



HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA

AND

THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY

12th August, 2026

WRIT PETITION (S/B) NO.530 of 2026

Saroj Kumar Mishra

-----Petitioner

Versus

State of Uttarakhand and Another

----Respondents

Presence:-

Mr. Yogesh Pant, learned counsel for the petitioner.

Mr. B.S. Parihar, learned Additional CSC with Mr. M.S. Bisht, learned Brief Holder for the State.

JUDGMENT: (per Manoj Kumar Gupta, C.J.)

1. Heard Mr. Yogesh Pant, learned counsel for the petitioner and Mr. B.S. Parihar, learned Additional CSC with Mr. M.S. Bisht, learned Brief Holder for the State/respondent nos.1 and 2.

2. The present writ petition has been filed by the petitioner, who is an Ayurvedic Medical Officer posted at Salla, District Pithoragarh, for a writ of mandamus directing the respondents to consider his request for transfer at a place where nephrological facilities are available to enable proper treatment of his wife.

3. The petitioner was transferred from Lohaghat, District Champawat to Salla, District Pithoragarh by order dated 11.11.2021. He challenged the said order by filing WPSB No.526 of 2021, wherein he raised the plea that he was suffering from a medical condition which warranted his transfer to a place where medical facilities are available.



The said writ petition was disposed of by a Co-ordinate Bench by order dated 27.11.2021, granting liberty to the petitioner to make representation to the Secretary, Department of AYUSH, with further direction to the said Authority to decide the representation within four weeks. In pursuance thereof, the petitioner made representation, but it was rejected by order dated 04.01.2022, observing that there were several complaints against the petitioner and an adverse entry was also awarded to him. Consequently, the petitioner remained posted at Salla, District Pithoragarh, since last four years. During the current annual transfer exercise, the petitioner submitted his request for transfer to a place where nephrological facilities are available on account of alleged chronic kidney disease of his wife, Smt. Kavita Mishra.

4. However, the petitioner has not been transferred. The petitioner, therefore, made a complaint at the CM Helpline Portal, which has been rejected, observing that his transfer was on administrative grounds, therefore, he is not eligible to seek transfer for 5 years. Moreover, it appears that the wife of the petitioner was examined by the Medical Board and it opined that her case does not fall under Section 3(d) of the Uttarakhand Annual Transfer for Public Servants Act, 2017.



5. Learned counsel for the petitioner has drawn our attention towards various medical reports of his wife, in submitting that she suffers from serious kidney disease and needs regular nephrological assistance, therefore, the respondents ought to have considered his request for transfer to any place where nephrological facilities are available. He further submits that the rejection of his complaint for the reason that the petitioner, having been transferred on administrative grounds, he cannot be considered for 5 years, is manifestly illegal, inasmuch as the only bar contained under Section 17(2)(c) of the Act is against transfer to the same District/place before expiry of 5 years. He submits that the petitioner was not seeking transfer to same District/place, but to any other place where nephrological facilities are available.

6. Learned State Counsel very fairly concedes that under Section 17(2)(c), the only restriction is for seeking posting in the same District/place in case of transfer on administrative grounds before expiry of 5 years.

7. Consequently, we are of the opinion that the request of the petitioner for his transfer to a place where nephrological facilities are available to facilitate treatment of his ailing wife deserves to be considered sympathetically.



8. The writ petition is disposed of with a direction to the Competent Authority to examine the request of the petitioner for his transfer to a place where nephrological facilities are available, within a period of two weeks from the date of making of a fresh representation along with supporting evidence and a copy of the instant order.
9. Pending application(s), if any, stand disposed of accordingly.

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 12.08.2026

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