



2026:DHC:5607-DB



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

+ W.P.(C) 6894/2026, CM APPL. 33826/2026

DEPUTY COMPTROLLER AND AUDITOR GENERAL
(HUMAN RESOURCE, INTERNATIONAL RELATIONS,
COORDINATION AND LEGAL) Petitioner

Through: Dr. S.S. Hooda, Mr. Aditya
Hooda, Mr. Manpreet Singh, Mr. Shaurya
Banshtu, Mr. Aayushman Aeron and Ms.
Rashmi Rawat, Advs.

versus

VISHAL BHATI & ORS. Respondents

Through: Ms. Aanchal Anand, Mr. Amit
Anand and Mr. Sunil Bansal, Advs.

+ W.P.(C) 7555/2026, CM APPL. 36560/2026

DEPUTY COMPTROLLER AND AUDITOR GENERAL
(HUMAN RESOURCE, INTERNATIONAL RELATIONS,
COORDINATION AND LEGAL) Petitioner

Through: Dr. S.S. Hooda, Mr.
Aayushman Aeron and Mr. Shaurya
Banshtu, Advs.

versus

SHADAB AKHTAR Respondent

Through: Mr. Nishant K. Srivastava and
Ms. Ananya Pandey, Advs.

+ W.P.(C) 7211/2026, CM APPL. 35307/2026

DEPUTY COMPTROLLER AND
AUDITOR GENERAL Petitioner

Through: Dr. S.S. Hooda, Mr.
Aayushman Aeron and Mr. Shaurya
Banshtu, Advs.

versus

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SUMIT VAID

.....Respondent

Through: Ms. Aanchal Anand, Mr. Amit Anand and Mr. Sunil Bansal, Advs.

+ W.P.(C) 7215/2026, CM APPL. 35321/2026

DEPUTY COMPTROLLER AND AUDITOR GENERAL
(HUMAN RESOURCE, INTERNATIONAL RELATIONS,
COORDINATION AND LEGAL)

.....Petitioner

Through: Dr. S.S. Hooda, Mr. Aayushman Aeron and Mr. Shaurya Banshtu, Advs.

versus

SONAM KAUSHIK

.....Respondent

Through: Ms. Aanchal Anand, Mr. Amit Anand and Mr. Sunil Bansal, Advs.

+ W.P.(C) 7302/2026, CM APPL. 35691/2026

DEPUTY COMPTROLLER AND AUDITOR GENERAL
(HUMAN RESOURCE, INTERNATIONAL RELATIONS,
COORDINATION AND LEGAL)

.....Petitioner

Through: Dr. S.S. Hooda, Mr. Manpreet Singh, Mr. Aayushman Aeron and Mr. Shaurya Banshtu, Advs.

versus

RAVIJOT SINGH & ORS.

.....Respondents

Through: Ms. Aanchal Anand, Mr. Amit Anand and Mr. Sunil Bansal, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE VINOD KUMAR

JUDGMENT (ORAL)

13.07.2026

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C.HARI SHANKAR, J.

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1. The respondents in these writ petitions, are employees of the Indian Audit and Accounts Department¹, a subordinate office of the Comptroller & Auditor General of India². They were posted on deputation at various stations where their spouses were also posted, or proximate to the stations where their spouses were posted.

2. In implementation of a deputation policy circulated under letter dated 27 January 2025³, issued by the Office of the CAGI to all heads of departments in the IA&AD, the respondents were, on completion of seven years at the stations to which they were posted on deputation, repatriated to their parent postings. This, naturally, resulted in their having to be separated from their spouses.

3. Aggrieved thereby, the respondents petitioned the Central Administrative Tribunal⁴ in a batch of original applications⁵, which have been disposed of, by the Tribunal, by judgment dated 15 April 2026. These writ petitions, at the instance of the office of the CAGI, challenge the said judgment.

4. The Tribunal has, by the impugned judgment dated 15 April 2026, disapproved the 2025 Policy and directed that the policy be reconsidered, and has also gone on to specify the lines on which such reconsideration was to take place. The Tribunal further directed that

¹ "IA&AD" hereinafter

² "CAGI" hereinafter

³ "the 2025" policy hereinafter

⁴ "the Tribunal" hereinafter

⁵ OA 1263/2025 (**Vishal Bhati v. The Deputy Comptroller and Auditor General of India**), OA 2996/2025 (**Shadab Akhtar v. The Deputy Comptroller and Auditor General of India**), OA 2631/2025 (**Sumit Vaid v. Comptroller and Auditor General of India**), OA 1711/2025 (**Sonam Kaushik v. Comptroller and Auditor General of India**) and OA 2808/2025 (**Ravijot Singh v. The Deputy Comptroller and Auditor General of India**)



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the respondents, i.e., the applicants before the Tribunal, be permitted to remain in the postings in which they were, without having to abide by the repatriation order, pending such reconsideration.

5. With the passage of time, the field of controversy has narrowed. The respondents have all joined their parent postings consequent to the order of repatriations which were challenged before the Tribunal. As a result, the challenges to the repatriation, on the ground that they violated the principles of spousal postings, does not survive for consideration.

6. Dr. Hooda, who appears on behalf of the CAGI, submits that the observations of the Tribunal, with respect to the 2025 Policy, are unjustified and unwarranted. He submits that, while spousal postings are desirable, they cannot constitute an inexorable norm and one does not have an indefeasible right to be posted at or near the station where one's spouse is posted, if administrative exigencies do not permit it. This, he submits, is well recognised in law.

7. Dr. Hooda further submits that, in so far as the present challenge is concerned, the issue is no longer *res integra*. The validity of the 2025 policy was decided by the Patna Bench of the Central Administrative Tribunal in its decision dated 8 October 2025 in OA/051/00289/2025⁶ and upheld. That decision was further impugned before the High Court of Jharkhand in *Adwin Vinifred Tirkey v. Union of India*⁷. The High Court, by a detailed judgment, which also

⁶ *Adwin Vinifred Tirkey v. Union of India*
⁷ 2025 SCC OnLine Jhar 3603



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considered the judgments of the Supreme Court in *SK Nausad Rahaman v. Union of India*⁸ and *Bank of India v. Jagjit Singh Mehta*⁹, upheld the validity of the 2025 Policy.

8. Dr. Hooda submits that the attention of the Tribunal, in the present case, was specifically invited to the judgment of the High Court of Jharkhand, but the Tribunal has chosen to ignore it and ruled contrary to the said decision. This, he submits, with some degree of justifiable chagrin, was absolutely impermissible.

9. In that view of the matter, Dr. Hooda submits that the impugned judgment of the Tribunal deserves to be set aside and the present petitions allowed.

10. Ms. Aanchal Anand, learned Counsel for the respondents fairly acknowledges that the 2025 Policy has, in fact, been upheld by the High Court of Jharkhand.

11. Inasmuch as the respondents have already rejoined their places of posting in compliance with the orders of repatriation, Ms. Anand submits that the direction, in the impugned judgment, to allow them to continue where they were earlier posted, without complying with the orders of repatriation, does not further survive for consideration.

12. Ms. Anand however submits the fact that the respondents have complied with their orders of repatriation should not stand in the way

⁸ (2022) 12 SCC 1
⁹ (1992) 1 SCC 306



of their representing to the petitioners for being permitted to be reposted at or near the station where their spouses are posted.

13. These being the limits of the controversy before us, it is not necessary to dwell deep into the legal intricacies of the dispute.

14. We do not deem it necessary to independently examine the validity of the 2025 Policy, as we are in entire agreement with the view of the High Court of Jharkhand in *Adwin Vinifred Tirkey* in that regard. We, therefore, deem it appropriate to reproduce, to advantage, the following passages from the said decision:

“18. Furthermore, it is by now well settled that the transfer in all India Service is an incident of service. Whether, and if so where, an employee should be posted are matters which are governed by the exigencies of service. Firstly, an employee has no fundamental right or, for that matter, a vested right to claim a transfer or posting of their choice. Secondly, executive instructions and administrative directions concerning transfers and postings do not confer an indefeasible right to claim a transfer or posting. Individual convenience of persons who are employed in the service is subject to the overarching needs of the administration. Thirdly, policies which stipulate that the posting of spouses should be preferably, and to the extent practicable, at the same station are subject to the requirement of the administration.

19. In this context it shall be apposite to refer to the judgment of the Hon’ble Supreme Court in *SK Nausad Rahaman and others v. Union of India* and others, reported in *AIR 2022 SC 1494*, para 23 to 27, which read as under:

23. While analyzing the rival submissions, certain basic precepts of service jurisprudence must be borne in mind.

24. First and foremost, transfer in an All India Service is an incident of service. Whether, and if so where, an employee should be posted are matters which are governed by the exigencies of service. An employee has no fundamental right or, for that matter, a vested right to claim a transfer or posting of their choice.



25. Second, executive instructions and administrative directions concerning transfers and postings do not confer an indefeasible right to claim a transfer or posting. Individual convenience of persons who are employed in the service is subject to the overarching needs of the administration.

26. Third, policies which stipulate that the posting of spouses should be preferably, and to the extent practicable, at the same station are subject to the requirement of the administration. In this context, Justice J.S. Verma (as the learned Chief Justice then was) speaking for a three-judges Bench of this Court in ***Bank of India v. Jagjit Singh Mehta*** held:

“5. There can be no doubt that ordinarily and as far as practicable the husband and wife who are both employed should be posted at the same station even if their employers be different. The desirability of such a course is obvious. However, this does not mean that their place of posting should invariably be one of their choice, even though their preference may be taken into account while making the decision in accordance with the administrative needs. In the case of all- India services, the hardship resulting from the two being posted at different stations may be unavoidable at times particularly when they belong to different services and one of them cannot be transferred to the place of the other’s posting. While choosing the career and a particular service, the couple have to bear in mind this factor and be prepared to face such a hardship if the administrative needs and transfer policy do not permit the posting of both at one place without sacrifice of the requirements of the administration and needs of other employees. In such a case the couple have to make their choice at the threshold between career prospects and family life. After giving preference to the career prospects by accepting such a promotion or any appointment in an all India service with the incident of transfer to any place in India, subordinating the need of the couple living together at one station, they cannot as of right claim to be relieved of the ordinary incidents of all India service and avoid transfer to a different place on the ground that the spouses thereby would be posted at different places. [...]No



doubt the guidelines require the two spouses to be posted at one place as far as practicable, but that does not enable any spouse to claim such a posting as of right if the departmental authorities do not consider it feasible. The only thing required is that the departmental authorities should consider this aspect along with the exigencies of administration and enable the two spouses to live together at one station if it is possible without any detriment to the administrative needs and the claim of other employees.

27. The above principle was cited with approval in *Union of India v. SL Abbas*¹⁰ where the Court held that transfer is an incident of service:

“7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it, while ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject. Similarly, if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline however does not confer upon the Government employee a legally enforceable right.”

20. Thus, what can be taken to be well settled that the power to transfer an employee in a transferable services is within the prerogative of the employer. It is the employer who must best weigh the employee that should be deployed for an effective discharge of his/her duties for the establishment.

21. The inconvenience caused to the employee and his/her family consequent to transfer are not sufficient cause to interfere with the orders of transfer. Generally, the



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Court exercising writ jurisdiction under Article 226 of the Constitution of India will not interfere with the orders of transfer of an employee issued by the employer for administrative reasons as it will adversely affect the smooth functioning of the institution unless an order of transfer is shown to be an outcome of malafide exercise of power or stated to be in violation of statutory provision prohibiting any such transfer. The Court or the tribunal cannot interfere with such orders as a matter of routine as though they are appellate authority substituting their own decisions for that of the institution, as against such orders passed in the interest of administrative exigencies of the services concerned. The scope of judicial review in this area is very limited.

22. In view of the aforesaid discussions and for the reasons stated above, we find no infirmity much less any illegality in the order passed by the Tribunal particularly when the same has been passed on the basis of the instructions issued by the respondents and as otherwise been passed in accordance with law. Consequently, there is no merit in this petition; the same is dismissed leaving the parties to bear the costs.”

15. We are, however, unable to appreciate the manner in which the Tribunal has, in the impugned judgment, dealt with the decision of the High Court of Jharkhand. The Tribunal has chosen to merely hold that the “factual matrix of the present case is materially distinguishable”. We are unable to agree.

16. The circumstances in which the petitioners in *Adwin Vinifred Tirkey* were placed are similar to those in which the respondents before us found themselves. The challenge to the very 2025 Policy which was impugned in the present case by the respondents failed, both before the Patna Bench of the Tribunal and, thereafter, before the High Court of Jharkhand. Ergo, in the light of the judgment of the High Court of Jharkhand, there was no way in which the prayers of



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the respondents in the OAs filed by them before the Tribunal could be granted.

17. The Tribunal, despite being a high judicial authority and entitled to respect, is hierarchically lower than the High Court. It is not open to any Bench of the Tribunal, therefore, to rule contrary to the judgment of a High Court. While it is always open to the Tribunal to distinguish the judgment of the High Court – or even of the Supreme Court – if cited before it, any such attempt at distinguishing the judgment has to be on clear and cogent grounds, with clear and cogent reasons for doing so. The manner in which the Tribunal has, in the present case, brushed aside the judgment of the High Court of Jharkhand, is far from satisfactory.

18. In view of the judgment of the High Court of Jharkhand in *Adwin Vinifred Tirkey*, with which we are in respectful agreement, we cannot sustain the view of the Tribunal that the 2025 Policy requires any reconsideration.

19. Moreover, the Tribunal has, in paragraph 72 of the impugned judgment, ruled as under:

“72. In view of the aforesaid discussion, we are of the considered opinion that while the impugned policy dated 27.01.2025 cannot be struck down in its entirety, it certainly warrants reconsideration and appropriate modification to ensure that it achieves a fair balance between administrative efficiency and the legitimate personal and family concerns of employees. Accordingly, all the present Original Applications are allowed in part, and the impugned policy is remitted to the Respondents for reconsideration. The Competent Authority is directed to undertake a comprehensive review of the policy and to suitably modify the



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same by incorporating the DoPT guidelines relating to spouse posting in their true letter and spirit. *The revised policy shall provide for a reasonable and transparent mechanism for relaxation of the seven-year cap in deserving and exceptional cases, particularly those involving spouse-related hardships. The Respondents shall also ensure that the policy is applied uniformly across all categories of employees, or, in the alternative, that any exceptions are supported by clear, rational, and justifiable criteria having a nexus with administrative objectives. Further, a structured and transparent framework shall be evolved governing extension of deputation, relaxation of the cooling-off period, and consideration of requests based on spouse posting, so as to eliminate uncertainty and ensure fairness in decision-making.*

(Emphasis supplied)

20. To our mind, in the afore-extracted paragraph from the impugned judgment, the Tribunal has travelled far beyond the justifiable limits of its jurisdiction. Assuming, *arguendo*, that the Tribunal could have recommended reconsideration of the 2025 Policy, the Tribunal was certainly not justified in directing such reconsideration on specified lines. It is well settled that no Court can direct the executive either to frame a policy¹¹, much less along lines specified by the court itself.

21. The Tribunal, needless to say, could not have frowned upon a policy the validity of which stood affirmed by the Jharkhand High Court.

22. We, therefore, set aside the impugned judgment of the Tribunal, insofar as it disapproves the 2025 Policy and requires its reconsideration. We once again express our respectful agreement with the view of the High Court of Jharkhand in *Adwin Vinifred Tirkey*.

¹¹ *Union of India v. K. Pushpavanam*, (2023) 20 SCC 736, *State of J&K v. AR Zakki* (1992) Supp (1) SCC 548 and *Employees' Welfare Association v. Union of India* (1989) 4 SCC 187



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23. The Tribunal has further directed that the respondents be not repatriated to their parent cadre pending reconsideration of the policy.

24. The respondents have already been repatriated to their parent cadres and, therefore, the direction to maintain *status quo* qua the respondents does not survive.

Conclusion

25. We, therefore, quash and set aside the impugned judgment of the Tribunal to the extent it has disapproved the policy dated 27 January 2025 and has directed that it be reframed.

26. However, Ms. Anand has prayed that our judgment should not stand in the way of the respondents seeking the benefit of the DOPT OM dated 30 September 2009 which deals with spousal postings.

27. We feel this to be a very fair request.

28. Accordingly, while we set aside the judgment of the Tribunal insofar as it has disapproved the deputation policy dated 27 January 2025 of the petitioner and directed its reframing, and also hold that the direction for maintaining *status quo* regarding the respondents postings at Delhi also does not survive for consideration, we reserve liberty with the respondents, should they so choose, to seek the benefit of the DOPT OM dated 30 September 2009 in accordance with law. They are at liberty to approach the petitioner in that regard.



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29. We make it clear that we have not expressed any opinion on the availability or otherwise of the benefit of the DOPT OM dated 30 September 2009. We are sanguine that the petitioner would address the matter in accordance with the legal principles that have been evolved in that regard.

30. Needless to say, should the respondents seek the benefit of the said OM and not obtain any relief, their rights in that regard would also remain reserved.

31. These writ petitions are disposed of in the aforesaid terms.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

JULY 13, 2026/aky