

GAHC010150352026



AS:10229-DB

2026:GAU-

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/3871/2026

SRI NEHKHOHAO HAOKIP AND 2 ORS
SON OF THANGLUN, PERMANENT RESIDENT OF M. SONNGEL, DIST.
CHURACHANDPUR, MANIPUR, PIN 795128 AND PRESENTLY RESIDING AT
H/N B3/2L, BRAHMAPUTRA APARTMENT, KALITAKUCHI, NARENGI
TINIALI, GUWAHATI, DIST. KAMRUP M, ASSAM, PIN-781171.

2: SRI ROGER RAMNEIMAWI
SON OF LATE LALMUUNKUNG
RESIDENT OF PHC ROAD
SAIKOT
DIST. CHURACHANDPUR
MANIPUR
PIN- 795117.

3: SRI HAUGOMANG GANGTE
SON OF THANGTINLAM GANGTE
RESIDENT OF ALL INDIA RADIO QUARTER
NONGRIM HILLS
SHILLONG
MEGHALAYA
PIN-793003

VERSUS

THE UNION OF INDIA AND 2 ORS
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT OF INDIA,
MINISTRY OF FINANCE, DEPARTMENT OF REVENUE, CENTRAL BOARD
OF INDIRECT TAXES AND CUSTOMS, 4TH FLOOR, HUDCO VISHALA
BUILDING, BHIKAJI CAMA PLACE, R.K. PURAM, NEW DELHI- 110001.

2:THE CENTRAL BOARD OF INDIRECT TAXES AND CUSTOMS
REPRESENTED BY THE CHAIRMAN
MINISTRY OF FINANCE

DEPARTMENT OF REVENUE
NORTH BLOCK
NEW DELHI- 110001.

3:THE CHIEF COMMISSIONER
GOODS AND SERVICE TAX AND CUSTOMS
GUWAHATI ZONE
GST BHAWAN
5TH FLOOR
KEDAR ROAD
GUWAHATI
DIST. KAMRUP (M)
ASSAM
PIN- 781001

Advocate for the Petitioner : MR A CHAKRABORTY, MR. M P SARMA, MS H.K. SUMI

Advocate for the Respondent : DY.S.G.I., SC, GST

BEFORE
HONOURABLE MR. JUSTICE KALYAN RAI SURANA
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

27.07.2026

(K.R. Surana, J)

Heard Mr. A. Chakraborty, learned counsel for the petitioners; learned CGC, Mr. V. K. Chopra for the respondent no. 1 and Mr. K. Jain, learned counsel on behalf of Mr. S. C. Keyal, learned standing counsel for respondent nos. 2 and 3.

2. By filing this writ petition under Article 226 of the Constitution of India, the petitioners have assailed the order dated 15.07.2026 passed by the learned Central Administrative Tribunal, Gauhati Bench by which O.A. No. 042/00176/2022 including miscellaneous applications therein were dismissed.

3. The case of the petitioners is that petitioner no. 1 and 2 petitioner no. 3 was appointed as Tax Assistant in the Central GST and Central Excise, Vadodara

Zone on 13.12.2013 and 07.02.2014 respectively. The petitioners applied for their Inter-Commissionerate Transfer (herein referred to as ICT for short) to Shillong Commissionerate. Thereafter, the transfer orders dated, (i) 18.12.2017, (ii) 18.10.2018, (iii) 16.08.2017 were issued. Accordingly, the petitioners joined the office of the Chief Commissioner of Central Goods and Services Tax and Central Excise, Shillong as Executive Assistants. Thereafter, by promotion order dated 01.06.2017, the three petitioners herein were promoted to the posts of Executive Assistant on regular basis vide Estt. Office order No. 182/2017 dated 01.06.2017.

4. The learned counsel for the petitioners has stated that the respondent authorities, by an order No. 35/2022 dated 25.05.2022, amongst others, declared the transfer of the petitioners to be treated as loan posting and accordingly, directed their repatriation to the parent zone and accordingly, the petitioners were treated as having stood relieved w.e.f. 31.05.2022. Aggrieved by the same, the petitioners had respectively submitted their representations on 26.05.2022 and 27.05.2022. The same were not considered by the respondent authorities and accordingly, the petitioners approached the Central Administrative Tribunal, Guwahati Bench by filing O.A. No. 042/00049/2019. In connection with the said original application, the learned Central Administrative Tribunal, Guwahati Bench, disposed of the same by order dated 18.07.2025. The operative part of the said order is quoted below:-

“It is clear that the applicants were becoming eligible for promotion in the year 2016 as per the old rules but in the year 2015 new rule came into existence and as per new rule they were not eligible for promotion, hence they were not promoted. Now, as per the new O.M. dated 26th August 2004, applicants also become eligible for promotion to the post of STA in the year 2023, as they completed 10 years of service. Hence, the respondents are directed to consider the case of applicants for promotion as per new rules for the promotion to the

petitioners from the date in 2023 when they completed 10 years and become eligible as per new rule."

5. It may be stated that the respondent authorities, by a speaking order dated 29.07.2022, held that the petitioners were in the Grade of Executive Assistant and in light of the Recruitment Rules regarding Executive Assistants which was notified on 28.09.2015, by referring to paragraph-3 thereof, held that wherever ICTs were effected in the Executive Assistants cadre, the same are not being permissible and accordingly, the Cadre Controlling Authorities were directed to treat such ICTs as 'deemed loan cases'. Hence, as per the said speaking order, the petitioners were directed to follow the directions of the office order dated 25.05.2022, issued in terms of the Board's (i.e., Central Board of Indirect Taxes and Customs) order dated 22.04.2022. The petitioners, in view of the aforementioned order dated 31.05.2022, were directed to report to their respective parent zones and the petitioners were informed that as per the directions of the learned Central Administrative Tribunal, Guwahati Bench, their release was relaxed for 7 days from the date of receipt of the said order dated 29.07.2022.

6. Accordingly, the petitioners had approached the Central Administrative Tribunal, Guwahati Bench and the said learned Tribunal, by order dated 15.07.2026 passed in O.A. no. 042/00176/2022, along with its connected miscellaneous applications, observed that the policy relating to the ICT in the Grade of Executive Assistant attains finality and irregular cases are liable to be rectified as per Board's instructions and accordingly, relying on the case of *Union of India & Ors. Vs. Gulshan Kumar & Ors., O.P.(CAT) No. 173/2018*, decided by the High Court of Kerala on 10.04.2019 as well as the case of *Shri Khaisonthang & Ors. Vs. Union of India & Ors., O.A. No. 040/00173/2023*

decided on 14.05.2026, held that a similar issue was already been dealt with by the Tribunal as well as by the High Court of Kerala and the applications were dismissed. Resultantly, the said O.A. no. 042/00176/2022 along with the connected miscellaneous were dismissed.

7. The learned counsel for the petitioners has submitted that both the cited cases were incorrectly applied in the case of the petitioners and that the distinguishing factor of both the cases was that those were cases relating to Inspectors, whereas the petitioners were promoted to the posts of Executive Assistant. It is submitted that not only the petitioners were promoted to the post of Executive Assistant, the respondent authorities have now not only reverted the petitioners back to their original Commissionerate, but have also taken away the promotions granted in respect of petitioner nos. 1 and 2 as Executive Assistant but without any adverse effect on respondent no. 3 with regard to his promotion.

8. It is submitted that the petitioners were all having family compassionate reasons which made them apply for the transfer to another Commissionerate. It is further submitted that in-so-far as petitioner no. 1 is concerned, he and his wife are presently undergoing IVF treatment which requires them to complete their treatment under this Commissionerate as any transfer will adversely affect the treatment.

9. It is further submitted that the respondent authorities had relied on the circular dated 20.09.2018 regarding ICTs for the purpose of denying the petitioners their transfers which had been actuated, but the said circular dated 20.09.2018, was in respect of the cadre of Inspectors and did not concern the Executive Assistant. Moreover, it is submitted that vide notice order dated 22.04.2022, based on the Recruitment Rules of the Executive Assistant, which

were notified on 28.09.2015, the respondent authorities treated the petitioners as 'deemed loan cases' in terms of the Board circular dated 20.09.2018. Accordingly, it is submitted that the petitioners have not only been denied their ICTs, but they have also lost seniority and promotion. It is submitted that as per the conditions contained in the transfer orders, the petitioners are placed at the end of the list of existing Executive Assistant in the Shillong Commissionerate of the GST and Customs. Therefore if the petitioners are now repatriated back to their original Commissionerate, they would suffer irresponsible prejudice.

10. It is also submitted that had the petitioners remained in their original Commissionerate, they would have continued as Tax Assistant. In this regard, it is submitted that the respondents in their affidavit-in-opposition filed before the Central Administrative Tribunal had admitted that ICT restrictions were not applicable to the Tax Assistant. Therefore, if the petitioners are treated to be Tax Assistant by the dint of office orders passed by the respondent authorities, they would be reverted back to the post of Tax Assistant and would become entitled to ICT.

11. The learned counsel for the respondent nos. 2 and 3 has referred to the statements made in paragraph-5 of the impugned order and has submitted that the petitioners were not entitled to ICT at the Grade of Executive Assistant and the said policy had attained finality and therefore, the transfer of the petitioners, being not in accordance with the Recruitment Rules, could not have been issued or given effect to.

12. Upon considering the materials available on record, it appears that by order dated 19.02.2004, passed by the Central Board of Indirect Taxes and customs, there was a ban on ICT in respect of officers in Group-B, Group-C and Group-D posts under the Central Board of Excise and Customs. By a subsequent

order dated 27.10.2011, under F.No. A. 22015123/2011-Ad.III.A, the ban on ICTs was lifted/relaxed in phases on three grounds being (a) to facilitate posting of husband and wife at the same station; (b) to permit ICT in respect of employees appointed in Compassionate ground; and (c) for physically handicapped employees without loss of seniority. It is made to appear that the Supreme Court of India in *Sk Nausad Rahman & Ors. Vs. Union of India & Ors in Civil Appeal No. 1243/2022* decided on 10.03.2022, referred to the decision of the High Court of Kerala in the hereinbefore referred case of *Gulshan Kumar (supra)* and on considering the finding by the High Court of Kerala to the effect that the Central Excise and Customs Commissionerates Inspector (Central Excise, Preventive officer and Examiner) Group-D posts Recruitment Rules, 2016, do not contain any provision for the ICTs and to the contrary, stipulate that each Cadre Controlling Authority will have its own separate cadre unless otherwise directed by the Central Board of Excise and Customs, affirmed the said judgment and left it open to the respondents to revisit the policy to accommodate posting of spouses, the needs of the disabled and compassionate grounds.

13. The learned counsel for the petitioners has submitted that the said cases involved the posts of Inspector and not the Executive Assistant. However, the petitioners had already been promoted as Executive Assistants before they were transferred from their respective parent Commissionerate to the Shillong Commissionerate. The petitioners were holding Group-B posts as Executive Assistant. Therefore, when the High Court of Kerala has referred to the ban on the ICTs for Inspectors, it naturally covered the ban on transfer of the Group-C posts as well. There is nothing which has been brought on record to show that the Recruitment Rules applicable to the Grade-C posts were different from the

Recruitment Rules which govern the cases of the Inspectors.

14. Thus, the Court does not find any infirmity with the observations made by the learned Central Administrative Tribunal, Gauhati Bench that the issue involved in the said O.A. was only decided by the High Court of Kerala in the case of *Gulshan Kumar & Ors (supra)* and in the case of *Shri. Khaisonthang & Ors (supra)*.

14. The consistent stand of the respondents is that in respect of Executive Assistant, ICT is not applicable as the method of absorption is not included in the special provisions of Recruitment Rules of Executive Assistant, 2015. It is projected that each Cadre Controlling Authority shall have its own separate cadre, unless otherwise directed by the Central Board of Indirect Taxes, Excise and Customs. Therefore, if there is no provisions for absorption in the transfer Commissionerate, then the appointment in the cadre of the Shillong Commissionerate cannot be by way of transfer, as each Cadre Controlling Authority is required to maintain a separate cadre.

15. Therefore, the Court is unable to find any infirmity with the impugned order dated 15.07.2025, passed by the learned Central Administrative Tribunal, Guwahati Bench, Guwahati in O.A. no. 042/00176/2022.

16. It is clarified that the order dated 18.07.2025, passed by the learned Central Administrative Tribunal, Guwahati Bench, in O.A. No. 0042/00049/2019, is not a matter of challenge in this writ petition, therefore, nothing contained in this order will have any effect on the said order.

17. In view of the projection made by the learned counsel for the petitioners that petitioner no. 1 is undergoing IVF treatment, this Court leaves it open to the petitioner no. 1 to make a representation for relaxation of his repatriation in

view of the said medical condition, which shall be examined by the said authorities squarely on merits without being influenced by anything contained in this order.

18. In terms of the above observation, this application stands dismissed.

19. The Registry shall transmit a downloaded copy of this order to the learned Central Administrative Tribunal, Guwahati Bench, Guwahati for information.

JUDGE

JUDGE

Comparing Assistant