



2026:DHC:5334-DB



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

+ **W.P.(C) 8591/2026, CM APPLs. 40232/2026 & 40233/2026**

YOGESH KUMAR AGRAWAL

....Petitioner

Through: Mr. R.K. Kapoor, Ms. Aakriti Kapila, Mr. Rajat Kapoor and Ms. Nazreena Sheikh, Advs.

versus

UNION OF INDIA AND ORS.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE VINOD KUMAR

ORDER (ORAL)

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02.07.2026

C. HARI SHANKAR, J.

1. This writ petition is directed against order dated 29 June 2026 passed by the Central Administrative Tribunal¹ in MA 3031/2026 in OA 2105/2026.

2. The petitioner had approached the Tribunal by challenging his transfer from Delhi to Kerala. Mr. R.K. Kapoor, learned Counsel for the petitioner submits that the petitioner is a patient of dry psoriasis and had in fact been transferred to Delhi on humanitarian grounds and that, as per the applicable transfer policy, he could not have been transferred back to Kerala.

¹ "the Tribunal", hereinafter



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3. The OA contained a prayer for stay of operation of the transfer order. However, while issuing notice in the OA on 27 May 2026, the Tribunal merely issued notice on the prayer for stay and did not pass any order on the stay application. The petitioner did not approach this Court either challenging the order issuing notice in the OA on the ground that a stay ought to have been granted.

4. Be that as it may, as no stay was granted, the respondents proceeded to pass order dated 22 June 2026 relieving the petitioner for proceeding to Kerala.

5. The petitioner thereupon moved MA 3031/2026 seeking a stay of the relieving order.

6. That application stands disposed of by the Tribunal by the following order dated 29 June 2026, which forms subject matter of challenge in the present writ petition:

“M.A./3031/2026: Application for Stay.

The applicant by way of the present MA is seeking a stay to his transfer order which has been impugned in O.A./2105/2026. When the matter was heard on earlier occasion i.e. 27.05.2026, the applicant was seeking an interim relief by way of staying the transfer orders impugned in the aforesaid OA. When the prayer for interim relief was under consideration of the Bench, the respondents have gone ahead and relieved the applicant vide their orders dated 22.06.2026. The Court deprecates the conduct of the respondents in issuing such relieving order in a tearing manner when the department was very much aware that the transfer orders were already under adjudication by the Tribunal. However, in as much as the respondents have already issued the relieving order and presenting a fake accomplice before this Bench, the Bench does not wish to stay the relieving order dated 22.06.2026 as there is nothing left for such a stay, when the person has already been



relieved.

Therefore, the prayer sought for by the applicant in the present MA seeking such a stay is found not feasible by the Bench. However, the matter regarding the transfer will be adjudicated at the time of final hearing with the submissions of both the counsels in the OA already listed on 09.07.2026.

Accordingly, M.A./3031/2026 is disposed of.”

7. Mr. Kapoor submits that when there is a specific interdiction in the transfer policy on re-transferring the petitioner to Kerala as a patient of dry psoriasis, the Tribunal ought to have restored the *status quo ante* even after the relieving order had been passed. He also submits that the respondents could not have proceeded to render the prayer for interim relief infructuous by relieving the petitioner on 22 June 2026 even when notice stood issued in the OA and the petitioner’s prayer for stay.

8. Legally speaking, there may not be any error in the impugned order passed by the Tribunal. It is settled that a mere notice on the stay application does not operate as a stay. There was, therefore, no interdiction on the respondents passing the relieving order.

9. We are also of the view that the Tribunal is correct in expressing disapproval of the fact that the respondents went ahead and relieved the petitioner even when the notice stood issued in the OA and on the prayer for stay.

10. We are informed that the OA itself is listed before the Tribunal on 9 July 2026 and that, though notice stands issued in the OA, no counter affidavit has been filed till date.



11. Given the nature of the case and the fact that the petitioner is suffering from a malady for which reason he had been transferred to Delhi, we deem it appropriate to dispose of this writ petition with the following directions:

(i) The respondents would file counter affidavit positively within two weeks from today. Failure to do so would result in waving the right of counter affidavit.

(ii) Rejoinder, if any, thereto, would be filed positively within a week thereafter.

(iii) We direct the OA itself to be listed for hearing before the Competent Bench of Tribunal on 27 July 2026.

(iv) Neither side would take adjournment from the Tribunal on the said date.

12. We request the Tribunal, given the circumstances of the case, to hear the matter finally on the date fixed by us and proceed to dispose of the OA thereafter as early as possible.

13. Needless to say, the OA would be disposed of on merits, without being influenced by any observation contained in the impugned order dated 29 June 2026 or in the order passed by us today.

14. The writ petition is disposed of in the above terms.



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15. We clarify that we have not expressed any opinion on the merits of the matter.

16. Let a copy of this order be provided *dasti* to Mr. R.K. Kapoor in order to effect service of this order on Mr. Subhash Gosai, who appeared on behalf of the Union of India before the Tribunal on the last date of hearing.

C. HARI SHANKAR, J.

VINOD KUMAR, J.

JULY 2, 2026/aky