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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 8th September, 2026

\# **CNR No. DLHC010420152026**

\+ W.P.(C) 12955/2026 & CM APPL. 60240/2026

INSP./SAM RESHU DABAS
D/o. Shri Raj Singh Dabas,
Regd. No. 131400186,
SAP, BSF, NEW DELHI
New Delhi.
Phone:9582975891
Email:reshu.dabas@gmail.com

...PETITIONER

Through: Mr. Ravi Kumar, Mr. Abhishek Kumar Singh and Ms. Kalyani, Advocates alongwith Petitioner in person.

Versus

1. UNION OF INDIA,
(Through Secretary, Ministry of Home Affairs),
Government of India, North Block,
New Delhi-110001
E-mail: incharge.lit@gov.in
uoidhc@gmail.com,

...RESPONDENT NO. 1

2. DIRECTOR GENERAL,
Border Security Force,
FHQ, BSF, Block No. 10
CGO Complex, Lodru Road,
New Delhi-110003.
Email:- dgbsf@bsf.nic.in

...RESPONDENT NO. 2

3. INSPECTOR GENERAL (AIR WING) BSF,
AIR WING HEADQUARTERS,
BORDER SECURITY FORCE,
NEW DELHI
E-mail: bsfairwing@bsf.nic.in

...RESPONDENT NO. 3

Through: Mr. Balendu Shekhar, CGSC with Mr. Rajkumar Maurya, Mr. Krishna Chaitanya and Mr. Divyansh Singh Dev, Advocates.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AMIT SHARMA

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. The petition has been filed under Article 226 of the Constitution of India by the petitioner, who is presently posted as Inspector working with Air Wing of the respondent/BSF, seeking stay of the operation and implementation of the posting order 28th August, 2026.

2. The petitioner, as on date, has put in more than 13 years of service with the respondent with unblemished past record.

3. Having regard to the domestic responsibilities which the petitioner intends to handle, the petitioner submitted a resignation to the respondents on 18th March, 2026.

4. The aforesaid resignation was also accompanied with a no due certificate dated 2nd April, 2026 issued by a Drawing and Disbursing Officer of the respondent/BSF Airwing.

5. The petitioner furnished an undertaking that the flying allowance money received for the period 01st May, 2018 to 30th April 2023, amounting to Rs. 10,38,000/- will be paid to BSF Air Wing on receipt of final decision in W.P. (C) No.1808/2026.

6. Based on the aforesaid factual background, resignation letter submitted by the petitioner was returned with remarks that BSF (Air Wing) to ensure the recovery of flying allowance paid to the petitioner, which was not admissible and post compliance of recovery, petitioner's resignation letter can be resubmitted for processing.

7. In the interregnum, the petitioner was transferred *vide* the order dated 15th May, 2026 from SAP, BSF, New Delhi to Airbase Raipur, in Chhattisgarh.

8. The said transfer order was kept in abeyance by the respondents. However, the respondents had given effect to the said transfer order *vide* another posting order dated 28th August, 2026.

9. Since the resignation of the petitioner was not processed by the respondents, as the petitioner has not agreed to directions of the respondents to deposit the flying allowance drawn by her, the petitioner approached this Court with a prayer that the respondents be directed to accept and process the resignation without insisting upon the recovery of the flying allowance amount.

10. Learned counsel for the petitioner has invited our attention to the undertaking furnished by the petitioner to the respondents. The same reads as thus:-

> "UNDERTAKING
>
> I, Regt. No.131400186 SI/JAM Reshu Dabas, presently serving in the Border Security Force (BSF), do hereby solemnly affirm and undertake as under:

1. That I have submitted my resignation from service, which is presently under consideration by the competent authority.
2. That I undertake to abide by and comply with the final judgment, order, or directions passed by the Hon'ble Court in connection with W.P. (C) No.1808/2026 titled Amit Kumar, 2IC & Anr. Vs UOI & Others.
3. That in the event the Hon'ble Court directs repayment of any amount on account of flying allowance received by me, I undertake to deposit/refund the same in accordance with and to the extent directed by the Hon'ble Court.
4. That this undertaking is furnished without prejudice to my legal rights and contentions and shall remain subject to the final outcome of the aforesaid writ petition and any directions issued therein by the Hon'ble Court.

I hereby declare that the contents of this undertaking are true and correct to the best of my knowledge and belief.

Place: New Delhi
Date: 23rd Jun 2026

(SI/JAM Reshu Dabas)
Regt. No.131400186
BSF Air Wing"

11. Learned counsel for the petitioner submits that the issue as to whether the petitioner is entitled for the flying allowance and if the flying allowance is so paid to the petitioner, the said amount can be recovered from the petitioner is an issue *subjudice* before this Court in W.P. (C) No.1808/2026 titled "***Amit Kumar, 2IC & Anr. Vs UOI & Others.***" According to him, the petitioner has undertaken that subject to the final outcome of the said petition, the petitioner is willing to undertake that in case if the said petition fails, the flying allowance drawn by the petitioner can be deposited with the respondents. It is further urged that in the matter of service law, the law that will be laid down in the matter of **Amit Kumar (*supra*)** will definitely be

applicable to the case of the petitioner in the wake of law laid by the Hon'ble Apex Court in **Uttar Pradesh v. Arvind Kumar Srivastava & Ors., (2015) 1 SCC 347**. The learned counsel as such would urge that the undertaking referred to Annexure A-9 can be accepted as an undertaking to this Court and respondents can be directed to process the resignation of the petitioner on the basis of the aforesaid undertaking.

12. As against above, learned counsel appearing for the respondents submits that the resignation cannot be processed unless the petitioner deposits the flying allowance which was drawn by her illegally, to which she, in law, is not entitled. It is further urged that the law laid down by the Hon'ble Apex Court in the matter of **Uttar Pradesh v. Arvind Kumar Srivastava & Ors** (*supra*) or in that of Amit Kumar (supra) is a matter of record. It is urged that it is only in case the petitioner puts the flying allowance drawn by her in the Fixed Deposit and creates 1st charge of the respondents over such deposit, the resignation of the petitioner can be processed and thus the dismissal of the present petition is sought.

13. We have considered the aforesaid submissions.

14. As regards the undertaking at Annexure A-9 is concerned, which is reproduced hereinabove, which this Court has treated to be an undertaking to this Court and accordingly this Court passed an order on 7th September, 2026, thereby directing the respondents that the respondents can take instructions, as to whether the resignation of the petitioner can be processed in view of the aforesaid undertaking of the petitioner to the Court, since the flying allowance of the petitioner is secured.

15. To this, learned counsel appearing for the respondents, on instructions from Inspector General, Personnel, Directorate BSF, submits that the respondents are not inclined to adhere to the aforesaid, and as such, decided to invite the present order from the Court.

16. In the backdrop of the aforesaid factual matrix and the documents, we have considered the claim put forward by the respondents as to whether the same can be formed to be a justifiable reason for not processing the resignation of the petitioner.

17. It is a settled position of law that an undertaking given to this Court has to be honoured and in case of failure to honour such undertaking, the party, giving such undertaking, is liable for action under the Contempt of Courts Act.

18. Apart from the aforesaid *viz.*, the failure to honour the undertaking, the contempt proceedings can be initiated against the party making breach of the undertaking, the respondents, in our opinion, are not stopped from recovering the said amount from the estate of the party, like the petitioner, who has furnished such undertaking to the Court.

19. In the aforesaid background, we need to examine as to whether the condition with which the respondents are insisting upon on the petitioner to deposit the amount with the respondents, which the petitioner has drawn in the form of the flying allowance can be said to be justifiable or reasonable.

20. When confronted, learned counsel for the respondents is not in a position to demonstrate as to under which provision of law or service rule they are asking the petitioner to make the deposit of the said amount with the respondents. Apart from above, the fact that the matter

is *subjudice* before this Court, in the matter of **Amit Kumar (*Supra*)** and the law laid down by the Apex Court in the matter of the **State of Uttar Pradesh v. Arvind Kumar Srivastava & Ors**, prompts that the decision in the matter of **Amit Kumar (*supra)*** will be applicable even to the facts of the present case *qua* the petitioner.

21. In such an eventuality, the fact remains that once the petitioner has given an undertaking to this Court that she shall be repaying the amount of flying allowance drawn by her in case in the matter of **Amit Kumar (*supra*)** is decided against her, in our opinion, the interest of the respondents is sufficiently safeguarded and taken care of.

22. In the aforesaid background, we accept the undertaking given by the petitioner, at Annexure A-9, to this Court. We clarify that in case, if the W.P. (C) No.1808/2026 titled "***Amit Kumar, 2IC & Anr. Vs UOI & Others***" is dismissed, the petitioner shall, within a period of two weeks thereafter, make good by depositing the entire flying allowance drawn by her, with the respondents, without further extension on whatsoever ground in the matter. In case, if the petitioner fails to honour the undertaking, the respondents shall be free to take, not only contempt proceedings against the petitioner, but also such other proceedings, which they deem fit for the purpose of recovery of the said amount from the estate of the petitioner in the form of revenue recovery.

23. Respondents, as such, are directed to process the resignation of the petitioner *forthwith* and communicate the decision taken thereon within a period of one week from today.

24. Accordingly, the present petition stands allowed in the aforesaid terms.

25. Judgement be uploaded on the website of this Court, *forthwith*.

NITIN WASUDEO SAMBRE
(JUDGE)

AMIT SHARMA
(JUDGE)

SEPTEMBER 08, 2026*/sn/sg*