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

% ***Date of Decision: October 29th, 2026***

\# **CNR No. DLHC010272692026**

\+ **W.P.(C) 8678/2026 & CM APPL. 40614/2026, CM APPL. 41768/2026**

PRABHAT MOHAN THAKUR .....Petitioner

Through: Mr. Rajnish Kumar, Mr.Prabhat Kumar, Ms. Risha Kumari, Advocates.

versus

NCSC & ORS. .....Respondents

Through: Mr. T.P.Singh, SPC for R1.
Mr. Ripudaman Bhardwaj, CGSC with Mr. J.P. Singh, Mr. Kushagra Kumar and Mr. Mrityunjya Mahendra, Advocates.

CORAM:
HON'BLE MR. JUSTICE AMIT MAHAJAN

AMIT MAHAJAN, J. *(Oral)*

1. By the present petition, the petitioner seeks the following reliefs:

> *"(a) Issue a writ of certiorari or any other appropriate writ, order, or direction, quashing and setting aside the impugned Office Order dated 19.06.2026 (File No. NCSC-Adm.031/2/2026-Admin[105765]) issued by Respondent No. 2; (b) Issue a writ of mandamus or any other appropriate writ, order, or direction, directing the Respondents, jointly and severally, to forthwith restore the Petitioner to his deputation post as Research Officer at the NCSC, with all consequential service benefits and pay entitlements;*
> *(c) Pending hearing and final disposal of the present petition, stay the operation of the impugned Office Order dated 19.06.2026 in its*

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entirety;
(d) Direct Respondents to furnish the Petitioner with a complete copy of the ICG Inquii7 Report and its findings, and afford him a full and fair hearing before any further action is taken in consequence of the POSH proceedings;
(e) Direct the Respondents to comply strictly with Rule 2.6 and Rule 5.2 of the NCSC Rules of Procedure, 2009, and Para 9 of the DoPT Office Memorandum dated 17.06.2010, before taking any further action in relation to the Petitioner's deputation;
(f) Direct Respondent No. 4 (DoPT), as the cadre controlling authority for CSS, to ensure that no adverse notings, entries, or records are made or maintained in the Petitioner's CSS service record in consequence of the impugned order, pending disposal of this petition;

2. Succinctly stated, the petitioner is a member of the Central Secretariat Service and holds the post of Assistant Section Officer in the Ministry of Power, Government of India. On 31.05.2024, the petitioner joined the National Commission for Scheduled Castes (hereafter referred to as **'NCSC'**) as Research Officer on deputation, for a period of three years.

3. On 29.10.2025, a complaint was made against the petitioner by a colleague under the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (hereafter referred to as **'POSH Act'**). Subsequently, the petitioner appeared before the Internal Complaints Committee (hereafter **'ICC'**) on 16.02.2026 and submitted his written response to the allegations on 13.03.2026.

4. Thereafter, by the impugned Office Order dated 19.06.2026, the petitioner was repatriated to his parent cadre with immediate effect. The impugned order reads as under:

"The Competent Authority has directed that, in view of the allegations and the enquiry conducted under the POSH Act, Shri Prabhat Mohan Thakur, presently working as Research Officer on

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deputation in the National Commission for Scheduled Castes, be repatriated to his parent cadre, i.e., the Ministry of Power, with immediate effect.

2. Shri Prabhat Mohan Thakur, Research Officer, is hereby relieved from the National Commission for Scheduled Castes with effect from the afternoon of 19th June, 2026 and directed to report to his parent cadre forthwith."

(Banamali Naik)
Deputy Secretary to the Govt. of India

5. The petitioner had initially assailed the impugned order before the learned Central Administrative Tribunal (hereafter referred to as **'CAT'**) by way of an Original Application bearing Diary No. 7175/2026. The same was dismissed as withdrawn by order dated 01.07.2026, with liberty to the petitioner to approach the appropriate forum in accordance with law.

6. The present petition has been filed thereafter.

7. By order dated 08.07.2026, this Court had directed that the petitioner will be considered to be on leave in the Department concerned till the next date of hearing.

8. During the course of arguments, the learned counsel for the petitioner has confined the challenge to a limited point, that is, that the impugned order has been issued without the approval of the Chairman, NCSC. He submits that in terms of Rule 2.6 of the Rules of Procedure of the NCSC, all important administrative matters, including those relating to deputation, are required to be placed before the Chairperson. He places reliance upon a communication issued by the Additional Private Secretary to the Chairman, NCSC, to contend that the impugned order was issued without the knowledge or approval of the Chairman.

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9. *Per contra*, the learned counsel for the respondents submits that a deputationist has no vested right to continue on deputation and the borrowing department is competent to repatriate him at any time. He submits that in terms of the Gazette Notification dated 18.01.1999, the Secretary, NCSC is the appointing as well as the disciplinary authority in respect of ***Group 'B'*** posts in the NCSC and, therefore, the approval of the Chairman was not required.

10. He further submits that the proceedings under the POSH Act have not attained finality, as the complainant has expressed dissatisfaction with the outcome of the inquiry.

11. I have heard the learned counsel for the parties and perused the record.

12. At the outset, it is relevant to note that it is well settled that a deputationist does not have any indefeasible right to continue on deputation in the borrowing department, and that he can be repatriated to his parent department. Reference in this regard may be made to the judgment of the Hon'ble Apex Court in ***Kunal Nanda v. Union of India:*** **(2000) 5 SCC 362**. The petitioner, therefore, cannot claim, as a matter of right, that he be continued with the NCSC till the expiry of the period of deputation.

13. It emerges from the record that the aspect regarding the approval of the Chairman has been sufficiently explained by the respondents in the counter-affidavit filed by the respondent. The relevant portion of the counter-affidavit reads as under:

> "*14. That the petitioner's contention that the impugned Office Order required the prior approval of the Hon'ble Chairperson is equally misconceived. The petitioner was serving as a Research*

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Officer, a Group 'B' Gazetted Officer, and under the applicable Gazette Notification dated 18.01.1999 issued by the Government of India, the Secretary, National Commission for Scheduled Castes, is the competent appointing and disciplinary authority in respect of Group 'B' officers. There exists no statutory provision, executive instruction or administrative requirement mandating prior approval of the Hon'ble Chairperson before repatriation of a Group 'B' officer serving on deputation. Without prejudice thereto, it is submitted that the facts and circumstances relating to the petitioner's repatriation were duly brought to the notice of the Hon'ble Chairperson and, therefore, the allegation that the impugned action was taken behind the back of the Hon'ble Chairperson is factually incorrect, misleading and contrary to the official record.

xxx xxx xxx

28. ... The Additional Private Secretary does not possess a statutory, administrative or legal authority to certify, authenticate or communicate the official decisions of Hon'ble Chairperson in service matters. Any communication issued by such personal staff, without any statutory authority or express authorization, cannot override the official records maintained by the Commission nor invalidate an otherwise lawful administrative action taken by the competent authority."

14. This Court finds merit in the explanation furnished by the respondents. The petitioner, while on deputation with the NCSC, was holding the post of Research Officer, which is a ***Group 'B' post***. The respondents have placed on record the Gazette Notification dated 18.01.1999, as per which the Secretary, NCSC is the appointing as well as the disciplinary authority in respect of ***Group 'B' posts***. The impugned order does not impose any penalty upon the petitioner and merely places his services back at the disposal of his parent department. The petitioner has not been able to point out any statutory provision which mandates the prior approval of the Chairman before a deputationist holding a Group 'B' post is repatriated to his parent department.

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15. Even otherwise, **Rule 2.6 of the Rules of Procedure** (hereafter referred to as **'RoP'**) of the NCSC, on which reliance has been placed by the petitioner, only contemplates that important administrative matters shall be placed before the Chairperson. The respondents have categorically stated on affidavit that the facts and circumstances relating to the repatriation of the petitioner were duly brought to the notice of the Chairman. The respondents have further stated that the counter-affidavit has been filed after the same was duly briefed to the Chairman. Thus, it is not the case that the Chairman has disowned the impugned order.

16. Insofar as the contention regarding the competence of the authority is concerned, the respondents have placed on record the Gazette Notification dated 18.01.1999, as per which the Secretary NCSC is the appointing as well as the disciplinary authority for ***'Group B'*** posts. In view of the order passed herein, this court does not consider it necessary to go into this aspect.

17. The respondents have not disputed that a copy of the report of the ICC was not furnished to the petitioner before the impugned order was passed. Section 13 of the POSH Act contemplates that the report of the ICC shall be made available to the concerned parties. Further, the respondents themselves state that the proceedings under the POSH Act have not attained finality. In such circumstances, the petitioner could not have been visited with an order founded on the said allegations, without being furnished with a copy of the report and without being afforded any opportunity of being heard.

18. A bare perusal of the impugned order shows that the same is not

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an order of repatriation simpliciter. The order expressly records that the petitioner is being repatriated *'in view of the allegations and the enquiry conducted under the POSH Act'*. The respondents in the Counter-Affidavit have also stated that the ICC had recommended disciplinary action against the petitioner and, instead of acting upon the same, the competent authority chose to repatriate the petitioner.

19. Although the learned counsel for the petitioner has confined the challenge to the aforesaid limited point, it would be apposite to also deal with the contention raised in the petition that the impugned order has been passed without the advance notice of three months contemplated under ***Para 9 of the DoPT OM dated 17.06.2010,*** which reads as under:

> ***"9. Premature reversion of deputationist to parent cadre.***
> *Normally, when an employee is appointed on deputation/foreign service, his services are placed at the disposal of the parent Ministry/ Department at the end of the tenure. However, as and when a situation arises for premature reversion to the parent cadre of the deputationist, his services could be so returned after giving an advance notice of at least three months to the lending Ministry/ Department and the employee concerned."*

20. A plain reading of Para 9 shows that the same governs *premature reversion of a deputationist*. It provides that, for premature reversion, the services of the deputationist *"could be so returned"* after giving an advance notice of three months. The object of the provision is to enable the lending department to plan for the return of the officer and to enable the employee to make arrangements for the same. The said provision cannot be read to compel the borrowing department to retain a deputationist in the same workplace for a further period of three months, where his continuance itself is the

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cause of concern.

21. The present case does not fall in the ordinary category of premature reversion. It is borne out from the record that the complaint against the petitioner was made by a colleague working in the NCSC itself, and the respondents have stated that the same pertains to continued sexual harassment. The ICC, after conducting the inquiry, had recommended initiation of disciplinary action against the petitioner. The respondents have further explained that, instead of initiating disciplinary proceedings, the competent authority, ***"in order to preserve the confidentiality of the proceedings, ensure a fair and impartial process, protect the interests of the complainant, and maintain institutional discipline"***, adopted a lenient view by merely repatriating the petitioner in the larger interest of the Commission.

22. It is relevant to note Section 19(a) of the POSH Act casts a duty upon every employer to provide a safe working environment at the workplace, which includes safety from the persons coming into contact at the workplace. The POSH Act also recognises, in Section 12, that the respondent to a complaint may be transferred to another workplace even during the pendency of an inquiry. The repatriation of the petitioner with immediate effect was, thus, a protective measure taken in the interest of the workplace ***Section 12 and Section 19(a) of POSH Act*** read as under:

> *"**12. Action during pendency of inquiry**. -(1) During the pendency of an inquiry on a written request made by the aggrieved woman, the Internal Committee or the local Committee, as the case may be, may recommend to the employer to-*
> *(a) transfer the aggrieved woman or **the respondent to any other workplace**; or*
> *(b) grant leave to the aggrieved woman up to a period of three*

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months; or
(c) grant such other relief to the aggrieved woman a may be prescribed.
(2) The leave granted to the aggrieved woman under this section shall be in addition to the leave she would be otherwise entitled.
(3) On the recommendation of the Internal Committee or the Local Committee, as the case may be, under sub-section (1), the employer shall implement the recommendations made under sub-section (1) and send the report of such implementation to the Internal Committee or the Local Committee, as the case may be.
19. Duties of employer. Every employer shall-
(a) provide a safe working environment at the workplace with shall include safety from the persons coming into contact at the workplace."

23. In the present case, the respondents did not act merely on a prima facie satisfaction, but upon the recommendation of the ICC made after an inquiry under the POSH Act.

24. Even otherwise, more than three months have elapsed since passing of the impugned office order dated 19.06.2026. During the pendency of the present petition, it was directed by this Court *vide* order dated 08.07.2026, that the petitioner be considered to be on leave in the department concerned. Considering the aforesaid, in the opinion of this Court, no prejudice can be said to have been caused to the petitioner by not receiving an advance notice of 3 months before passing of the impugned order.

25. In view of the above, this Court finds no merit in the present petition, and the same is, accordingly, dismissed.

26. It is clarified that this Court has not expressed any opinion on the merits of the allegations made against the petitioner under the POSH Act, and the observations made hereinabove are only for the purpose of deciding the present petition.

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27. Pending applications, if any, also stand disposed of.

AMIT MAHAJAN, J

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