IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2025

CORAM:

THE HONOURABLE MR. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE MR. JUSTICE **V.LAKSHMINARAYANAN**

Writ Petition No.32997 of 2023 &
WMP.No.32696 of 2023

Union of India,
Rep by the Principal Chief Commissioner of Income Tax,
(CCA) Tamil Nadu, 121, Mahathma Gandhi Road,
Nungambakkam, Chennai – 600 034. ... Petitioner

Vs.

1.P.Naveen Kumar

2.The Central Administrative Tribunal,
Madras Bench rep by its Registrar,
City Civil Court Campus,
High Court, Chennai ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records of the second respondent in OA.No.211/2021 dated 20.10.2022 and quash the same.

For Petitioner : Mr.V.Vijay Shankar

Respondent 1 : Mr.Karthik Rajan

R2 - Tribunal

ORDER

*(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)*

The writ petitioner seeks for the following reliefs:

"to call for the records of the second respondent in OA.No.211/2021 dated 20.10.2022 and quash the same."

2. The first respondent herein was appointed as Stenographer Grade-II in the Income Tax Department on 03.03.2014. He secured the appointment under the sports quota. He was posted to New Delhi region. While serving in New Delhi, he cleared the Departmental qualifying examination for Upper Division Clerk (hereinafter referred to as "UDC") in the year 2017. Thereafter, he wrote the qualifying examination for the post of Inspector of Income Tax and successfully cleared the same in the year 2018. He was promoted as Inspector of Income Tax with effect from 01.01.2019. He joined the office of Principal Chief Commissioner of Income Tax at New Delhi as an Inspector.

3. On 11.03.2019, he sought for Inter-Charge Transfer (herein after referred to as "ICT") from New Delhi Region to Tamil Nadu and Pondicherry Region. His request was considered by Cadre Controlling Authority at New Delhi as well as at Chennai. Accepting his request, ICT was granted on 13.03.2019.

4. In terms of the ICT policy, if a person has not completed three years of service in a cadre and before expiry of the said term, he

makes a request for ICT, he would be reverted to a lower post. Applying this policy, the first respondent was reverted from Inspector cadre to Stenographer Grade-II by the Cadre Controlling Authority at New Delhi on 21.05.2020. The first respondent joined the writ petitioner on 27.05.2020.

5. One of the conditions in the ICT order dated 13.09.2019, was that the service rendered by the first respondent in Delhi Region would not be counted towards the minimum service prescribed for promotion or appointment to a higher post in Tamil Nadu and Puducherry Region. Pleading that this is in violation of Articles 14 and 16 of the Constitution of India, the applicant/respondent moved the Central Administrative Tribunal (hereinafter referred to as "Tribunal").

6. The applicant pleaded that the Income Tax Department is a single entity and ICT is permissible amongst several units. Relying upon the judgment of the Supreme Court in ***Pratibha Rani v. Union of India in CA.No.3792 of 2019 dated 10.04.2019***, the applicant pleaded that the service rendered by him in Delhi Region, prior to his transfer, should be taken into consideration.

7. The Tribunal received this application in OA/310/00211 of

2021. It issued notice and called upon the respondent/writ petitioner to file its reply.

8. The writ petitioner also filed a detailed reply. According to it, the applicant, while seeking for ICT, had submitted an undertaking to abide by the terms and conditions of the Circular in F.No.22020/76/89-Admn. VII dated 14.05.1990. It pleaded that the seniority of the applicant would commence only from the date of joining at the transferred place. It also relied upon a notification in G.S.R. 768 dated 08.09.1986 issued by the Central Board of Direct Taxes (hereinafter referred to as "CBDT"), New Delhi to the effect that Stenographers with three years of service in their respective grade, and who have qualified in the Departmental Examination alone will be considered for the post of Income Tax Inspectors. It further contended that on account of the ICT, the seniority of the applicant was fixed below all Stenographers Grade-II, who had joined Tamil Nadu Region on 25.07.2020. It further urged that CBDT, being a competent authority, had not given any direction to consider the past services rendered in the previous region for the purpose of promotion and that, no directions had been given by CBDT to implement the judgment of the Supreme Court in ***Pratibha Rani***'s case cited supra, to the regions as it had been done by the said authority earlier. It further urged that a review petition has been filed challenging the order of

Pratibha Rani's case and that the same was pending adjudication.

9. The Tribunal considered the application and counter, and came to a conclusion that the past services cannot be wiped out, while considering the case for promotion. It further held that if a person, despite having accepted the loss of seniority, falls within the zone of consideration, then his past service would have to be taken into account. Consequently, it allowed the application and directed the writ petitioner to count the service of the applicant in the feeder cadre rendered by him in his initial appointment and in the region to which he was transferred, while taking up his case for promotion. It further directed a Departmental Promotion Committee (hereinafter referred to as "DPC") or a Review DPC to be convened within 90 days from the date of receipt of a copy of that order.

10. Challenging the same, the present writ petition.

11. We heard Mr.V.Vijay Shankar and Mr.Karthik Rajan for the first respondent.

12. Mr.V.Vijay Shankar urged that the Tribunal had not taken into consideration the undertaking given by the first respondent herein at the time of transfer from Delhi to Tamil Nadu Region,

whereunder he had agreed to forgo his past service. He further pointed out that on the basis of ICT policy, the first respondent had been placed below all the Stenographers Grade-II, who were working at the time of his joining in the Tamil Nadu Region on 27.05.2020. He added that as many as four seniors of the first respondent are still waiting for promotion and the order of the Tribunal amounts to calling upon the first respondent to supersede over the four seniors. Hence, she seeks for interference by this Court.

13. Per contra, Mr.Karthik Rajan submitted that the very issue had been gone into in ***Pratibha Rani and Others v. Union of India*** cited supra and urged that the issue is no longer res integra. Strongly relying upon the judgment, he pointed out that the service rendered by him in the previous region, prior to his transfer on ICT, should be taken into consideration. He further urged that though there are four seniors to him, twin conditions are necessary for the purpose of being promoted to the post of Inspector. The first being the period of service of three years and the second condition being successful in the departmental examination. He states that the applicant had already cleared the examination, while in Delhi and therefore, the order of the Tribunal does not require interference.

14. We heard the counsels for both parties and gone through

the records.

15. The plea that a review petition is pending before the Supreme Court seeking that court to review the order in ***Pratibha Rani v. Union of India*** is no longer available to the writ petitioner. The Supreme Court had considered the review in review petition (Civil) diary No.41302 of 2019 and had dismissed the same on 11.12.2019.

16. The issue that the Supreme Court was called upon to decide in ***Pratibha Rani v. Union of India in CA.No.3792 of 2019*** dated 10.04.2019 was whether, in the case of ICT, the service rendered in the previous posting is liable to be counted in the new posting area for the purpose of eligibility for consideration for promotion. Relying upon the judgment of that Court in ***Union of India v. C.N.Ponnappan, (1996) 1 SCC 524***, the Supreme Court held as follows:

> *"5. Thus, it is quite clear that insofar as issue of eligibility of promotion is concerned, the service rendered in the previous region, prior to transfer on compassionate ground, will be counted towards service for eligibility for consideration of such promotion. That it is a non-transferable job, makes no difference on this aspect as service is rendered in the same cadre."*

17. In ***C.N.Ponnappan***'s case, the Supreme Court declared the

position in the following terms:

> *"The service rendered by an employee at the place from where he was transferred on compassionate grounds is regular service. It is no different from the service rendered at the place where he is transferred. Both the periods are taken into account for the purpose of leave and retiral benefits. The fact that as a result of transfer he is placed at the bottom of the seniority list at the place of transfer does not wipe out his service at the place from where he was transferred. The said service, being regular service in the grade, has to be taken into account as part of his experience for the purpose of eligibility for promotion and it cannot be ignored only on the ground that it was not rendered at the place where he has been transferred. in our opinion, the Tribunal has rightly held that the service held at the place from where the employee has been transferred has to be counted as experience for the purpose of eligibility for promotion at the place where he has been transferred."*

18. This makes it clear that the applicant / first respondent is entitled to demand that his past service be taken into consideration, while his case is considered for promotion. The past services are not wiped out on account of seeking ICT. On account of ICT, the applicant loses his seniority, but does not lose his past service. As rightly held by the Tribunal, despite the loss of seniority, pursuant to the order of ICT, if a person falls within the zone of consideration, then the past services in the previous zone has to be taken into consideration. As

the Tribunal has applied the right law to the facts before it, there is no necessity to take a different view than the view taken by the Tribunal.

19. In the light of the above discussion, the writ petition fails. It is dismissed. The writ petitioner shall implement the direction given by the Tribunal within a period of two months from the date of receipt of a copy of this Order. No costs. Consequently, the connected miscellaneous petition is closed.

(M.S.R, J.) **(V.L.N, J.)**
04.08.2025

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Index : Yes
Speaking Order
Neutral Citation : Yes

To

1.The Central Administrative Tribunal,
Chennai Beach, Chennai

M.S. RAMESH, J.
and
V.LAKSHMINARAYANAN, J.
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