

of Apex Court giving in para-13 of the aforesaid judgment would be applicable whereby the general principles in respect of law of deputation has been defined. Hence, the present petitioners cannot get any benefit from the judgment of *Ashok Kumar Ratilal Patel* (supra) in the present case.

28. Hence, to sum up, the deputationists have got no indefeasible right to be retained in their borrowing department and they should be repatriated to their parent department where they have been maintaining their lien. The deputation appointment may not be of permanent nature so the deputationists should either be repatriated to their parent department as per terms and conditions of such appointment or in terms of the guidelines so prescribed under the Government Order or any circular etc. dealing such issue or even prior to the period so prescribed in their appointment order if the Competent Authority of the parent department or borrowing department is willing to do so following the due procedure of law.

29. In the light of what have been considered here-in-above including the case laws, I do not find any illegality or infirmity in the impugned order of repatriation dated 01.07.2024 and the relieving order dated 02.07.2024 as well as other similar orders under challenged in the bunch of writ petitions, so this bunch of writ petitions are *dismissed* being misconceived. The interim orders granted in the bunch of writ petitions are hereby vacated. The petitioners of this bunch of writ petitions are directed to submit their joining at their parent department pursuant to their repatriation orders.

30. Consequently, all the writ petitions of this bunch are *dismissed*.

31. No order as to cost.

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**(2025) 5 ILRA 495**

**ORIGINAL JURISDICTION**

**CIVIL SIDE**

**DATED: ALLAHABAD 20.05.2025**

**BEFORE**

**THE HON'BLE AJIT KUMAR, J.**

Writ A No. 6705 of 2025

**Santosh Kumar Pal** ...Petitioner  
**Versus**  
**Union of India & Ors.** ...Respondents

**Counsel for the Petitioner:**

Malik Juned Ahmad

**Counsel for the Respondents:**

A.S.G.I., Saumitra Singh

**Transfer – Retention Policy – Seizure**

**Disorder – Non-speaking order – Legality.**

Petitioner, a CRPF Constable, challenged modified transfer order despite being under treatment for seizure disorder at Prayagraj. Retention Policy (DG CRPF Circular 27.09.2022, Clause 7) allows exceptions on genuine medical grounds. Authorities, while altering station from Manipur to Visakhapatnam, failed to consider medical documents or reasons, passing a non-speaking order. Court held that transfer being an incidence of service is ordinarily within employer's domain, yet once a retention policy exists, authorities are bound to apply their mind to medical claims under it. Diseases mentioned in the policy are illustrative, not exhaustive. "Seizure disorder" is at par or more severe than listed ailments. Non-application of mind vitiates transfer order. Matter remitted to authority to reconsider petitioner's medical case; meanwhile, impugned transfer order dated 07.05.2025 quashed.

**List of Cases cited:**

1. U.O.I. Vs S.L. Abbas, (1993) 4 SCC 357

2. Mrs. Shilpi Bose & ors. Vs St. of Bihar & ors., AIR 1991 SC 532

3. Jitendra Singh Vs St. of U.P. & anr., Special Appeal No. 564 of 2024 (Allahabad High Court)

4. A.L. Kalra Vs Project and Equipment Corporation of India Ltd., (1984) 3 SCC 316 (referred through Jitendra Singh)

(Delivered by Hon'ble Ajit Kumar, J.)

1. Heard Sri Malik Juned Ahmad, learned counsel for the petitioner and Sri Saumitra Singh, learned counsel for the respondent.

2. In compliance of earlier order of this Court dated 16.5.2025 learned counsel for the respondent has obtained instructions in the matter and the same are taken on record, copy whereof is also supplied to the learned counsel for the petitioner.

3. Both learned Advocates agree that matter can be disposed of considering the stand taken by respondents in the instruction.

4. Petitioner before this Court who is working as Constable (GD) in the Central Reserve Police Force and is currently posted at Group Centre of the Force at Prayagraj, is aggrieved by the modified transfer order issued to him on 07th May, 2025.

5. Twin arguments have been advanced by learned counsel for the petitioner for assailing the order of transfer:

(i) Even though petitioner had completed three years of service posting at Prayagraj and was in list of proposed transfer for the year 2024-25, but since he was suffering severely from disease called

“seizure disorder” and was undergoing treatment at Swaroop Rani Nehru Hospital Prayagraj, he may be permitted to continue at Prayagraj itself so as to undergo treatment and recover from the disease and petitioner was permitted to continue at Prayagraj as per special category/Retention Policy contained in Clause 7 of the circular letter issued by the Director General of Central Reserve Police Force in the matter on 27th September, 2022. However, now when treatment is almost at the final stage as per assurance given by Medical Officer to him in the hospital, he ought to have continued under the same Retention Policy for another one year 2025-26.

(ii) Petitioner even though stood transferred despite his request from Prayagraj to Manipur and upon representation being made, instead of considering his retention at Prayagraj, his station has been changed from Manipur to Tiruvananthapuram under the order impugned, which according to him is not only against the policy, but sans consideration of facts and the reasons stated in the representation. Copy of the representation has also been brought on record as annexure 6 to the petition.

6. Meeting the submissions so advanced by learned counsel for the petitioner, learned counsel for the respondent has placed paragraphs 2,3 and 5 of the instructions to defend the order of transfer. Paragraphs 2,3, 4 and 5 of the instructions are reproduced hereunder:

*“2 It is a settled principle in law that 'transfer is an incident of service, a necessary concomitance of service made on administrative grounds & in public interest' and as such, the request/prayer of the petitioner is in contravention of the orders passed by the Hon'ble Apex Court in UOI*

*Vs S.L. Abbas((1993) 4 SCC 357) and Mrs Shilpi Bose & Ors Vs State of Bihar & Ors (AIR 1991 SC 532) wherein the Hon'ble Court has held that it is within the exclusive domain of the employer/administration to decide/determine as to what place and for how long the service of a particular employee are required'. It categorically envisaged that the 'employee has no vested right to get a posting at a particular place or choose to serve at a particular place for a particular time'.*

*3. Large proportion of the Force is deployed in Jammu & Kashmir (J&K), Left Wing Extremism (LWE) area & North Eastern States (NES) and every Force personnel is duty bound to serve honestly & faithfully in all kinds of terrain as per guidelines issued by GOI/MHA and Force Head Quarters from time to time. As such, an officer/official/personnel may be posted to any Unit or Office at any point of time and it is not administratively or practically feasible to always post an official to his place of choice/preference. Being a member of the Force, the petitioner is also bound to serve throughout the Country.*

*4. During the personal audience with Director General of CRPF, New Delhi considering his medical prospective, earlier transfer from GC CRPF Prayagraj to 143 Bn has been cancelled and allotted/posted to 198 Bn, CRPF Vishakhapattanam, Andhra Pradesh since having very good medical facilities.*

*5. Further, GC CRPF Prayagraj having 79 personnel of low medical category out of 359 personnel and mostly, native of Uttar Pradesh have to be relieved on transfer on completion of their normal tenure of 03 years, so that those posted in very difficult area get an opportunity to serve in this relatively soft area. If the petitioner is given one more year of service*

*extension at Group Centre Prayagraj then other personnel may also demand similar extension for one reason or other. The department is not in a position to retain more low medical category personnel, who are residents of Uttar Pradesh in service in Uttar Pradesh. This will have an adverse effect on other needy personnel who are residents of Uttar Pradesh but presently serving in difficult area."*

7. Learned counsel for the petitioner has further submitted before the Court that except for the disease from which petitioner was suffering, there is no other reason why petitioner would not be accepting transfer and petitioner is ready to give undertaking that if he is retained for another one year at Prayagraj, he would get his treatment concluded or even if not concluded, he would happily accept the transfer order in the next year i.e. 2026-27.

8. Having heard learned counsel for the respective parties and having perused the records, I find here only question to be arising in this case, whether the petitioner could have been retained at Prayagraj for another period of one year as he claimed that treatment is almost at the final stage, more especially when he is ready to give undertaking that he would accept transfer next year.

9. In order to appreciate the argument advanced by learned counsel for the respective parties, I proceed to examine the relevant provisions contained under the circular letter issued by the Director General. The relevant Clause 7 is reproduced hereunder:

**"7. Special Category/Retention**

*Any officer/official/personnel can apply for special category/retention. **Only***

*exceptional and genuine cases will be considered under these two categories. If any officer/official/personnel feel that his case should be considered separately under Special or retention, then he will have to apply along with required documents asmain grounds for considering under this category.*

*Merely applying under these categories does not create any right for posting under these categories. The Board of officers at Unit/Sector/Directorate level will scrutinize their cases and only suitable cases will be finally allowed. If found suitable, he may be posted considering the request, facilities of treatment, provision to keep family, available vacancies and other administrative/ operational constraints etc., to a suitable places which may even be different from preferences given. The cases which can be considered under this category may be as under:-*

**(1) On Medical grounds**

*Posting of officers/officials/personnel on medical grounds (including spouse and children) suffering from following illness may be considered based on the request or as per availability of treatment facilities subject to availability of vacancy. Their posting may be considered as per their status of health as certified by Medical officer/Composite Hospital or recent medical documents:-*

1) Infertility	2) Cancer	3) Paralytic Stroke	4) Renal Failure
5) Coronary artery disease, Thalassaemia,	6) Parkinson's disease	7) Motor-neuron disease	

10. From a bare reading of the aforesaid provisions, it clearly transpires that retention policy has been framed by the respondent, which is to be applied in exceptional and genuine cases. Retention Policy further states that merely because an employee has made an application to fall in the said category would not be taken to be a genuine case and every case has to be scrutinized accordingly to render it to be suitable or non suitable. The suitability would depend upon various variables like treatment facility availability of medical hospitals, doctors and other exceptional cases which may be necessary to undergo treatment at transferred station in comparison to the station where employees is currently posted. The policy further lays-down certain medical grounds like infertility, cancer, paralytic stroke, renal failure, coronary artery disease, Thalassaemia, Parkinson's disease, Motor-neuron disease. The provisions also refer to certain autistic child, an employee may be having for which considerations are alleged to be accorded.

11. The question what would be disease that would fall in exceptional category and words and expression genuine cases is to definitely depend upon the facts of a particular case. Petitioner claims to be suffering from "seizure disorder" and to this effect medical papers have been brought on record as annexure 1 with further CT Scan reports of the brain. Prima facie, looking to the papers and the documents relating to diagnosis like CT scan of brain etc. and the medical prescription, papers obtained from the hospitals and the continued treatment at the composite hospital Prayagraj, namely Swaroop Rani Nehru Hospital Prayagraj in my considered view this would fall in a category of 'genuine cases'. These details

regarding treatment though were there in the representation made by the petitioner on 8.4.2025 against his initial transfer from Prayagraj to Manipur, but authority concerned failed to discuss them at all, nor even referred to medical papers and just mechanically changed place of station from Manipur to Visakhapatnam. If the order is tested upon transfer policy as laid down under the circular letter issued by Director General of Central Reserve Police Force, one would not find this order to be passing the test for the reason that though the board of officers at the Unit/Sector/Directorate Level was under obligation to scrutinize each individual cases, once application was filed for retention under the special category/retention policy and yet absolutely non speaking order has been passed. Consideration of request qua treatment under which individual employee is undergoing, facilities available at the station where he is being transferred and distance, convenience availability from place of batallion to the hospital looking to the nature of disease and emergency of medical attention that may be required from time to time, all these aspects are to be discussed comparatively to find an answer as to whether case concerned is falling in exceptional and genuine cases' category. Thus, there has to be not only just application of mind, but due application of mind to the papers filed by individual praying for relief from proposed transfer or change of station under transfer as the case may be. If an order passed up upon a representation is a non speaking one, this itself would be a sufficient ground to quash such an order.

12. It is apt here to refer medical grounds which are 7 in number. The disease mentioned, in my considered view, cannot form an exhaustive list. A person

suffering from "seizure disorder" is a a more ailing person to the one suffering from Parkinson's disease and therefore, the authority while considering the request made on medical grounds will not be strictly restricting itself to the categories provided under the policy but would be certainly enquired to look into and discuss the disease for which the request for retention at a station is made and if disease is found to be severe more than those mentioned as medical grounds under the policy or even at par with them, the authority will not shirk away from its duty to hold such cases to be genuine and exceptional cases so as to give benefit of retention policy to such employee.

13. Coming to the stand taken by the respondent in the relevant part of the instructions, which has been reproduced above in the order, the Court does not find there to be any quarrel about legal principles that employer is in a best position to consider whether its employee is to be retained at the station or to be transferred in administrative exigency or public interest. The Court also does not find there to be any dispute with regard to principle that transfer being incidence of service, an employee cannot have indefeasible right to be retained at a particular station even for ordinary medical reasons or other family reasons. There is also no quarrel in the matter of transfer in armed forces of country including Border Security Force and Central Reserve Police Force wherein a personnel may be required to be posted at a hard station also and there could not be choice to be given priority in matter of transfer and posting and there is equally no quarrel about this principle that everybody cannot be taken at par whenever he comes with medical reasons to question the transfer, but I find here that the department itself has carved out exception to the general rule by incorporating a retention policy and therefore, every transfer order where request is made by the personnel or

employee to be retained on medical grounds, then authorities ceased with such matter are hide-bound in law to apply their mind to the request made and discuss medical ground and medical papers so as to find out to as to whether case falls in genuine and exceptional category cases or not as per Retention Policy.

14. It is true that the transfer policies are not to be enforced by Courts ordinarily but it is equally true that if the employer rolls out a transfer policy giving benefit of exceptional circumstances, it should honour to its own policy as it should not be a waste paper document. Authorities are expected to go by it as far as possible.

15. Very recently in the judgment, this Court in the case of **Jitendra Singh v. State of U.P and Another (Special Appeal No. 564 of 2024)** has held that when the government has framed transfer policy through government order, it is bound to follow the same, however, there may be exceptional circumstances where for the reasons to be recorded employee may take stand that transfer policy though laid down but provisions cannot be invoked in public interest or administrative exigency. The relevant portion of the judgment is reproduced hereunder:

*“6. Learned Single Judge also erred in law when he held in the order that the transfer policy is only directory in nature and, therefore, it did not bind the officials who were passing the order impugned in the writ petition. We are of the view that when there is a Government Order/Transfer Policy of the State then there is a legitimate expectation of the employee that the advantages which flowed from the Government Order would be made applicable to that employee. Definitely as per the law laid down in A.L. Kalra (supra), a Government Order had a binding force on the Authority which had issued it and which was taking advantage of it.”*

16. In the given facts and circumstances of this case, therefore, the Court considers it appropriate to remit the matter to the authority to reassess the medical papers of the petitioner in the matter of his request for benefit under the Retention Policy. The authority is also directed to consider the sympathetic request of the petitioner to be retained for another one year at his current police station if he undertakes before the competent respondent to retain him at Prayagraj itself to another year i.e. 2025-26.

17. Thus, this writ petition is disposed of with above observations and directions. In the circumstances the order dated 7.5.2025 transferring the petitioner from Prayagraj to Visakhapatnam impugned as annexure 7 to the petition is quashed.

18. The petition is accordingly disposed of.

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**(2025) 5 ILRA 500**  
**ORIGINAL JURISDICTION**  
**CIVIL SIDE**  
**DATED: ALLAHABAD 23.05.2025**

**BEFORE**

**THE HON'BLE SAURABH SHYAM SHAMSHERY, J.**

Writ A No. 7118 of 2022  
 With other connected cases

**Neha Sharma & Ors.                   ...Petitioners**  
**Versus**  
**State of U.P. & Ors.                   ...Respondents**

**Counsel for the Petitioners:**

Sri Alok Mishra, Sri Durvesh Kumar

**Counsel for the Respondents:**

Sri Rajeshwar Tripathi, C.S.C., Sri Awadhesh C. Srivastava, Addl. C.S.C., Brijesh Narayan, Mewa Lal Gupta, Brijendra