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

CNR No. DLHC010384082026

+ **W.P.(C) 11936/2026, CM APPL. 55317/2026, CM APPL. 55318/2026 & CM APPL. 55319/2026**

HIMANSHU BHARGAVA AND ORS.

.....Petitioners

Through: Mr. Abhishek Chandra Mishra, Ms. Sarita Mehta and Mr. Dev Devansh, Advocates.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through: Mr. Akshat Agrawal, SPC with Mr. Rajkarn, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

18.08.2026

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1. This writ petition seeks the following relief:

- “A. Issue an appropriate writ, order or direction, including a writ in the nature of Certiorari, quashing and setting aside Office Memorandum No. 1(5)/2026/EGoM/Absorption/OF/DP(M&P) dated 15.06.2026, together with the consequential Implementation Instructions dated 25.06.2026 and all subsequent communications issued pursuant thereto, to the extent the same initiate, mandate, regulate or give effect to the exercise of option for permanent absorption by employees continuing on deemed deputation, without first formulating, notifying and disclosing a comprehensive administrative framework governing employees who elect to continue as Central Government servants, as being arbitrary, unreasonable and violative of Articles 14 and 16 of the Constitution of India and contrary to the statutory protection contemplated under Rule 37(7) of the CCS (Pension) Rules, 2021.*
- B. Issue an appropriate writ, order or direction in the nature of*



Mandamus directing the Respondents to formulate, notify and publish a comprehensive administrative framework governing employees opting to continue as Central Government servants on deemed deputation, including, inter alia, cadre control, seniority, promotions, Departmental Promotion Committees (DPCs), APAR administration, disciplinary control, reporting hierarchy, inter-unit transfers, vigilance administration, implementation of Rule 37(7) of the CCS (Pension) Rules, 2021, redeployment mechanism, mapping of posts, compassionate appointments and all other consequential incidents of Government service;

- C. Direct the Respondents to operationalise the statutory mechanism contemplated under Rule 37(7) of the CCS (Pension) Rules, 2021 read with the CCS (Redeployment of Surplus Staff) Rules, 1990 by notifying the competent authority, procedure and manner of redeployment and by incorporating repatriation and redeployment through the Surplus Cell as a distinct third option in the prescribed Option Form;*
- D. Direct the Respondents to disclose and notify the administrative policy governing continuity of service, payment of salary, preservation of seniority, pensionary benefits, redeployment and other consequential service conditions in the event of restructuring, amalgamation, merger, financial distress, closure or any other eventuality affecting a successor DPSU;*
- E. Direct the Respondents to consider and decide the representations submitted by the Petitioners and recognised service associations by passing reasoned orders before proceeding further with the option exercise;*
- F. Direct the Respondents to issue a uniform policy governing grant of No Objection Certificates (NOCs) for higher education, deputation, training, foreign assignments and other career-related opportunities, and declare that the Petitioners shall remain eligible for deputation to other Ministries and Departments of the Government of India in accordance with the applicable rules;*
- G. Declare that any option exercised prior to complete disclosure of the aforesaid material information and notification of the requisite administrative framework shall not be treated as final, binding or irrevocable;*
- H. Stay the operation and implementation of the Office Memorandum dated 15.06.2026, the Implementation Instructions dated 25.06.2026 and all consequential communications, to the extent they compel or regulate the exercise of option for permanent absorption, and direct the Respondents to keep the ongoing option process in abeyance, including the consequence of deemed absorption upon non- submission of the option, until the administrative framework referred to in Prayer A is notified and*



adequate time is granted thereafter for exercising an informed option;

- I. Direct the Respondents not to compel any employee to exercise an irrevocable option pending final adjudication of the present petition;*
- J. Restrain the Respondents, their officers, servants, agents or any person acting on their behalf from taking any coercive, punitive, retaliatory or adverse action against the Petitioners solely on account of the institution or pendency of the present Writ Petition, including but not limited to:*
 - a. initiating or threatening disciplinary proceedings, suspension, issuance of charge-sheets, show cause notices or any other coercive proceedings;*
 - b. effecting punitive or mala fide transfers, postings or changes in duties intended to prejudice the Petitioners;*
 - c. withholding or delaying promotions, Departmental Promotion Committee (DPC) consideration, increments, Annual Performance Appraisal Reports (APARs), salary, leave, pensionary benefits or any other legitimate service entitlements;*
 - d. refusing, withholding or delaying No Objection Certificates (NOCs), vigilance clearances or forwarding of applications for deputation, higher studies, training, foreign assignments or any other career opportunities otherwise available under the applicable service rules; and*
 - e. otherwise acting in any manner calculated to prejudice, intimidate or victimise the Petitioners for having invoked the writ jurisdiction of this Hon'ble Court; and/or"*

2. At the outset, the Court has considered whether the present petition ought to be entertained directly under Article 226 of the Constitution. In the Court's opinion, it ought not to be.

3. The answer follows substantially from the manner in which the Petitioners themselves have framed their case. Their assertion is that they continue to be Central Government servants while serving on deemed deputation and that, before requiring them to exercise an option for permanent absorption, the Respondents must put in place a framework governing those who elect to retain that status. The matters in respect of



which such a framework is sought include cadre control, seniority, promotion, DPCs, APARs, disciplinary control, transfers, vigilance administration, redeployment, pensionary benefits and other consequential conditions of service.

4. The other reliefs are of the same character. The Petitioners seek operationalisation of the redeployment mechanism under Rule 37(7) of the CCS (Pension) Rules, 2021; protection of continuity of service, seniority and pensionary benefits; regulation of NOCs and deputation opportunities; and protection against adverse consequences in matters of promotion, increments, APARs, salary, leave and other service entitlements. The challenge to the Office Memorandum dated 15th June, 2026 and the Implementation Instructions dated 25th June, 2026 is, therefore, not divorced from their service relationship. It arises directly from it.

5. These are matters which fall within the jurisdiction entrusted to the Central Administrative Tribunal¹ under Section 14 of the Administrative Tribunals Act, 1985. The fact that the challenge is also founded upon Articles 14 and 16 of the Constitution, or that quashing of the impugned Office Memorandum is sought, does not alter the forum of first instance. In ***L. Chandra Kumar v. Union of India & Ors.***,² the Supreme Court has held that, in areas for which the Tribunals have been constituted, they are to function as the courts of first instance. The jurisdiction of the High Court under Articles 226 and 227 remains unaffected, but is ordinarily exercised after the matter has first been considered by the Tribunal.

6. Counsel for the Respondents has also stated that an Original

¹ “CAT”

² (1997) 3 SCC 261.



Application instituted by certain Group 'A' employees seeking similar reliefs is presently pending before the CAT. Counsel for the Petitioners disputes the similarity of those proceedings. Be that as it may, it is unnecessary for this Court to enter upon that issue. The present conclusion does not rest upon the pendency of the said Original Application, but upon the nature of the controversy and the reliefs sought in this petition.

7. The Court, therefore, finds no reason to permit the Petitioners to bypass the statutory forum constituted for adjudication of their service grievances.

8. Accordingly, the writ petition is disposed of, without entering into the merits of the controversy, with liberty to the Petitioners to approach the CAT in accordance with law. All contentions of the parties, including those concerning the validity of the impugned Office Memorandum and the consequential instructions, are left open for consideration by the Tribunal.

9. Pending application(s), if any, also stand disposed of.

SANJEEV NARULA, J

AUGUST 18, 2026/hc