

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.16430 OF 2024**

Dr. Amit Kumar

....Petitioner

Versus

The Director, Indian Institute of
Geomagnetism (IIG) and Ors.

...Respondents

Mr. Suresh Mane a/w. Ms. Mansi Makwana and Mr. Dinesh
Sonawane for the Petitioner.

Mr. Aniruddha A. Garge, Senior Panel Counsel for Respondent
Nos.1 to 4.

**CORAM : RAVINDRA V. GHUGE &
ASHWIN D. BHOBE, JJ.**

DATE : 13th NOVEMBER, 2024

P.C. :-

1. This matter was heard for quite some time yesterday.
The matter was granted an overnight pass over to enable the learned
Advocate for the Petitioner to take instructions as to whether the
Petitioner desires to withdraw this petition. The learned Advocate
submits today that, the Petitioner prays that this Court should pass
an order.

2. The Petitioner has put forth prayer clauses – (A), (B), (C)
and (D), as under :

*“A. The Hon’ble court may be pleased to issue a
writ of mandamus order or direction to the
respondents no.1 and 2 to quash and set aside the*

impugned transfer of dt. 31/07/2024 of the Petitioner.

B. The Hon'ble court may be pleased to issue a writ of Certiorari or any other appropriate writ, order or direction calling for the official records from the respondents' No.1 and 2.

C. Pending the hearing and final disposal of the petition, the Hon. court may be pleased to stay the impugned transfer order dt. 31/07/2024.

D. Pending the hearing and final disposal of the petition, the Hon. court may be pleased to direct the respondents no.1 and 2 to reconsider and revoke the impugned transfer order dt. 31/07/2024 on the ground of health and education issues of the petitioner's family".

3. During the course of the submissions on behalf of the Petitioner, the learned Advocate for the Petitioner contended that the Petitioner would surely report at the place of transfer at the Regional Centre of the Indian Institute of Geomagnetism (IIG) at Prayagraj, in June, 2025. It was further canvassed that the Petitioner prays for liberty to join in June, 2025 considering the ill health of his wife and the education of two children who reside in Mumbai. It was further canvassed that in such circumstances, the Petitioner would not desire to press for any other aspect in this case and prays for liberty to join the place of transfer in June, 2025.

4. The learned Advocate representing the Institution, on instructions, submits that the Institution is not agreeable for such a request for the following reasons :

- (a) The Petitioner joined service on 25th June, 2012.
- (b) He was posted at the headquarters at Panvel, Navi Mumbai and is working in the same position for more than 12 years.
- (c) The Petitioner is receiving pay matrix level – 10, which is a revised pay scale as per the 7th Pay Commission recommendations.
- (d) The Petitioner's service is transferable and there is an undertaking while joining duties that he is willing to serve anywhere in India.
- (e) The Petitioner was promoted as a Reader in pay matrix level – 11, with effect from 1st July, 2017, and was transferred to the same establishment at Prayagraj, in 2017.
- (f) The Petitioner made a request to the Management citing the health reasons of his spouse and prayed

for revoking the transfer on compassionate ground. Accordingly, as a good-will gesture, the transfer was revoked.

(g) The Petitioner has been promoted as Associate Professor in pay matrix level – 12 with effect from 1st July, 2023.

(h) The Petitioner is transferred to Prayagraj vide the impugned transfer order dated 31st July, 2024 after granting him 7 years of liberty to continue at Panvel, which decision was taken on compassionate ground.

(i) Considering the functional requirement, the employer cannot once again consider the case of the Petitioner.

(j) After the issuance of the transfer order with the approval of the competent Authority, the Petitioner has been relieved.

5. In the light of the peculiar facts, as canvassed before us by the Petitioner and the Employer, we have adverted to the medical papers placed on record by the Petitioner for indicating the illness of

his wife. The document dated 24th July, 2024 indicates that the Petitioner took his wife to the D.Y. Patil Hospital at Nerul and she was examined in the Out-Patient Department. The complaints cited by the Petitioner's wife are noted as under :

S/B JR2 / JR1 ↓ Psy (Dr. PS, Dr. KS) OD – None.
- P + seen
- D – BMD-I c/e Mania
- Last F/u – 15/06/24
- On regular medication

6. In the light of the above, the OPD examination report indicates that the patient has totally improved. There is no complaint of irritability or over talkativeness. Her sleep and appetite is normal. Bowel/bladder normal. No fresh complaints. She is not suffering from hallucination.

7. At page 119, is the OPD paper which shows that the Petitioner's wife again visited the same OPD on 26th August, 2024 and put forth new complaints of weakness and apprehensive thoughts. The reason for general weakness is cited as transfer of husband to Allahabad. Rest of the examination indicates that the spouse is having normal health. Tablets are prescribed and visit to the OPD is suggested after 30 days.

8. The spouse of the Petitioner again visited the same

OPD on 27th September, 2024 and the complaints cited by her are noted as under :

S/B JR2 ↓ Psy (Dr. PS)

S/B JR1 ↓ PSY (Dr. JO)

- pt seen

D – BMD-I c/e Mania

-Last F/u – 26/08/24

- On regular medication

9. Her complaint is that she sleeps for one to two hours in a day. The reason for stress is the transfer of her husband. The provisional diagnosis is that she is conscious, co-operative, communication is oriented to time, place and person. She does not suffer from delusion or hallucination. The same tablets have been continued. The report of the Medical Superintendent of the D.Y. Patil Hospital dated 21st February, 2018 indicates that the spouse of the Petitioner should be given light duties and suitable work. The learned Advocate for the Petitioner informs us that the spouse is a homemaker.

10. Considering the above, we find that the Petitioner has put forth medical records only to support his request for avoiding a transfer. Fortunately, the spouse of the Petitioner is neither suffering from any serious ailment nor can the medical reports indicate that it

could be a ground for setting aside the transfer order of the Petitioner.

11. In view of the above, and considering the law on the aspect of transfer being a normal incident of service and keeping in view that the illness of the spouse of the Petitioner in the facts of this case, cannot be a ground for cancelling his transfer, **this Writ Petition is dismissed.**

(ASHWIN D. BHOBE, J.)

(RAVINDRA V. GHUGE, J.)