

## **Information Sought :-**

Seeking information regarding Inter-Commissionerate Transfers (ICT), ICT cases allowed, records/notesheets, orders issued, and seniority fixation of ICT officers in the Zone for the period 01.01.2011 to 31.12.2020.

### 1. Background

Inter-Commissionerate Transfer (ICT) is an administrative mechanism in CBIC through which an employee is transferred from one Zone to another on request or administrative grounds.

ICTs were permitted for several years subject to prescribed conditions and were later restricted/discontinued by CBIC instructions. The issue of seniority fixation of ICT transferees has recurring service implications affecting multiple officers across Zones and therefore involves larger public interest. The applicant is also an ICT transferee from Meerut Zone to Delhi Zone in the year 2020. A copy of the ICT order is enclosed only to establish locus and to avoid unnecessary invocation of Section 11 of the RTI Act. The information sought relates to official policy, service records, and seniority determination, which are matters of public activity and are therefore not exempt under Section 8(1)(j).

### 2. Period of information sought

Information is sought only for the period from 01.01.2011 to 31.12.2020, uniformly for all cadres in the Zone.

### 3. Information sought (cadre-wise)

#### (A) Policy / Rules

#### 1. Copies of all rules, circulars, instructions, and office memoranda governing:

- o Grant of ICT
- o Conditions attached to ICT
- o Fixation of seniority of ICT transferees
- o Orders/instructions through which ICT was restricted or stopped.

#### 2. The specific rule/criteria followed in the Zone for:

- o Fixing seniority of ICT transferees vis-à-vis existing officers
- o Fixing seniority among multiple ICT transferees in the same cadre/order/year.

(B) Cadre-wise ICT data (2011–2020)

3. Cadre-wise and year wise total number of ICT cases allowed.
4. Cadre-wise list of ICT transferees showing (if convenient to the zone, the details may be provided in tabular form):
  - o Name of the officer o Designation
  - o Year/Date of ICT
  - o Zone from which transferred o Date of representation of the officer
  - o Date of joining in the new Zone
  - o Seniority position assigned after ICT

Personal details such as residential address, phone number, email ID, PAN, medical records or family particulars, if appearing in records, may be severed under Section 10 of the RTI Act. However, names, designations, employee identifiers, dates of joining, cadre, and seniority positions may kindly NOT be masked, as these relate to public service records and seniority determination and their disclosure has been consistently upheld as information connected with public activity and larger public interest.

(C) Records of each ICT case

5. Certified copies of note-sheet pages of every ICT case during 2011–2020 (*after severing only purely personal details under Section 10, wherever strictly necessary, the personal information as mentioned above may be masked if required*).
6. Copies of final ICT orders issued in each case.

(D) Seniority determination after ICT

7. Copies of:
  - o Seniority lists issued after accommodating ICT transferees
  - o Any revisions, objections, representations, or speaking orders relating to ICT seniority during 2011–2020.
8. Details of litigation/disputes relating to ICT seniority in the Zone during the said period, along with copies of court notice/final orders/judgments available on record.

4. Legal position supported by judicial precedents

- The Hon'ble Supreme Court in CBSE vs. Aditya Bandopadhyay (2011) held that information available in records of a public authority must be disclosed unless covered by a specific statutory exemption.
- In Girish Ramchandra Deshpande vs. CIC (2012), the Supreme Court clarified that only purely personal information is exempt, whereas matters connected with public activity or service are disclosable, particularly in larger public interest.
- File notings/notesheets form part of "information" under Section 2(f) and are disclosable unless specifically exempt.
- Mere statement that order/record/document/information is "available in public domain" is not sufficient, the CPIO must either provide the record or supply the exact accessible link and certified copy of the relevant document.
- Under Section 7(9) of the RTI Act, information shall ordinarily be provided in the form requested unless it disproportionately diverts resources. Since the applicant has requested electronic copies, supplying scanned PDFs would reduce resource burden and facilitate disclosure of maximum information. Further Section 7(9) is not an exemption clause, it concerns only the form of supply, not refusal of information.
- Under Section 10 (Severability), even where a portion of a record is exempt, the non-exempt portion must still be disclosed after masking only the protected part. Hence, complete denial of files/notesheets/document/details is not legally sustainable.

In view of the above binding legal position, denial under Sections 8(1)(j) or 11 would not be sustainable for the present information.

### **Information Provided :-**

*"You have sought information related to each case of Inter Commissionerate Transfer in all cadres during 2011-2020. The same is in respect of hundreds of ICT requests allowed by Jaipur Zone in various cadres during 2011-2020 & is scattered in large number of files.*

*In this context, it is submitted that presently a number of time bound official works including preparatory work to conduct DPC in view of proposed One Time Relaxation to the grade of Inspectors, litigations in ICT matter etc., despite of regular works, are being performed by Cadre Control Unit.*

*Therefore, it will disproportionately divert the resources of the Branch to compile/provide the same. Moreover, looking to the urgent time bound works as above, it would be difficult to provide the information in the prescribed time limit.*

*Furthermore, the information also includes personal details of applicants, therefore, masking of the same in number of documents, is also a time consuming exercise.*

*It is, therefore, requested that in terms of provisions of Section 7(9) of the RTI Act 2005, you are requested to inspect the documents in person, if deemed fit. For this purpose, you may coordinate with us for deciding the date as per your convenience.”*