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**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

WPA 5370 of 2025

**Naib Subedar Anup Kumar Mohapatra
-Vs-
Union of India & Ors.**

Mr. Kanchan Das,
Mr. Debanshu Ghorai

... for the petitioner

Mr. Rananjay Chatterjee,
Mr. Santosh Kumar Pandey

... for the Union of India

Affidavit of service filed in Court today is taken on record.

The petitioner is a member of the Indian Army and is presently holding the rank of 'Naib Subedar', a Junior Commissioned Officer (in short, JCO). The petitioner is presently posted at the Headquarters Commander Works Engineer, Kolkata with effect from 26th January, 2022. On 24th September, 2024, a combined transfer order in respect of JCOs/OR was issued by the Record Officer on behalf of OIC Records. Under such transfer order, the petitioner has been transferred to BEG Records Khadki, PIN- 908796, which is at Pune, Maharashtra. The petitioner was required to join at his transferred place at Pune by 31st January, 2025. The petitioner filed the instant writ

petition on 6th March, 2025. Although, the petitioner was required to join at his transferred place by 31st January, 2025, the petitioner has not joined at his transferred place on the ground of his mother's ailment. The petitioner had requested his superiors to consider his case sympathetically and as such, the transfer order was not strictly implemented by directing the petitioner to join the transferred place by 31st January, 2025. The petitioner says that his mother has been admitted in Command Hospital, Kolkata on 11th March, 2025 for knee replacement and the operation is scheduled to take place on 17th March, 2025. The petitioner says that he was and is still willing to join at the transferred place but due to his mother's illness, he is temporarily prevented for reasons beyond his control to join at the transferred place.

Transfer orders are seldom interfered with by the Court as it is left in the domain of the employer for smooth administrative purpose. The Hon'ble Supreme Court in the judgment reported in **(2009) 15 SCC 178 (Rajendra Singh and Others -Vs- State of Uttar Pradesh and Others)** has enumerated the limited grounds on which a transfer order can be interfered with by the Court. The petitioner though is an army personnel but in view of the provisions of Section 3 (o) of the Armed Forces Tribunal Act, 2007 and in particular the exclusion of clauses mentioned therein, a

matter relating to transfer is required to be filed before the High Court of competent jurisdiction instead of before the Armed Forces Tribunal constituted under the said Act.

Considering the petitioner's case and after hearing the respondents, I think that the justice will be sub-served if I direct the petitioner to join at his transferred place not beyond 10th April, 2025. This relaxation is granted by this Court not by interfering with the Transfer Order dated 24th September, 2024 but considering the petitioner's case sympathetically since his mother has been admitted in Command Hospital, Kolkata for knee replacement. Accordingly, the Movement Order dated 26th February, 2025 stands modified to that extent.

It is made clear that no further time shall be given to the petitioner to join at his transferred place and the authorities shall be free to take such steps and/or further steps for implementation of the transfer order and any consequential steps in accordance with law. It is also made clear that no stringent or penal measure shall be taken against the petitioner for having failed to join at the transferred place by 31st January, 2025 or in terms of the Movement Order dated 26th February, 2025.

Nothing further remains to be adjudicated in this writ petition. The same is accordingly disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court without insisting upon production of a certified copy thereof.

(Arindam Mukherjee, J.)