



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 5942/2026

Sqn. Ldr. Deepak Sindhu S/o Shri Jaiprakash Sindhu, Aged
About 34 Years, R/o H. No. 1242/3, Dj Map Air Force Quarters,
Air Force Station Jodhpur, District Jodhpur, Rajasthan.

-----Petitioner

Versus

1. Union Of India, Through The Secretary, Ministry Of
Defense, Government Of India, New Delhi-110011.
2. The Chief Of The Air Staff, Air Headquarter, Vayu Bhawan,
Rafi Marg, New Delhi-110106.
3. The Air Officer Personnel, Air Headquarter, Vayu Bhawan,
Rafi Marg, New Delhi-110106.
4. The Air Officer Commanding, South Western Air
Command (Swac), Air Force Station, Gandhi Nagar,
Gujarat.
5. The Air Officer Commanding, 32 Wing, Air Force Station,
Jodhpur, District Jodhpur, Rajasthan.

-----Respondents

For Petitioner(s) : Mr. Vikas Balia , Sr. Adv.
Assisted by Mr. Kailash Jangid
Mr. Priyansh Arora

For Respondent(s) : Mr. Bharatv Vyas ,ASG
with BP Bohra, Sr. CGC
Mr. Vaibhav Bhansali
Ms. Divyanshi Thanvi
Group Capt., Mr. Sanjeev Bindra
Wing Comm., Mr. Palash Ghosh
W.O., Mr. S.K. Trivedi



**HON'BLE MR. JUSTICE FARJAND ALI****Order****Reportable-****Date of Conclusion of Arguments : 27/03/2026****Date on which Order is Reserved : 27/03/2026****Full Order or Operative Part : Full Order****Date of Pronouncement : 30/03/2026****By the Court-****Grievance of the Case :**

1. The instant civil writ petition is directed against the transfer/signal dated 27.02.2026 claiming it to be arbitrary, unjust and illegal. It is further claimed that the petitioner has been transferred from 32 Wing, Air Force Station, Jodhpur to 11 Wing, Air Force Station, Tezpur (Assam), in gross violation of the applicable policy governing posting of officers (Gp Capt & below) (except Dental Branch) and settled principles of law.

Facts of the Case as narrated:

2. The petitioner is serving as a Squadron Leader in the Indian Air Force and is presently posted at 32 Wing, Air Force Station, Jodhpur. Since his commissioning, he has served at various stations in accordance with the directions issued by the competent authorities from time to time.





3. By Signal dated 14.07.2022, the petitioner was transferred from 260 SU to 5 Air Force Hospital, Jorhat (Assam), where he served as an Accounts Officer. During the course of his service, and in view of his qualification of LL.B., he was deputed to undergo the Air Force Judge Advocate Course at Coimbatore from 15.07.2024 to 08.03.2025, which he duly completed. Thereafter, vide Signals dated 04.03.2025 and 06.03.2025, he was posted to 32 Wing, Air Force Station, Jodhpur, where he joined on 08.03.2025 and has since been serving as a Legal Officer.

4. While discharging his duties at Jodhpur, the respondents issued a further Signal dated 27.02.2026 transferring the petitioner to 11 Wing, Air Force Station, Tezpur, with a direction to join on or before 30.03.2026. The petitioner has thus been subjected to transfer after a short tenure of approximately one year at his present posting, despite earlier having served in the North-Eastern region at Jorhat, Assam.

5. The petitioner's parents are suffering from serious medical ailments and are undergoing continuous treatment at Ambala and Chandigarh. His father has undergone major surgery for a renal pelvis tumor, including removal of one kidney, while his mother is a burn survivor requiring prolonged medical care. The applicable posting policy prescribes a normal tenure of two to four years, with an





endeavor to provide at least three years' stability at a station. Notwithstanding the same, and before completion of the minimum tenure, the petitioner has been transferred, leading him to submit a detailed representation dated 02.03.2026 seeking cancellation or modification of the transfer on medical and compassionate grounds; however, no decision has been taken thereon, compelling the petitioner to file the present writ petition.

6. The present writ petition came to be instituted on 16.03.2026, challenging the impugned transfer order. During the pendency of the present proceedings, the representation preferred by the petitioner came to be rejected vide communication dated 17.03.2026
7. It is pertinent to note that the respondents had already lodged a caveat on 12.03.2026, evidently in anticipation of the filing of the present writ petition.
8. Upon the matter being listed on 18.03.2026, time was granted to the respondents to file their reply, and the case was thereafter posted for further consideration on 25.03.2026.
9. On 25.03.2026, learned counsel for the respondents sought additional time to address arguments, whereupon the matter was adjourned and listed on 27.03.2026.
10. The Counsel for the Respondent submitted a written reply where it is stated:





That the petitioner, an Accounts Branch officer commissioned in 2014, has no vested right to a specific station as transfer is an inherent condition of service and an administrative exigency. The current posting to Tezpur was issued to meet organizational requirements and maintain operational effectiveness, which takes precedence over individual welfare policies as per settled legal principles and the petitioner's own commissioning oath. The respondents further stated that the petitioner's personal grievances regarding his parents' health lack merit, as his father is a non-dependent ex-serviceman with access to nationwide ECHS facilities, and his administrative representation for cancellation has already been considered and found non-feasible by the competent authority.

11. The petitioner's transfer to Tezpur is a routine administrative exercise necessitated by organizational requirements and the officer's branch qualifications, overriding any individual preference or welfare guidelines which are not legally enforceable. They assert that the petitioner has misquoted the posting policy and failed to establish any mala fides, particularly since his claims regarding parental dependency are contradicted by official records and the availability of universal ECHS medical coverage. Relying on settled judicial precedents, including *Shilpi Bose vs. State of Bihar 1991 Supp(2)SCC 659*, the respondents maintain that the scope of judicial interference





in military transfers is extremely limited and that the present writ petition, filed prematurely before the formal disposal of the petitioner's administrative representation, is a misleading attempt to bypass service discipline.

12. Heard learned counsels present for the parties and gone through the materials available on record.

**ORAL SUBMISSIONS OF LEARNED COUNSELS PRESENT
FOR THE PARTIES:**

13. Learned counsel for the petitioner submitted that the petitioner is confronted with grave and compelling personal circumstances. It was urged that the petitioner's father is suffering from a serious ailment, namely a tumor in the left renal pelvis, and has already undergone a major surgical procedure involving the removal of one kidney. It was further submitted that the petitioner's mother is a 50% burn survivor and continues to require constant care and assistance.

14. Learned counsel further asserted that the petitioner is presently serving in the Indian Air Force and is due to be discharged in the year 2028, with only about two years and three months of service remaining. In view of the aforesaid precarious family situation, it was contended that the petitioner does not seek posting at any particular station as a matter of right, but only prays that he may be accommodated at a place which is reasonably accessible to





Ambala, so as to enable him to attend to his ailing parents in times of need.

15. It was thus prayed that the petitioner is not pressing for any specific or rigid relief, but seeks a humane and considerate approach from the authorities, commensurate with the peculiar facts and circumstances of the case.

16. In reply to that Learned ASG submitted that the petitioner, being a member of the Indian Air Force, is a disciplined "warrior" who is obligated to serve wherever he is posted, in accordance with the exigencies of service. It was contended that such service inherently demands unwavering readiness and mobility, leaving little scope for individual preferences to override administrative requirements.

17. It was further asserted that the petitioner's parents are not financially dependent upon him, and therefore, no ground is made out warranting indulgence, of this court in writ jurisdiction. Learned counsel also urged that the transfer/posting policy relied upon by the petitioner is merely directory in nature and does not confer any enforceable or vested right, nor does it impose a mandatory obligation upon the authorities to adhere to it in every case.

OBSERVATIONS OF THIS COURT:

I. Limited Scope of Judicial Interference in Transfer Orders





18. At the very outset, it is imperative to underscore the settled and well-entrenched legal position that matters relating to transfer and posting of employees lie predominantly within the exclusive administrative domain of the employer. This principle applies with greater rigour in the context of disciplined forces such as the Indian Air Force, where considerations of operational preparedness, administrative exigencies, strategic deployment, and institutional discipline outweigh individual preferences. The scope of judicial review under Article 226 of the Constitution of India, in such matters, is inherently limited, and Courts have consistently exercised restraint in interfering with transfer orders unless compelling circumstances so warrant. Such restraint is founded upon the recognition that the employer is best suited to assess the requirements of the service and to determine the appropriate placement of its personnel in furtherance of organizational objectives.

19. It is equally trite that no government servant or member of the armed forces possesses a vested or indefeasible right to remain posted at a particular station of his choice. Transfer is an ordinary incidence and condition of service, implicit in the very nature of public employment. An employee, upon entering service, accepts the possibility of being transferred from one place to another in accordance with administrative needs. Therefore, a transfer order, by itself, does not infringe any legal right, unless it is shown to be vitiated by factors





extraneous to service requirements. Judicial review in such cases does not extend to examining the desirability or propriety of the transfer but is confined to testing the decision-making process on well-recognized legal parameters.

20. The scope of interference is not that of an appellate authority reassessing the merits of the decision, but rather that of a constitutional court ensuring legality of the process. The jurisprudence governing transfer matters is consistent and unequivocal in laying down that judicial interference is permissible only in narrowly circumscribed contingencies.

21. These include situations where-

- the transfer order is ex facie tainted by mala fide intention, or
- where it is issued in violation of a statutory provision or binding policy having the force of law, or
- where the authority passing the order lacks jurisdiction or competence.

22. Apart from these limited grounds, allegations relating to personal hardship, inconvenience, or even compassionate considerations, though deserving of sympathy, do not ordinarily furnish a legally sustainable basis for judicial interference, unless such factors are demonstrably ignored in an arbitrary or discriminatory manner.





23. Applying the aforesaid principles to the facts of the present case, this Court does not find any material on record which may, even prima facie, establish that the impugned transfer order is actuated by mala fides or is the result of any oblique or extraneous consideration. No statutory provision or enforceable rule has been shown to have been violated in issuing the transfer order, nor has the competence of the authority concerned been called into question. In such circumstances, this Court, being mindful of the limited scope of its jurisdiction, consciously refrains from exercising appellate-like scrutiny over the administrative decision in question and accords due deference to the discretion vested in the competent authority in matters of transfer and posting.

II. Object, Purpose and Normative Force of Transfer Policy

24. That said, while the power of transfer undoubtedly lies within the administrative domain, it is equally well settled that such power is not unbridled or unguided. The existence of a structured transfer policy is not an ornamental exercise but a substantive mechanism designed to ensure consistency, predictability, and transparency in administrative functioning. The very purpose of framing such a policy is to maintain uniformity in decision-making and to ensure that similarly





situated individuals are treated alike, thereby eliminating the possibility of discrimination.

25. The fundamental objective of such a policy is to obviate arbitrariness and prevent decision-making based on subjective preferences or individual predilections of officers occupying positions of authority at a given point in time. It is precisely to avoid a situation where different officers adopt different standards in identical factual circumstances that such policies are formulated.

26. A policy serves as a normative guide to ensure that similar circumstances and identical facts yield similar outcomes. This ensures that no individual is left with a legitimate grievance that while one person was treated in a particular manner, another, despite being similarly placed, was subjected to a different standard.

27. The underlying rationale is that administrative decisions should not vary with the individual occupying the office, but must be guided by objective and predetermined standards. This is not a private domain where discretion may be exercised at will; rather, it is a constitutional obligation of the State to act fairly and uniformly, consistent with the mandate of equality and non-discrimination.

28. It is, therefore, not open to the administration to treat the policy as a mere guideline to be followed at its convenience and disregarded at its whim. Such an approach would reduce





the policy to a dead letter. If authorities are permitted to follow the policy when convenient and ignore it otherwise, the very purpose of its formulation would stand defeated.

29. Thus, as far as practicable, and in the ordinary course, a duly framed policy is required to be followed in its true spirit. Although such a policy may not have statutory force, it carries significant persuasive and normative value, and ensures that administrative discretion does not degenerate into arbitrariness or "sweet will and caprice."

30. In this context, while it is well settled that in cases of administrative exigency the employer retains the discretion to transfer an employee to a suitable place, such discretion is neither unfettered nor uncanalised. The exercise of discretionary power in matters of transfer must remain subject to the discipline of reasonableness, transparency, and fairness. Even where the authority is vested with wide latitude, such power cannot be exercised arbitrarily, capriciously, or in disregard of established norms and policies. The absence of cogent reasons for effecting a transfer is indicative of non-application of mind, and an unreasoned exercise of such power undermines the credibility of administrative decision-making. Thus, even in the realm of transfer and posting, discretion must be exercised in a structured and principled manner, consistent with the mandate of Article 14 of the Constitution of India.





**III. Deviation from Policy: Exceptional Circumstances
and Requirement of Cogent Reasons**

31. It is no doubt permissible for administrative authorities to deviate from policy; however, such deviation is inherently exceptional in nature. The very existence of a policy implies that ordinarily it is to be followed, and deviation is not the rule but an exception. Whenever a deviation from the policy is effected, exceptional circumstances must be demonstrated to justify such departure.

32. Since a policy does not carry the force of law, deviation therefrom may be permissible; however, such deviation must be justified by the existence of special or exceptional circumstances. Otherwise, a legitimate question arises as to why the policy, once framed, is not being adhered to.

33. If deviation is permitted without restraint or reasoning, it would render the policy illusory and redundant. A policy cannot be reduced to a mere formality, to be observed at convenience and ignored at will. If that were to be allowed, the very exercise of policy formulation would lose its purpose and credibility.

34. Therefore, the discretion to depart from policy must be exercised judiciously and not arbitrarily. Such departure must be supported by cogent, discernible, and rational reasons which clearly demonstrate the existence of





administrative exigency or special circumstances warranting deviation.

35. In the present case, the petitioner has specifically relied upon the policy prescribing a minimum tenure; however, no reasons have been disclosed by the respondents for curtailing such tenure. The respondents have merely asserted their authority to transfer, without substantiating the necessity for deviation.

36. When a policy is invoked before the Court, the burden lies upon the respondents to justify departure therefrom. Failure to disclose reasons, particularly when specifically questioned, leads to a legitimate inference of arbitrariness. Thus, while deviation from policy is permissible, it is conditional upon the existence and disclosure of exceptional circumstances; absent such justification, the action becomes vulnerable to challenge.

***IV. Absence of Proven Administrative Exigency:
Failure to Establish Exceptional Circumstances***

37. Administrative exigency is often invoked as a justification for deviation from policy norms governing transfers; however, such exigency must be real, specific, and demonstrable, and not merely a bald assertion.

38. Since deviation from policy is permissible only in exceptional circumstances, the burden lies upon the respondents to establish the existence of such compelling administrative





necessity which warranted the petitioner's premature transfer.

39. In the instant case, no material has been placed on record to indicate that the petitioner's transfer to Tezpur was necessitated by any urgent or unavoidable administrative requirement. There is nothing to demonstrate that his presence at the transferred station is indispensable or that no alternative arrangement was feasible.

40. On the contrary, the petitioner has pointed out availability of personnel and functional requirements at other stations, which has not been effectively rebutted by the respondents. This further weakens the plea of administrative necessity.

41. It is also pertinent to note that the petitioner is not asserting any indefeasible right to be retained at a particular station of his choice. The limited grievance projected is that even if a transfer is to be effected, his case deserves to be considered for posting at a comparatively convenient station, including Delhi or any other station in the Northern or Western sector, especially in view of the serious medical condition of his parents. Such a submission, by its very nature, does not trench upon the administrative prerogative of the respondents, but merely invites a fair and reasonable consideration within the framework of the existing policy.

42. The respondents, however, have attempted to justify the impugned transfer by contending that there exists a





shortage of Accounts Officers at Tezpur. This assertion, when tested against the submissions advanced on behalf of the petitioner, does not inspire confidence. The petitioner has specifically pointed out that the shortage of Accounts personnel is even more acute at stations such as Delhi, which fact has not been effectively controverted by the respondents by placing any cogent material on record. In absence of comparative data or objective criteria, the selective invocation of shortage at Tezpur appears to be unsubstantiated and insufficient to constitute a compelling administrative exigency.

43. This Court is conscious of the fact that it is neither equipped nor expected to sit in judgment over the sufficiency of administrative deployment at various stations. At the same time, when "administrative exigency" is pressed into service as the sole justification for deviation from a binding policy, such exigency must be supported by some tangible material indicating that the requirement is real, pressing, and incapable of being met through alternative arrangements. Mere ipsi dixit of the respondents cannot be accepted as a substitute for demonstrable necessity.

44. Equally, it must be clarified that this Court is not a forum for granting postings based on personal preferences or conveniences of employees. Public service, particularly in a disciplined force, carries with it an inherent obligation to





serve wherever required. Once an individual opts for a transferable service, he implicitly accepts the incidence of transfer based on administrative needs. The Court cannot assume the role of a placement authority or a "charity forum" for securing postings at desired locations.

45. However, the above principle operates in tandem with the equally important requirement that administrative power must be exercised in a fair, just, and reasonable manner. While the respondents undoubtedly possess the authority to transfer personnel in accordance with service requirements, such power is not unfettered. It must be exercised in consonance with the applicable policy and supported by rational justification, particularly when it results in curtailment of prescribed tenure or affects an employee facing genuine hardship.

46. Mere invocation of "administrative exigency" without disclosing its factual basis cannot suffice. Such a plea, in absence of supporting material, fails to meet the threshold of exceptional circumstances required to justify deviation from policy.

47. Administrative exigency cannot be reduced to a ritualistic incantation to validate every transfer irrespective of facts. If accepted in such a manner, it would render the very concept of policy otiose and defeat the guarantee against arbitrariness.





48. In the absence of any concrete, verifiable, and compelling justification, the impugned transfer appears not to have been made in accordance with the applicable policy, and no reasonable grounds have been demonstrated to justify any deviation therefrom.

V. Judicial Review as a Check on Arbitrariness: Policy Deviation Only in Exceptional Circumstances

49. The power of judicial review vested in this Court is not confined merely to examining the legality of administrative action but extends to ensuring that such action conforms to the broader constitutional mandate of fairness, reasonableness, and non-arbitrariness.

50. It is well-settled that where an administrative authority frames a policy governing transfers, such policy is not an empty formality but a guiding framework intended to ensure consistency, transparency, and predictability in decision-making. Ordinarily, such policy deserves to be adhered to in its true spirit, as any departure therefrom has the potential to introduce arbitrariness.

51. Deviation from the prescribed policy, therefore, cannot be resorted to as a matter of routine. It is permissible only in exceptional circumstances, where compelling administrative reasons exist, which must be real, substantial, and discernible from the record. The element of exceptionality





must not be illusory or based on vague assertions, but must withstand objective scrutiny.

52. In this context, the scope of judicial review assumes significance. While the Court does not sit in appeal over administrative decisions, it is well within its jurisdiction to examine whether the decision-making process reflects due consideration of relevant factors, exclusion of irrelevant considerations, and existence of a rational nexus between the decision and the reasons assigned.

53. Thus, where deviation from policy is alleged, and particularly where reasons are either absent or unsubstantiated, the Court is duty-bound to invoke its power of judicial review to ascertain whether the case truly falls within the realm of exceptional circumstances or whether the deviation is merely a product of unstructured discretion.

54. In the present case, the petitioner has been transferred before completion of even the minimum tenure contemplated under the applicable policy, thereby giving rise to a legitimate concern regarding the fairness and justness of the decision. The absence of any cogent or discernible justification further necessitates judicial scrutiny.

55. It is further borne out from the record that the representation submitted by the petitioner seeking cancellation of the transfer has been rejected in a perfunctory and mechanical manner, as is evident from the





communication placed on record. The rejection reflects a degree of administrative indifference, inasmuch as it fails to disclose any substantive reason, much less any compelling administrative exigency, warranting denial of the request. It is submitted that a representation of this nature merits due and meaningful consideration particularly in cases where there exists some identifiable administrative necessity, inevitability of posting at a particular station, or where the exigencies of service genuinely demand such deployment in the larger interest of the State. However, in the present case, no such circumstance is either disclosed or discernible.

56. In fact, the manner in which the representation has been rejected exhibits a clear element of non-application of mind and administrative rigidity. A representation cannot be treated as an empty formality, to be disposed of cursorily, especially when the employee has specifically questioned the absence of any administrative exigency. The very purpose of entertaining a representation is to assess whether there exists any compelling, unavoidable, or service-driven necessity justifying the decision. Where such necessity is absent, the authority is expected to re-evaluate its decision with fairness and objectivity. The record, however, does not indicate that the posting of the petitioner at the transferred place is inevitable, indispensable, or required in the interest of service. There is no material to suggest that the petitioner's presence at the said station is necessitated by





any pressing administrative demand or public interest. In such a situation, the rejection of the representation, without addressing these core aspects, renders the decision arbitrary and reflective of mere administrative obstinacy rather than reasoned determination.

57. The insistence on enforcing the transfer, despite absence of any unavoidable or compelling circumstance, renders the decision susceptible to the charge of unreasonableness. Where no administrative exigency exists, and yet the authority chooses to adhere rigidly to its decision without proper consideration of the representation, the same ceases to be a reasoned administrative action and instead assumes the character of arbitrary exercise of power. The rejection, therefore, appears to be not founded on necessity, but rather reflective of a rigid and unjustified approach, which cannot be sustained in law.

58. It is a settled principle that administrative decisions must be guided by necessity and purpose, and not by mere insistence or inflexibility. If there are no unavoidable circumstances, no demonstrable requirement of service, and no compelling administrative reason necessitating the petitioner's continuance at the transferred station, then a rigid stand that the petitioner must nevertheless comply, despite raising legitimate grounds in representation, becomes inherently unreasonable. The law does not countenance a situation





where, in the absence of any discernible justification, the authority persists with its decision merely for the sake of maintaining it. Such an approach defeats the very essence of fair administrative process, where consideration of representation is intended to introduce flexibility, responsiveness, and justice into decision-making.

59. In the present case, the absence of any administrative exigency, coupled with the mechanical rejection of the representation, leads to a reasonable inference that the decision is not driven by necessity, but rather by an unwarranted rigidity. Such an exercise of power, devoid of justification and insensitive to the requirement of fair consideration, falls foul of the principles of reasonableness and non-arbitrariness enshrined in administrative law.

60. Therefore, while transfer is primarily an administrative function, it is not immune from judicial review where the action impugned fails to satisfy the test of fairness, reasonableness, and non-arbitrariness, particularly when it involves unexplained deviation from an established policy.

61. At this juncture, it is apposite to fortify the aforesaid principles by adverting to the authoritative pronouncement of the Hon'ble Supreme Court in **Rajendra Roy vs. Union of India (1993) 1 SCC 148**, wherein the contours of judicial interference in transfer matters were succinctly delineated.





62. The Hon'ble Court categorically held that transfer is an ordinary incidence of service and should not ordinarily be interfered with by Courts or Tribunals. The Supreme Court, however, carved out well-defined exceptions to this rule by holding that interference is warranted where the transfer order is vitiated by mala fides or is in violation of statutory provisions or binding guidelines governing transfers. It was emphatically observed that unless such infirmities are clearly established, Courts ought to refrain from substituting their own decision in place of that of the competent authority.

63. The Hon'ble Court further observed that allegations of mala fide cannot be sustained on mere insinuations or vague assertions, and that a "firm foundation" based on cogent material must exist before any such inference is drawn. At the same time, it was recognized that mala fide may, in appropriate cases, be inferred from surrounding circumstances, but only where such circumstances are clearly pleaded and established.

64. Importantly, the Supreme Court reiterated that personal hardship, inconvenience, or family dislocation, though genuine concerns, do not by themselves furnish a legally sustainable ground for quashing a transfer order. Such considerations fall within the administrative domain and are to be addressed by the department upon representation.





65. The ratio laid down in the aforesaid judgment thus reinforces a dual principle: firstly, that judicial restraint must be exercised in transfer matters; and secondly, that such restraint is not absolute, and judicial review can be legitimately invoked where the decision is shown to be arbitrary, mala fide, or in violation of governing norms.

66. Applying the said principles to the facts of the present case, it becomes evident that while this Court does not intend to sit in appeal over the administrative decision of transfer, it is nevertheless obligated to examine whether the impugned action withstands the test laid down by the Hon'ble Supreme Court. In particular, where a structured policy prescribes a minimum tenure and the same is curtailed without disclosure of any exceptional circumstance or administrative necessity, the action prima facie falls within the zone warranting judicial scrutiny.

67. Thus, the present case stands on a distinguishable footing, inasmuch as the challenge is not predicated merely on personal hardship, but on the foundational ground of unexplained deviation from an established policy, coupled with absence of reasons, thereby attracting the limited but well-recognized scope of judicial review as elucidated in the aforesaid judgment.

68. Consequently, while reaffirming the principle that transfer is an incidence of service and ordinarily immune from





interference, it must equally be held that where such transfer is effected in disregard of policy norms without any discernible justification, the same ceases to be a routine administrative act and becomes susceptible to correction in exercise of writ jurisdiction.

VI. Distinguishing the Judgments Relied Upon by the Respondents

69. The reliance placed by the respondents upon the judgment rendered in ***Shilpi Bose v. State of Bihar 1991 Supp(2)SCC 659*** is wholly misplaced and misconceived, as the said decision operates in an entirely different factual and legal matrix and does not govern the controversy involved in the present writ petition. A close and contextual reading of the said judgment itself reveals that the ratio laid down therein is confined to circumstances which are conspicuously absent in the present case.

70. At the outset, it is respectfully submitted that this Court is in complete agreement with the settled proposition enunciated in *Shilpi Bose* that a government servant holding a transferable post has no vested right to remain posted at a particular place, and that ordinarily transfer orders should not be interfered with when made in public interest or on administrative grounds. However, the applicability of this principle is conditional and not absolute, as is evident from the very language employed by the Hon'ble Supreme Court,





which clearly carves out exceptions in cases involving violation of statutory rules or mala fide exercise of power .

71. In this context, it is crucial to note that the primary ground on which the Hon'ble High Court had interfered in *Shilpi Bose* was the alleged lack of jurisdiction of the District Education Establishment Committee to effect transfers. The Hon'ble Supreme Court, upon examination, found that such authority did in fact possess the requisite jurisdiction and that the transfers had been effected to accommodate employees on request in order to mitigate hardship. Thus, the Supreme Court reversed the High Court's decision primarily on the premise that (i) the competent authority had jurisdiction, (ii) the transfers were made to alleviate hardship, and (iii) there was no violation of any mandatory statutory rule .

72. In stark contrast, the present case does not involve any such question of jurisdiction of the authority; rather, the challenge herein is predicated upon arbitrariness and violation of the governing posting policy, particularly the mandate regarding minimum tenure and the obligation to consider medical and compassionate grounds. The issue as to whether an order passed in violation of a binding policy framework warrants judicial interference was neither raised nor adjudicated in *Shilpi Bose*. Thus, the said judgment does not deal with the precise legal issue which arises in the present case.





73. Further, the Hon'ble Supreme Court in *Shilpi Bose* expressly observed that non-interference is warranted only where the transfer is made "in public interest and for administrative reasons". In the present case, however, there is no material on record to demonstrate that the impugned transfer has been effected in public interest or due to any compelling administrative exigency. On the contrary, the facts clearly disclose that the petitioner has been prematurely transferred within a short span of approximately one year, despite the policy prescribing a normal tenure of two to four years, with an endeavor to ensure stability of at least three years. Thus, the essential conditions which weighed with the Hon'ble Supreme Court in declining interference in *Shilpi Bose* are conspicuously absent here.

74. Moreover, the factual background of *Shilpi Bose* itself reflects that the transfers in question were effected on the request of the employees concerned to accommodate them and to alleviate hardship, which was considered a valid administrative exercise by the competent authority. In contradistinction, the present case involves a non-request, involuntary transfer, which has been effected despite the petitioner's compelling personal circumstances, including serious medical conditions of his parents and a pending representation seeking compassionate consideration. Therefore, the very factual foundation of the two cases is fundamentally dissimilar.





75. It is also pertinent to emphasize that *Shilpi Bose* does not lay down an absolute bar against judicial review in transfer matters; rather, it recognizes that interference would be justified where the order is vitiated by illegality, arbitrariness, mala fides, or violation of binding norms. The present case squarely falls within these recognized exceptions, inasmuch as the impugned transfer has been effected in disregard of the applicable policy governing tenure, and without due consideration of the petitioner's representation and humanitarian circumstances.

76. Thus, while the general principle stated in *Shilpi Bose* regarding limited judicial interference is not disputed, the said judgment cannot be applied to the factual matrix of the present case, as the same does not involve any issue pertaining to transfer policy, including (i) absence of demonstrated public interest or administrative necessity, (ii) violation of policy governing minimum tenure, (iii) existence of compelling medical and compassionate grounds, and (iv) absence of any claim by the petitioner to remain at a particular station as a matter of right.

77. In view of the aforesaid distinguishing features, this Court is of the considered opinion that the reliance placed by the respondents on *Shilpi Bose v. State of Bihar* is wholly untenable, and the said judgment does not apply to the facts and circumstances of the present case.





78. Further, the reliance placed by the respondents on the judgment rendered in ***D.B. Special Appeal Writ No. 738/2024 (Union of India & Ors. vs. Surendra Kumar)*** is wholly misconceived, inasmuch as the said judgment is clearly distinguishable on facts, law, and the issues involved, and therefore does not apply to the present case. A careful and contextual reading of the said judgment itself demonstrates that the foundation of the decision therein is materially different from the controversy involved in the present writ petition.

79. Firstly, as is evident from para 7 of the said judgment, the Hon'ble Division Bench categorically observed that the Policy of 2020 stood superseded by the Policy of 2022, and the entire adjudication in that case turned upon the interpretation of a "request posting" under the Policy of 2022, particularly the stipulation that such postings ordinarily carry a restricted tenure of two years. Thus, the principal ground on which the Division Bench interfered was that the employee therein had already completed the prescribed tenure of a *request/co-location posting*, and therefore could not claim extension. In stark contrast, in the present case, the petitioner's transfer is not founded upon the completion of any such restricted tenure of a "request posting", nor is the respondents' action justified on that footing. Rather, the petitioner has been prematurely transferred before completion of the minimum prescribed





tenure, thereby directly violating the very policy which governs normal postings. Thus, the ratio of the said judgment, which is premised on completion of a limited tenure under a request posting, is wholly inapplicable here.

80. Secondly, the controversy before the Hon'ble Division Bench was intrinsically linked to co-location/spouse posting grounds, as is apparent from paras 2.1 and 8 of the judgment , wherein the respondent therein sought continuation at a particular station on account of his wife being employed and his minor child. The entire adjudication revolved around the interplay between co-location policy and administrative exigencies. However, in the present case, no such claim of spouse co-location or right to remain at a particular station has been raised at all. The petitioner herein has not asserted any entitlement to be posted at Jodhpur or any specific place; rather, the grievance is confined to the arbitrariness and prematurity of the transfer, coupled with compelling medical and compassionate circumstances. Thus, the factual substratum itself is fundamentally different, rendering the said precedent inapplicable.

81. Thirdly, although the Hon'ble Division Bench in para 9 relied upon the judgment in *Major General J.K. Bansal*, which in turn is based on *Shilpi Bose*, the legal principle emanating therefrom is limited to the well-settled proposition regarding restricted scope of judicial interference in transfer matters.





This proposition is not in dispute even in the present case. In fact, this court respectfully adopts the same principle as noted by the Hon'ble Court in para 10 of the said judgment, namely that posting at a particular place cannot be claimed as a matter of right. However, the crucial distinction is that the present petition does not seek enforcement of any such right. There is no prayer or assertion seeking posting at a specific station. The challenge herein is directed against the illegality, arbitrariness, and violation of policy norms governing minimum tenure, which squarely falls within the recognized exceptions where judicial interference is warranted even as per *Shilpi Bose* and subsequent judgments.

82. Fourthly, the Hon'ble Division Bench itself, while reiterating the limited scope of interference, proceeded on the premise that there was no violation of statutory rules or policy in that case, and the transfer was justified on administrative exigency after completion of tenure. Conversely, in the present case, the petitioner has specifically demonstrated a clear infraction of the applicable posting policy, particularly the mandate of minimum tenure and the obligation to consider compassionate/medical grounds. Therefore, the foundational assumption which weighed with the Division Bench, namely absence of policy violation, is entirely absent here.





83. Lastly, the ratio of the said judgment is confined to a situation where an employee, after availing the benefit of a request/co-location posting for a defined tenure, seeks its continuation as a matter of right, which was rightly negated by the Hon'ble Court. The present case stands on an altogether different footing, where the petitioner is not seeking extension of any special benefit, but is only asserting that the premature curtailment of tenure, without consideration of binding policy norms and humanitarian factors, is arbitrary and unsustainable in law.

84. In view of the aforesaid distinguishing features—namely

- (i) reliance in the cited judgment on a superseded 2020 policy and its interpretation vis-à-vis the 2022 policy in the context of request postings,
- (ii) the centrality of spouse/co-location grounds in that case,
- (iii) absence therein of any policy violation, and
- (iv) the fact that no claim for a specific posting is made in the present petition, it is respectfully submitted that the said Division Bench judgment is clearly distinguishable and does not govern the controversy at hand. Hence, the reliance placed by the respondents thereon is misplaced and liable to be rejected.

85. The another reliance placed by the respondents on ***State of U.P. & Ors. vs. Gobardhan Lal, (2004) 11 SCC 402***, is wholly misplaced and distinguishable both on facts and in





law. The said judgment primarily reiterates the limited scope of judicial interference in transfer matters, particularly where the challenge is founded upon disputed allegations such as mala fides or political interference, unsupported by cogent material. In that case, the Hon'ble Supreme Court declined interference as the controversy involved seriously disputed questions of fact and the High Court had erred in issuing sweeping, generalized directions affecting administrative autonomy. In stark contrast, the present case does not involve any such disputed factual matrix; rather, the material facts, namely the petitioner's premature transfer within approximately one year, his prior tenure in the North-Eastern region, and the serious medical condition of his parents, are borne out from record and remain uncontroverted. The challenge herein is not premised on conjectural allegations but on demonstrable arbitrariness, violation of the governing transfer policy, and non-consideration of relevant and material circumstances, thereby squarely attracting the well-recognized exceptions even under the ratio of the said judgment.

86. Furthermore, unlike Gobardhan Lal (supra), where the transfer was justified on grounds of administrative exigency and attendant service considerations, the respondents in the present case have failed to disclose any compelling public interest or administrative necessity warranting such premature displacement of the petitioner, particularly when





he has recently been trained and posted as a Legal Officer. The applicable policy itself contemplates a normal tenure of two to four years with an endeavor to ensure stability, which has been disregarded without any justification. Additionally, the petitioner's detailed representation on serious medical and compassionate grounds has not even been considered, rendering the decision arbitrary and violative of principles of fairness under Article 14. Thus, the present case falls within the permissible scope of judicial review as envisaged even in Gobardhan Lal (supra), and the said judgment, far from supporting the respondents, in fact reinforces that interference is warranted where the administrative action is arbitrary, unreasonable, or ignores relevant considerations.

87. Additionally, a careful and meaningful distinction is required to be drawn between the judgment relied upon by the respondents (***rendered in Sunil Samdaria vs. State of Rajasthan & Anr., D.B. Civil Special Appeal No. 151/2025***) and the facts of the present case, for the reason that the said judgment operates in an entirely different legal domain and is founded upon a distinct factual and constitutional matrix, rendering it wholly inapplicable to the controversy at hand.

88. In the said judgment, as it is evident that , the core issue before the Hon'ble Division Bench pertained to a writ of *quo warranto* challenging the appointment of an Additional





Advocate General, primarily on the ground of alleged lack of requisite experience and the validity of Clause 14.8 of the Rajasthan State Litigation Policy, 2018. The controversy, therefore, revolved around

(i) the eligibility and suitability of a law officer for appointment,

(ii) the scope and enforceability of a State policy governing such appointments, and

(iii) the extent of judicial review in matters concerning policy decisions and professional engagements of legal counsel by the State.

89. The Court, in that context, examined whether the State could deviate from its own policy and whether such policy had statutory force, ultimately holding that the Litigation Policy was merely directory in nature and that the appointment of law officers remained within the discretionary domain of the State, subject to limited judicial review.

90. Contrastingly, the present case does not concern the appointment to any public or quasi-public office, nor does it involve a challenge to the validity of any policy amendment or the eligibility criteria for such appointment. Rather, the controversy herein pertains to the premature and arbitrary transfer of a serving officer of the Indian Air Force, governed by a structured and binding posting policy, which prescribes a minimum tenure and contemplates stability in service. The





petitioner's grievance is rooted in the violation of such policy, coupled with compelling humanitarian and medical circumstances, and the non-consideration of his representation. Thus, the nature of rights asserted in the present case flows from service jurisprudence and administrative fairness, unlike in the cited judgment where no enforceable right was found to exist in favour of the petitioner seeking appointment-related relief.

91. Further, in the relied-upon judgment, the Hon'ble Court was dealing with the question as to "who can be appointed" as an Additional Advocate General and whether experience is an inflexible criterion- essentially holding that professional competence and suitability cannot be reduced to rigid parameters and that the State enjoys wide latitude in such matters. The issue therein was not one of transfer, tenure protection, or service conditions of an employee. In fact, the Court explicitly recognized that such appointments are in the nature of professional engagements based on trust and confidence, and not governed by statutory service rules. In stark contrast, the present case involves a disciplined force where transfers are regulated by specific policies and norms, and where deviation therefrom, especially mid-tenure, invites judicial scrutiny on well-settled grounds such as arbitrariness, malafides, and violation of legitimate expectation.





92. Moreover, the judgment relied upon by the respondents does not deal with, nor even remotely consider, the parameters governing judicial review of transfer orders. It neither lays down nor applies the principles relating to premature transfer, compassionate grounds, or the obligation of the authorities to consider representations. The ratio of the said judgment is confined to the limited scope of interference in policy decisions concerning appointment of legal officers and the non-enforceability of executive guidelines in that context. Therefore, importing the said ratio into the present factual matrix would amount to a misapplication of precedent.

93. It is also significant to note that in the cited case, the Court found absence of any statutory violation or enforceable legal right, whereas in the present case, the petitioner asserts violation of a binding posting policy which envisages a minimum tenure, thereby giving rise to a legitimate expectation of continuity.

94. In view of the aforesaid distinctions, it is manifest that the judgment relied upon by the respondents is clearly distinguishable both on facts and in law. The issues involved therein- namely, the validity of policy amendment, discretion of the State in appointing law officers, and the scope of *quo warranto*, are entirely alien to the present dispute, which concerns arbitrary transfer in violation of service norms and non-consideration of representation. Consequently, the





reliance placed by the respondents on the said judgment is misplaced and does not advance their case in any manner.

VII. Compassionate Grounds and Humanisation in Administrative Law

95. In the Dharmashastra tradition, law was never conceived as a rigid or ruthless command, but as an instrument of Dharma, guided by compassion (daya), aimed at reform (prāyaścitta), and restrained by moral conscience. Any application of law devoid of empathy was considered adharm. Law is not a mechanical instrument devoid of human sensitivity; rather, it is a living system that must respond to human realities, balancing authority with fairness and discipline with humanity.

96. The civilisational ethos of Indian jurisprudence finds a profound articulation in the following verse from the Mahabharata (Book 12, Chapter 316, Shloka 12):

“आनृशंस्यं परो धर्मः क्षमा च परमं बलम्।

आत्मज्ञानं परं ज्ञानं न सत्याद् विद्यते परम्॥”

97. The aforesaid shloka encapsulates the foundational philosophy that compassion (ānṛśamsyam-non-cruelty, kindness) constitutes the highest form of Dharma, while forgiveness is regarded as the greatest strength. It further affirms that introspection represents the highest form of wisdom, and that truth remains the supreme guiding





principle. In essence, it conveys that the exercise of power, whether moral, social, or legal- must be anchored in empathy, restraint, and an unwavering commitment to truth.

98. In the context of modern administrative law, the said principle assumes particular significance. It reinforces that the State and its instrumentalities, while vested with wide discretionary powers, are equally bound by a duty to act fairly, reasonably, and with due regard to human circumstances. The rule of law does not postulate a sterile or mechanical application of norms; rather, it mandates a purposive and humane interpretation, especially where individual hardship is evident and capable of being mitigated without detriment to administrative efficiency.

99. The concept of, *आनृशंस्यं*, non-cruelty or compassion- thus operates as an ethical limitation on the exercise of administrative discretion. It obligates authorities to eschew decisions that, though technically permissible, produce disproportionately harsh consequences. The law, in its highest form, does not merely command obedience but inspires fairness; it does not merely regulate conduct but seeks to uphold dignity.

100. This ethical limitation on the exercise of power is not confined to the Dharmashastra corpus alone but is equally reflected in the enduring legacy of King Raja Vikramaditya, who is celebrated in Indian tradition as an embodiment of





न्याय (justice), धर्म (righteousness), and करुणा (compassion).

The accounts associated with his reign consistently portray a sovereign who did not administer justice in a rigid or mechanical manner, but with a deep sense of moral discernment, balancing the letter of the law with the demands of equity and humanity. It is this synthesis of authority with empathy that elevated his न्यायप्रियता (commitment to justice) beyond mere adjudication into a model of ethical governance. The enduring principle emerging from such traditions is that the legitimacy of any decision-making authority, whether royal or administrative, rests not merely in its power to decide, but in its capacity to temper such power with compassion, fairness, and a conscientious regard for human consequences.

101. Equally, the enduring principle that "दया धर्मस्य मूलम्" (compassion is the very foundation of Dharma) serves as a guiding reminder that the true strength of institutional authority lies in its capacity for empathy and magnanimity. Authority does not stand diminished when it accommodates genuine hardship; rather, it is elevated when exercised with sensitivity and humane consideration. The ability of the administration to respond with करुणा (compassion) and उदारता (magnanimity), particularly in situations involving compelling personal or medical exigencies, reflects not leniency but a higher standard of just and responsible governance





102. It is in this backdrop that the role of judicial review assumes importance. Courts, while exercising restraint in matters of transfer and administrative policy, are nevertheless duty-bound to ensure that discretion is not exercised in a manner that is arbitrary, unreasonable, or oblivious to material considerations. Where relevant factors, such as grave medical exigencies, are ignored or cursorily dealt with, the decision-making process stands vitiated for non-application of mind.

103. Thus, the highest conception of law is not one of unyielding severity, but of balanced justice, where mercy tempers authority, and compassion informs discretion. Administrative power, when exercised without regard to genuine human hardship, risks degenerating into arbitrariness; whereas, when guided by empathy and reason, it advances the cause of substantive justice and reinforces public confidence in the fairness of the system.

104. The petitioner's case presents compelling compassionate circumstances, particularly the serious medical condition of his parents, which cannot be brushed aside as routine or inconsequential. It is an admitted position, even on the part of the respondents, that the petitioner's parents are seriously ill and are undergoing regular medical treatment at a hospital in Ambala, which





further reinforces the genuineness and urgency of the compassionate grounds urged by the petitioner.

105. Illness of an ordinary nature stands on a different footing than grave ailments such as malignancy and major surgical conditions. The medical condition of the petitioner's father, involving a renal pelvis tumor and removal of a kidney, coupled with the mother being a burn survivor requiring prolonged care, clearly falls within the category of exceptional hardship warranting due consideration. To disregard such circumstances and to deny space for empathy and compassion in matters of this nature would amount to nothing but an exercise in undue rigidity.

106. The policy itself contemplates stability of tenure, which in the present case has not been adhered to. The petitioner has been transferred before completion of even the minimum prescribed tenure, thereby defeating the very objective of ensuring continuity and stability. It is also significant that the petitioner had earlier served in the North-Eastern region, and his present transfer again to a distant station, without adequate justification, exacerbates the hardship. The petitioner is not seeking immunity from transfer but only a reasonable accommodation in terms of posting, so as to enable him to discharge both his professional duties and familial obligations. The petitioner is the sole child of his parents, and it is a well-recognized facet of Indian ethos that





carrying for and serving one's parents constitutes an essential moral and social obligation, which further warrants due consideration in the matter of his posting.

107. Compassion is not antithetical to law; it is an integral part of justice. A legal system that disregards human suffering in the name of administrative expediency ceases to be just, even if it remains formally correct.

108. Administrative decisions which ignore genuine hardship, particularly when supported by cogent material and policy considerations, risk becoming unduly harsh, disproportionate, and ultimately unjust, thereby inviting judicial correction.

VIII. Judicial Determination: Illegality of Impugned Transfer Order and Consequential Relief

109. Having regard to the totality of circumstances, this Court is of the considered view that the impugned transfer order, though not illegal per se, suffers from lack of justness, fairness and non-consideration of relevant factors.

110. In view of the foregoing discussion, and having held that the impugned transfer/signal dated 27.02.2026 has been issued in violation of the applicable posting policy, without due consideration of the petitioner's minimum tenure, and in complete disregard of the compelling medical and compassionate circumstances placed on record, as also in the absence of proper application of mind in a determined





manner, while disposing of the representation, this Court is of the considered opinion that the said transfer order cannot be sustained in the eyes of law and deserves to be quashed and set aside.

111. Accordingly, the instant writ petition succeeds and the impugned transfer/signal dated 27.02.2026 transferring the petitioner from 32 Wing, Air Force Station, Jodhpur to 11 Wing, Air Force Station, Tezpur (Assam) is hereby quashed and set aside.

112. It is, however, clarified that in future the respondents shall be at liberty to pass a fresh order, if so required, strictly in accordance with law, the applicable posting policy, and upon due consideration of the petitioner's tenure, medical circumstances, and representation moved by him.

113. The writ petition stands allowed in the aforesaid terms.

114. The pending application(s), if any, also stands disposed of.

(FARJAND ALI),J

406-Mamta/-