



2025:DHC:4601-DB



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

Reserved on: 21.05.2025
Date of Decision: 29.05.2025

+ W.P.(C) 3989/2025, CM APPLS. 18542/2025 & 18543/2025
SANJEEV KUMARPetitioner
Through: Petitioner in Person

versus

UNION OF INDIA AND OTHERSRespondents
Through: Mr. Syed Abdul Haseeb, CGSC

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MR. JUSTICE AJAY DIGPAUL

J U D G M E N T

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AJAY DIGPAUL, J.

1. The petitioner, Sanjeev Kumar, is a serving sailor in the Indian Navy, holding the rank of Leading Mechanical Engineer Driver (LMED), No. 236660-R. He was transferred to ICGS Delhi pursuant to an order dated 11.08.2023, issued by the Bureau of Sailors (hereinafter "CABS"), Mumbai. The present petition arises from the classification of this transfer as being on "compassionate ground (domestic)" and from a subsequent transfer order dated 23.08.2024 requiring the petitioner to report to INHS Asvini, Mumbai, with effect from 01.04.2025.



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2. The petitioner has a history of cardiac illness and was diagnosed with Proximal Supraventricular Tachycardia (hereinafter “PSVT”) in July 2017. He has been in Low Medical Category (hereinafter “LMC”) since August 2018 on account of recurring palpitations. A cardiology report dated 17.10.2024 records him as a known case of supraventricular tachycardia, classified as LMC P2 (Permanent/Equivalent), and recommends a shelter posting near a facility with electrophysiology (hereinafter “EPS”) and radiofrequency ablation (hereinafter “RFA”) capabilities.

3. The petitioner was posted to INHS Sanjivani, Kochi, *vide* transfer order dated 07.10.2022. On 26.12.2022, he submitted a representation seeking cancellation of the said transfer and posting to Delhi area on compassionate grounds. The representation referred to both his medical condition and his spouse’s place of posting.

4. The petitioner is married to Savita Devi, a clerk in the Department of Education, Government of Haryana, who is presently posted in Palwal, Haryana, since her transfer in August 2021. The couple also has two minor children, aged two and four years respectively.

5. On 28.04.2023, the Headquarters, Western Naval Command (hereinafter “HQWNC”) forwarded the petitioner’s request to CABS, under reference AP/9889/236660-R, recommending his posting to Delhi. Separately, a cardiology opinion dated 05.06.2023, addressed



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to CABS, reiterated the medical advice for a posting near a cardiology centre equipped with EPS+RFA facilities.

6. The petitioner thereafter submitted an application dated 12.04.2023, under the category “compassionate ground (domestic).” Pursuant to this application, the transfer order, MED:8038/2023, dated 11.08.2023 was issued, and the petitioner joined ICGS Delhi on 14.11.2023.

7. On 23.08.2024, a fresh transfer order was issued posting the petitioner to INHS Asvini, Mumbai, with a reporting date of 01.04.2025. The petitioner submitted multiple representations thereafter, seeking either cancellation or deferment of the transfer.

8. The request for extension of the Delhi posting was forwarded by Coast Guard Headquarters on 02.09.2024 and was recommended by the administrative authority on 26.09.2024. CABS, however, rejected the request on 08.10.2024.

9. A further request for deferment on child education grounds was made and partially accepted. The petitioner’s transfer was deferred until 01.04.2025, as communicated on 22.11.2024, in view of school eligibility criteria. Subsequently, the petitioner submitted another representation dated 12.02.2025, seeking further deferment based on the Haryana Government’s school admission policy, which permits admissions up to 30.06.2025. It is stated that no written response was



received and the petitioner was orally informed on 27.03.2025 that the request had not been accepted.

10. Aggrieved from this rejection, the petitioner has filed the present petition, where the following reliefs are sought:

“I. Pass an order directing to rectify the transfer order MED:8038/2023 dated 11 Aug 23 from compassionate ground domestic to Service requirement.

Or

Re-consider my 2nd Compassionate ground request to retain at Delhi Station.

II. Quashing of Compassionate Performa submitted by me while submitting 1st compassionate ground request.

III. Pass appropriate writ, order, or direction directing the Respondents no 1-2 to formulate a comprehensive policy for transferring sailors on spouse co-location ground.

IV. Pass any other relief which this Hon’ble Court may deem fit and proper also be granted in favour of me and against the Respondents.”

11. We have heard the petitioner, appearing in-person, who submits that the transfer order dated 11.08.2023, which facilitated his posting to ICGS Delhi, was erroneously classified as being made on “compassionate ground (domestic)” despite being primarily rooted in his ongoing cardiac treatment requirements. It is contended that the medical recommendations on record, including the opinion dated 05.06.2023 and the subsequent report dated 17.10.2024, clearly advised a shelter posting near a centre with EPS + RFA facilities, which are unavailable in naval hospitals but accessible at Army Hospital (R&R), Delhi.

12. The petitioner states that Clause 5 of the Transfer Policy for Sailors, as extracted from Navy Order (STR) 07/2020, expressly



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provides that “transfer for self-treatment is not to be considered on compassionate grounds” and shall be treated as one based on service requirement. It is submitted that notwithstanding this policy, his case was processed under the compassionate category, thereby resulting in a tenure limited to one year rather than the standard three years applicable to service-based transfers.

13. It is further submitted that the second request for retention at Delhi, submitted in 2024, was rejected by CABS on 08.10.2024 as being “devoid of merit,” without disclosure of any detailed reasoning. The petitioner contends that such rejection, in the face of continued medical need amounts to non-speaking and arbitrary exercise of discretion.

14. The petitioner refers to the forwarding letter dated 28.04.2023 issued by HQWNC, which had endorsed his request for transfer to Delhi, as well as to the supporting representation dated 26.12.2022, wherein he had cited both his health condition and spouse’s employment in Palwal, Haryana, wherein it was urged that his initial request was made in good faith and in full disclosure of circumstances warranting consideration under the “service requirement” category.

15. The petitioner also points out that, as per policy, a transfer under the compassionate ground category entails consequences that may adversely affect re-engagement and promotion if sought more than once. It is submitted that this outcome would be entirely avoidable in the petitioner’s case had the classification been correctly recorded as service-based, particularly when Clause 5 of the policy



distinguishes between transfers for self-treatment and those for dependents.

16. On the issue of policy inconsistency, the petitioner draws attention to the absence of a spouse co-location policy for sailors. It is submitted that while DoPT guidelines are expressly excluded in their application to defence personnel, comparable standards have been adopted for officers within the armed forces, as well as in the Indian Air Force. The lack of parity, it is argued, has resulted in inconsistent application of discretionary transfers and caused undue hardship to the petitioner.

17. In support of his plea, the petitioner also placed reliance on the judgment of this Court in *Babita Puniya & Ors. v. The Secretary & Anr.*¹, specifically referring to paragraph 51 of the said judgment, wherein this Court recognised that a change in nomenclature may be permitted so long as the individual concerned is willing and otherwise found suitable for the revised classification. It is submitted that a similar approach ought to be adopted in the present case, where the petitioner is not seeking a change in posting or duties, but only a correction in the basis or category of the transfer order, consistent with his medical condition and service exigencies, as supported by contemporaneous record.

18. The petitioner further invokes Article 16 of the Universal Declaration of Human Rights (UDHR), which recognises the family

¹ W.P.(C) 1597/2003



as the *natural and fundamental group unit of society entitled to protection by society and the State*. It is submitted that repeated dislocation from Delhi, despite known health and family circumstances, frustrates petitioner's rights.

19. Upon consideration of the material on record, including the submissions made by the petitioner, and having perused the relevant policy documents, we are of the view that no interference is warranted in the present matter.

20. The petitioner's primary contention is that his posting to ICGS Delhi should have been classified as a transfer on service requirement rather than on compassionate ground (domestic), given the medical advice recommending proximity to a facility equipped with EPS + RFA capabilities. It is not in dispute that the petitioner suffers from a cardiac condition and that he has been placed in LMC since 2018. However, the records placed before the Court by the respondent, including a communication from the Directorate of Medical Services (Health Services), Naval Headquarters, Ministry of Defence, dated 23.04.2025, clarify that a fully equipped cardiac catheterization laboratory has since been installed at INHS Asvini, Mumbai, and that the facility is now capable of performing EPS and RFA procedures, including for the treatment of PSVT.

21. In view of the above, the argument that the transfer to INHS Asvini fails to meet the petitioner's ongoing medical requirements no longer holds. Furthermore, the petitioner's earlier transfer to Delhi, as reflected in the administrative endorsement "Transfer to INHS



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Sanjivani amended by unit amendment on compassionate ground (domestic) ref BT-2023 MED 0531 dated 07.10.2022,” does not indicate that the said transfer was ever processed on medical or service requirement grounds. Rather, it was an admitted transfer under the category of compassionate ground (domestic), availed by the petitioner upon his own application.

22. Clause 5 of Navy Order 07/2020, which governs transfers of sailors, clearly draws a distinction between transfers for self-treatment and transfers on compassionate grounds. While transfers for self-treatment are to be processed under service requirement based on the availability of service hospitals, transfers on compassionate grounds are subject to merit and are limited to one-year tenure. The record does not support the petitioner’s assertion that his transfer was ever recommended or processed under the service requirement category. On the contrary, the petitioner himself submitted an application for compassionate ground (domestic) posting, indicating therein that he had “no other option left to lead a normal family life and look after the welfare of [his] children.” There is, therefore, no inconsistency in the classification of the transfer as one made on compassionate grounds.

23. Furthermore, we find there is no merit in the petitioner’s contention that CABS acted in disregard of the relevant policy by not categorising the transfer as service-based. Given that the petitioner applied for a compassionate transfer on grounds of family welfare and not on any medical ground, and that his medical condition was incidental to his family circumstances, the classification under the



compassionate category is consistent with Clause 5 of the governing Navy Order.

24. It is also relevant to note that the petitioner, having availed and accepted the benefits of a transfer on compassionate grounds, now seeks to retrospectively alter the very basis of that order. Such a request, coming nearly a year after the transfer was effected and at the stage of reversion, cannot be sustained in law. The tenure of a compassionate posting is, by policy, limited to one year. The petitioner's second request for retention was not premised on new medical developments but on family-related considerations, including his child's school admission schedule. While the authorities granted a limited deferment of transfer until 01.04.2025, the petitioner's further request for extension was not accepted and we do not find any infirmity, which has been demonstrated in that decision.

25. As to the petitioner's submissions regarding the absence of a spouse co-location policy for sailors, we are of the view that framing of the policy is within the domain of the Government and, therefore, we do not want to venture into the area of issuing directions to the Government. This view has been taken by the Hon'ble Supreme Court in *Shikhar and Another v. National Board of Examination and Others*², wherein the Court observed:

“**10.** In *Rachna v. Union of India* a petition under Article 32 of the Constitution was instituted before this Court with a prayer to grant one additional attempt to clear the Civil Services (Preliminary) Examination 2020 to petitioners who were otherwise not eligible to participate in subsequent examinations due to their exhausting

² 2022 SCC OnLine SC 425



available attempts or because of crossing the age bar. The petitioners pleaded that on account of the unprecedented Covid-19 pandemic, they had faced difficulties in preparing for the examination. The petitioners also argued that the government had previously granted such a relaxation in 2015. This Court dismissed the petition and held that policy decisions are taken by the executive considering the prevailing circumstances. The Court further observed that the petitioners cannot invoke the writ jurisdiction of the Court to direct the government to come out with a specific policy granting relaxation to certain candidates as a matter of right. The following observations of this Court are relevant:

“45. Judicial review of a policy decision and to issue mandamus to frame policy in a particular manner are absolutely different. It is within the realm of the executive to take a policy decision based on the prevailing circumstances for better administration and in meeting out the exigencies but at the same time, it is not within the domain of the courts to legislate. The courts do interpret the laws and in such an interpretation, certain creative process is involved. The courts have the jurisdiction to declare the law as unconstitutional. That too, where it is called for. The court is called upon to consider the validity of a policy decision only when a challenge is made that such policy decision infringes fundamental rights guaranteed by the Constitution or any other statutory right. Merely because as a matter of policy, if the 1st respondent has granted relaxation in the past for the reason that there was a change in the examination pattern/syllabus and in the given situation, had considered to be an impediment for the participant in the Civil Services Examination, no assistance can be claimed by the petitioners in seeking mandamus to the 1st respondent to come out with a policy granting relaxation to the participants who had availed a final and last attempt or have crossed the upper age by appearing in the Examination 2020 as a matter of right.”

(Emphasis supplied)

26. In view of the above findings, we are of the considered view that no grounds are made out for interference with the transfer order dated 23.08.2024, or for rectification of the earlier order dated 11.08.2023. The classification of the petitioner’s posting to Delhi as one on compassionate ground (domestic) is consistent with the



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applicable policy, and the petitioner, having expressly applied for and accepted such posting, cannot now seek its conversion to one based on service requirement.

27. Accordingly, the writ petition is dismissed.

28. Pending applications, if any, are disposed of

29. There shall be no orders as to costs.

AJAY DIGPAUL, J.

C. HARI SHANKAR, J.

MAY 29, 2025

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[Click here to check corrigendum, if any](#)