



2026:AHC:29727-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 472 of 2026

Union of India and 3 others

.....Petitioner(s)

Versus

Ravindra Kumar Prajapati and 5 others

.....Respondent(s)

Counsel for Petitioner(s)	:	Saumitra Singh, S.P. Singh (A.S.G.I.)
Counsel for Respondent(s)	:	Prateek Dawar

Chief Justice's Court

HON'BLE ARUN BHANSALI, CHIEF JUSTICE
HON'BLE KSHITIJ SHAILENDRA, J.

1. This petition is directed against order dated 15.01.2025, passed by Central Administrative Tribunal, Allahabad Bench, Allahabad ('Tribunal') in Original Application ('OA') No. 628 of 2019, whereby the OA filed by the respondent Nos. 1 to 5 has been allowed and petitioners have been directed to convene a Review DPC within a period of four months from the date of receipt of a certified copy of the order and consider the case of the respondents for promotion to the post of Executive Assistant for the vacancy year 2017-18 counting the length of their service at their parent zone also under the relevant recruitment rules.

2. The OA was filed with the averments that the respondents had entered service in the year 2013-14 as Direct Recruit Tax Assistants in the Chennai Zone and they all belong to 2012 SCC Batch.

3. The respondents applied for Inter Commissionerate Transfer ('ICT') in terms of the Central Board of Excise & Customs Circular dated 27.10.2011. After grant of No Objection Certificate for ICT from their respective parent zones, respondents were accepted by way of ICT at Lucknow zone by order dated 07.04.2017 and posted in Lucknow/Meerut Zone. The petitioners convened a DPC meeting on 03.11.2017 for making promotions to the grade of Executive Assistant for the vacancy years 2016-17 and 2017-18, pursuant to which, recommendations were made and by way of promotion, 68 Tax Assistants were promoted to the grade of Executive Assistants against the vacancy years 2016-17 and 2017-18

published vide order dated 03.11.2017. It was claimed that the promotions were made on the basis of Recruitment Rules, 2003 and not the Recruitment Rules, 2015. As the respondents were excluded, they preferred individual representations, which were dismissed by the petitioners by order dated 29.12.2017, *inter alia*, indicating that since the respondents were not physically available in CGST and Central Excise Zone, Lucknow on the crucial date for the vacancy year 2017-18, i.e., 01.04.2017 having joined on ICT after 01.04.2017, they were not included in the zone of consideration for promotion to the post of Senior Tax Assistant for the vacancy year 2017-18.

4. The Tribunal, after hearing the parties, came to the conclusion that the length of service rendered by the respondents at their parent zone before their ICT to Lucknow Zone should be counted while determining the eligible qualifying service period for the purpose of promotion. It was further observed that the ground that the respondents were not physically present at Lucknow/Meerut Zone on the cut off date as has been taken by the respondents for not considering the applicants for promotion is arbitrary since the respondents were working in the same department at that time also at their parent zone. The Tribunal also observed that similarly situated persons at different zones of the same department were considered for promotion taking into account the period of service rendered by them at their previous place of posting even though they were not present physically at the transferred zone. On finding that the respondents were prejudicially denied the consideration passed the directions as noticed hereinbefore.

5. Learned counsel for the petitioners made submissions that the Tribunal was not justified in accepting the OA. Submissions have been made that the Tribunal failed to consider that the crucial date of eligibility was 1st of April of the vacancy year and in the DPC meeting conducted on 03.11.2017 for the vacancy year 2017-18, names of only those officers were included in zone of consideration, who were physically available in the CGST and Central Excise, Lucknow Zone on 01.04.2017 and as the respondents were transferred on ICT to Lucknow Zone on 07.04.2017, they were rightly not included in the zone of consideration for promotion to the post of Executive Assistant. Further submissions were made that

the prayer made in the OA was infructuous in the light of the fact that all promotions made to the grade of Senior Tax Assistant after 18.12.2013 were under review as the same were found to be not in accordance with law and the process of review includes the promotions made against the vacancy year 2017-18. It was prayed that the order be set aside.

6. Learned counsel for the respondents supported the order impugned. Submissions have been made that though the date of eligibility for promotion is 01.04.2017, the only requirement was to examine whether the candidate had completed three years in the feeder cadre as on the said date or not, whether the candidate was working in the same zone as on the said date was absolutely irrelevant as the DPC met on 03.11.2017 and in the list prepared for consideration by the DPC, names of the respondents were included and the DPC, in fact, had considered their cases, however, in the order dated 03.11.2017 according promotions, their names did not appear in the list of successful candidates for absolutely baseless reason. With reference to the provisions of the Central Excise & Customs Department, Senior Tax Assistant (Group-C post) Recruitment Rules, 2003, submissions were made that the only requirement is regular service as Tax Assistant of three years and passing of the departmental examination, based on which, the respondents were fulfilling all the eligibility, the denial of the promotion was not justified and therefore, the writ petition deserves dismissal.

7. We have considered the submission made and have perused the material available on record.

8. A perusal of the order rejecting the representation of the respondents dated 26.12.2017 (Annexure-4) reveals that only reason indicated is that as the officers were not physically available in CGST and Central Excise Zone, Lucknow on 01.04.2017 as they have joined on ICT after 01.04.2017, they were not entitled for consideration.

9. The Circular dated 27.10.2011 (Annexure-3) dealing with ICT, *inter alia*, provided that the transferee would be placed below all officers appointed regularly to that post/grade on the date of his appointment on transfer basis, however, it was clarified that transferee will be junior to

those regularly appointed officers prior to his transfer, however, such transferred officer will retain his eligibility of the parent Commissionerate for his promotion to the next higher grade. The said stipulation is absolutely clear and unambiguous making the transferee eligible for promotion as per his parent Commissionerate to the next higher grade.

10. The requirement/indication that the officer should be physically present at the zone on the crucial date, i.e., 1st of April of the year of vacancy, which is 01.04.2017 in the present case, is a requirement imposed by the petitioners *dehors* the provisions in this regard. If the plea raised is taken to its logical conclusion, in that case, the respondents were required to be considered in their parent zone as on 01.04.2017 for the vacancies of the year 2017-18, which is not even the case of the petitioners that their cases were considered and they were not found suitable. The respondents could not be deprived of the consideration at both the zones at one place for being not physically present at the time when the DPC met and at other place due to their absence as on 01.04.2017.

11. Besides the above, the respondents had based their claim by relying on two instances of similarly placed candidates, who were accorded the benefit of promotion though they were allegedly physically not present on the relevant date. Reference was made to the cases of one Aditya Kumar Shivam, who had joined Shillong Zone on ICT from Bangalore Zone on 02.05.2017, however, he was accorded promotion notionally w.e.f. 01.04.2017 and that of Shailesh Kumar Singh, who had joined Lucknow Zone on 21.10.2013 from Chennai Customs and though the eligibility date was 01.01.2013, after Shailesh Kumar Singh joined on 21.10.2013, he was accorded promotion.

12. The Tribunal specifically noticed the said instances, however, no ground has been raised in the writ petition to counter the said submission made on behalf of the respondents.

13. In view of above discussion, we do not find any justification for the petitioners to seek the physical presence of the respondents as on 01.04.2017, for consideration of their case, as the said stipulation is

contrary to Clause 2(ii) of the Circular dated 27.10.2011 and *dehors* any provision in this regard.

14. Consequently, there is no substance in the writ petition, the same is, therefore, dismissed.

(Kshitij Shailendra,J.) (Arun Bhansali,CJ.)

February 10, 2026
Mukesh Pal