*, LPA 133/2024, decided on 18.07.2024, wherein the requirement of establishing the administrative exigency or constraint relied upon for making a transfer despite the applicable protective instructions was emphasised. The Court is therefore of the view that a mere reference to

rotational transfer, tenure or general administrative requirements, without placing before the Court the specific circumstances which necessitated the transfer, does not adequately explain the decision in the present case.

10.10 The cumulative effect of the above circumstances, namely, the delayed response of the Respondents, the failure to comply with the time granted by the Court, the absence of supporting documents, the reliance primarily upon general rotational transfer policy, and the failure to establish through material on record the specific administrative exigency necessitating the transfer, leaves the Court with the view that the transfer, in the circumstances placed before it, has not been sufficiently justified. The Court is therefore of the view that the matter warrants reconsideration by the Respondents from the perspective of the caregiving responsibilities of Shri Manoj Jain and the requirements of the minor Complainant.

10.11 The Court also takes note of the Complainant's specific assertion that the mother of the minor Complainant abandoned the child in September 2020 and that, since then, Shri Manoj Jain has been the child's sole and primary caregiver. The Court does not propose to enter into or adjudicate upon the personal or matrimonial circumstances between the parents. However, if the assertion regarding the absence of the mother from the child's life and Shri Manoj Jain being the sole or primary caregiver is found to be correct, the same assumes considerable importance while considering his posting.

10.12 The Court clarifies that it does not intend to interfere with the internal transfer policy or the administrative requirements of the Respondents, nor does it recommend that Shri Manoj Jain be retained at his previous place of posting merely because he was posted there earlier. The recommendation of the Court is narrower and is intended to balance the administrative requirements of the Department with the caregiving needs of the child. In view of the circumstances discussed above, the Court recommends that, instead of retaining Shri Manoj Jain at his previous place of posting, the Respondents reconsider his transfer in consultation with him and explore a suitable place of posting closer to his residence, preferably at a distance not exceeding 30 km, or at another reasonably proximate location which would enable him to discharge his caregiving responsibilities without adversely affecting the

child's education, therapy, rehabilitation and day-to-day care.

10.13 The Court further recommends that such reconsideration should not be undertaken solely amongst the concerned administrative authorities without taking into account the actual difficulties faced by the caregiver. Shri Manoj Jain may therefore be consulted regarding the practical feasibility of the proposed place of posting, particularly in relation to the child's caregiving, therapy and rehabilitation requirements. This would enable the Respondents to arrive at a reasonable accommodation while continuing to retain the administrative discretion available to them under their applicable service rules and transfer policy.

10.14 The Respondents are recommended to submit an Action Taken Report to this Court within 90 days from the date of this order, indicating the steps taken pursuant to the above recommendations and the outcome of the reconsideration. In case the recommendations of this Court are not complied with, the Complainant shall be at liberty to avail such remedies as may be available to him before the appropriate Constitutional Court in accordance with law. In view of the recommendations made herein, no further intervention is considered necessary by this Court at this stage.

11. Accordingly, the case is disposed of.

Digitally signed by
S Govindaraj
Date: 14-09-2026
16:44:58

(S. Govindaraj)

Commissioner for Persons with Disabilities