



2025:DHC:2665-DB



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

Date of decision: 17.04.2025

+ W.P.(C) 4837/2025
NIZAM UDDIN KHANPetitioner
Through: Mr.Durgesh Gupta, Adv.

versus

PRINCIPAL RESIDENT COMMISSIONER OF UT OF
JAMMU AND KASHMIR AND ORSRespondents
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE RENU BHATNAGAR

NAVIN CHAWLA, J. (ORAL)

CM APPL. 22168/2025 (Exemption)

1. Allowed, subject to all just exceptions.

W.P.(C) 4837/2025 & CM APPL. 22167/2025

2. This petition has been filed by the petitioner, praying for the following reliefs:

“i) Issue a Writ Under Article 226 Of The Constitution Of India For Issuance Of Appropriate Writ Quashing The Notice Dated 06.03.2025 Bearing No. Krc/Misc/Cc-12248/980-84/25, Whereby Proceedings Are Being Contemplated Asking The Petitioner To Vacate The Official Accommodation, Being Arbitrary, Ex-Facie Illegal And Without Jurisdiction

ii) Issue a Writ Under Article 226 Of The Constitution Of India For Issuance Of Appropriate Writ Quashing The Transfer



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Order Dated 07.08.2024 Bearing No. 360 Krc Of 2024, Being Arbitrary, Ex-Facie Illegal And Without Jurisdiction.

iii) Issue a Writ Under Article 226 Of The Constitution Of India For Issuance Of Appropriate Writ Setting Aside Order/S Dated 11.03.2025 And 24.10.2024 Passed By CAT, Delhi in OA No. 3973/2024, Declining Interim Relief To The Petitioner.

iv) Issue a Writ Under Article 226 Of The Constitution Of India For Issuance Of Appropriate Writ Directing The Respondents To Pay Subsistence Allowance To The Petitioner W.E.F. Date Of Suspension Order Dated 30.09.2024 Till Date And Continue To Pay Till Decision Of Purported Enquiry Against The Petitioner And Also To Pay Salary Of August And September 2024”

3. It is the case of the petitioner that the petitioner was appointed as a Farash by the respondents on 06.06.1994. He filed a Suit for recovery against the respondents on 24.12.2022, because of which, the respondents issued the Transfer Order dated 07.08.2024, transferring him from Delhi to Mumbai as Multi Task Staff.

4. The petitioner challenged the same before the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, ‘learned Tribunal’) in form of an Original Application (OA), being OA No. 3604/2024, which was disposed of by the learned Tribunal *vide* its Order dated 13.09.2024, directing the respondents to consider the contents of the OA as a representation. The respondents, however, rejected the same by an Order dated 30.09.2024.

5. In the meantime, disciplinary inquiry proceedings were also initiated against the petitioner and he was placed under suspension. Proceedings for seeking vacation of his official accommodation were



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also initiated.

6. The petitioner filed a fresh O.A., being O.A. No. 3973/2024, on which the learned Tribunal by an Order dated 24.10.2024, refused to grant an *interim* protection to the petitioner, observing as under:

“5. Applicant maybe having prima facie case and we have already ordered issuance of notice, however, we find that this is not a case where if interim stay, without affording opportunity to the respondents to file reply, is not granted, the applicant is likely to suffer irreversible loss or hardship and the Tribunal may not be in a position to adequately compensate if the applicant ultimately succeeds in the matter.”

7. Thereafter, O.A. has been listed before the learned Tribunal, however, no *interim* protection has been granted to the petitioner.

8. The petitioner being aggrieved of non-grant of the *interim* protection, has filed the present petition.

9. The learned counsel for the petitioner reiterates that the entire action of the respondents is activated by malice as the petitioner had chosen to file a Suit for recovery against the respondents.

10. He further submits that the health condition of the petitioner has not been considered by the respondents nor has it been considered that the petitioner is likely to retire after two years and has already been in Delhi since the year 1994.

11. We have considered the submissions made by the learned counsel for the petitioner, however, find no merit in the same.

12. At the outset, we would note that the learned Tribunal by an Order dated 24.10.2024, had refused to grant any *interim* protection to



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the petitioner against his Transfer Order. The petitioner has, admittedly, still not joined his place of service and now disciplinary inquiry has been initiated against the petitioner. The Suit on basis of which malice is alleged by the petitioner, was filed in 2022, whereas, the Impugned Transfer Order was passed in 2024.

13. In addition to the above, there is also delay in filing the present petition.

14. The petitioner, therefore, has been unable to make out any case for interference of this Court in exercise of its powers under Article 226 of the Constitution of India.

15. The petition alongwith the pending application is accordingly dismissed.

NAVIN CHAWLA, J

RENU BHATNAGAR, J

APRIL 17, 2025/sg/ik

Click here to check corrigendum, if any