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

+ **W.P.(C) 10758/2025 & CM APPLs. 56314/2025, 65007/2025**

DEVANSHU SHARMA

.....Petitioner

Through: Ms. Bhawana Pandey, Ms. Jia Kapur,
Mr. Manoj Gaud and Mr. Piyush
Ranjan, Advocates with Petitioner
(through VC).

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Vikas Kumar Sharma, SPC with
Ms. Deeksha Monga, Advocate for
UOI.
Mr. Ashok Singh, Advocate for R-2
to 5 with Mr. Ashutosh Singh P.,
(AM) Legal.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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02.04.2026

1. The Petitioner, an employee of RailTel Corporation of India Ltd., seeks intervention of this Court against the posting consequence attached to his promotion from E-3 to E-4. Though the promotion itself is not in issue, the grievance is that, despite his certified disability and the protections claimed under the Rights of Persons with Disabilities Act, 2016 and the executive instructions relied upon by him, he was posted from the Northern Region to the Eastern Region and was not accommodated in a non-field posting at Delhi. He also seeks enforcement of his claim to four additional casual leaves as a person with disability.
2. The Petitioner is a person with disability and suffers from "Lobster Hand Syndrome (Ectrodactyly or Split-Hand)." He holds a disability



certificate reflecting more than 40% permanent disability in the right hand. He joined RailTel in December 2012 as Deputy Manager (Technical). He was initially posted at Panipat. According to him, that was a field posting which exposed him to serious practical difficulty and even risk in day-to-day movement and work. In 2013, on his request, he was shifted to the New Delhi Network Operating Centre. It is asserted that the transfer itself reflected the Respondents' recognition that a non-field posting was more suitable in his case.

3. In May 2024, the Petitioner was provisionally empanelled for promotion from E-3 to E-4. On 8th October, 2024, an office memorandum was issued granting him promotion. That promotion, however, was coupled with placement in the Eastern Region. The Petitioner contends that this was not merely a change in designation or level, but effectively amounted to a withdrawal of the accommodation earlier extended to him. By directing his transfer out of Delhi to a field posting, the Respondents, in substance, failed to adequately account for his disability.

4. The Petitioner wrote on 9th October, 2024 asking that he be exempted from the transfer and that he be allowed to continue in a suitable non-field role in or around Delhi. He relied on the disability-related office memoranda of the Department of Personnel and Training and the Department of Public Enterprises. He also pointed out that Delhi was materially closer to his native place at Hathras, U.P. and that his family support structure remained tied to Delhi. Petitioner asserts that he nevertheless joined at Rourkela on 29th October, 2024 because the promotion order stated that the higher post would take effect from the date of assumption of charge, and a refusal to join would have meant foregoing the advancement altogether.



5. The grievance of the Petitioner is that, despite repeated representations, reminders, and resort to CPGRAMS, the Respondents declined to accommodate him in Delhi. He says the Respondents have dealt with the matter as though it were a routine transfer dispute, whereas his case stood on a different footing altogether because it involved an employee with benchmark disability who had already once been shifted from a field environment to a more suitable station. He also says that the later order dated 8th August, 2025 posting him to NOC/Kolkata does not answer the real issue, because the request was not for any non-field post anywhere in India, but for a posting reasonably proximate to Delhi and Hathras so that he could function with family support and without recurrent hardship.

Contentions

6. Ms. Bhawana Pandey, Counsel for the Petitioner, argues that the Respondents cannot take shelter behind the general principle that transfer is an incident of service. For a person with disability, the matter must be examined on a different level. Reliance is placed on the Rights of Persons with Disabilities Act, 2016, the DoPT Office Memorandum dated 31st March, 2014, the DPE communication dated 5th April, 2023, and the decisions of this Court in *V.K. Bhasin v. State Bank of Patiala*¹ and *Ircon International Ltd. v. Bhavneet Singh*.² These provisions and decisions require more than a formal acknowledgement of disability. They require the employer, so far as reasonably possible, to avoid placing a disabled employee in a position that defeats reasonable accommodation and to prefer

¹ MANU/DE/1013/2005.

² MANU/DE/4750/2024.



a station that allows such employee to function with dignity and practical support.

7. It is further submitted that the obligation to provide reasonable accommodation is not merely advisory but has binding force, particularly in light of Section 20 of the Rights of Persons with Disabilities Act, 2016. Having once been accommodated in a non-field posting at Delhi on account of his disability, the subsequent transfer to a distant field posting effectively withdraws that accommodation to the Petitioner without justification. The Respondents have failed to consider the Petitioner's benchmark disability, the practical difficulties of field duties, and his need for family support.

8. It is further submitted that this Court has the territorial jurisdiction to entertain the present petition. The Petitioner asserts that he is an ordinary resident of Delhi, his family continues to reside here, and the Respondent No. 2 has its registered and Northern Region offices within the jurisdiction of this Court. The impugned order also emanates from the Respondents' office at Delhi. Therefore, a substantial part of the cause of action arises within the territorial jurisdiction of this Court.

9. The Respondents have shifted their stand from time to time. In one place, they describe the order dated 8th October, 2024 as a "promotion-cum-transfer" order. In another, they say it was merely a "promotion posting". Therefore, the Respondents are trying to recast the nature of the impugned action to suit the occasion. The later posting to Kolkata was passed after the writ petition had already been entertained and was intended only to blunt the force of the grievance, while leaving the real complaint unanswered.

10. The Respondents' narrative that the posting in the Eastern Region arose on account of vacancy created by another employee's refusal is



disputed. This explanation has been introduced for the first time in the counter affidavit and is contradicted by the Respondents' own records, which demonstrate that vacancies existed in the Northern Region and that similarly placed, and even junior, employees were accommodated therein.

11. The subsequent posting to Kolkata does not address the grievance of the Petitioner but, in fact, aggravates it, as Kolkata is even farther from his native place and support system. This subsequent action underscores the Respondents' failure to apply the principles of reasonable accommodation in a meaningful manner.

12. The Petitioner, being a person with benchmark disability, is also entitled to four additional casual leaves in terms of the applicable Office Memoranda. Reliance is placed on the DoPT Office Memorandum dated 19th November, 2008, read with the DPE communication dated 13th November, 2024, to contend that such benefit stands extended to employees of Central Public Sector Enterprises as well.

13. *Per Contra*, Mr. Ashok Singh, Counsel for the Respondents No. 2 to 5, contest the petition on both maintainability and merits. First, the Petitioner is now posted in Odisha and that Delhi has been invoked only artificially. Union of India has been unnecessarily impleaded because RailTel is a separate company and service decisions of the kind involved here are not taken by the Ministry in day-to-day administration.

14. The Petitioner's case is much simpler than he presents it to be. The Petitioner was appointed to a transferable technical post. His disability was pre-existing. He accepted the terms of service with full knowledge that he could be posted anywhere in India. The earlier accommodation at Delhi was only an administrative adjustment made on request when a vacancy was



available. That, according to the Respondents, cannot ripen into a permanent right to remain in Delhi or to demand promotion in Delhi. It is further contended that the Petitioner is capable of discharging his duties and that his disability does not preclude him from holding a field assignment.

15. The promotion granted to the Petitioner was inseparably linked to the vacancy against which it arose. The Respondents rely on the promotion order dated 9th May, 2024 to contend that one Nagendra Singh, who was senior in merit and serving in the Northern Region, was posted on promotion to the Eastern Region but declined the same on account of unwillingness to relocate. The Petitioner, being in the waiting panel, was considered against that very vacancy and promoted accordingly. The Petitioner, having accepted the benefit of such promotion, is estopped from questioning the transfer attached to it and cannot seek to retain the promotion while altering the station of posting. He had the option to decline the promotion, as was done by the said employee, but chose not to do so. In this regard, the relevant extract of the waiting list panel dated 28th May, 2024, reads:

<i>Waiting list Panel dated 28.05.2024</i>				
<i>Technical Department – Promotions from E-3 to E-4 Level</i>				
<i>Pay Scale Change: ₹60,000–1,80,000 → ₹70,000–2,00,000</i>				
<i>SN</i>	<i>Emp ID</i>	<i>Name</i>	<i>Region</i>	<i>Posted on Promotion</i>
<i>1</i>	<i>100152</i>	<i>Mr. Ashsh Khandelwal</i>	<i>NR</i>	<i>WR</i>
<i>2</i>	<i>100269</i>	<i>Mr. Navanit</i>	<i>ER</i>	<i>ER</i>
<i>3</i>	<i>100053</i>	<i>Mr. Pranay Mandai</i>	<i>ER</i>	<i>ER</i>
<i>4</i>	<i>100182</i>	<i>Mr. Devanshu Sharma</i>	<i>NR</i>	<i>ER</i>
<i>5</i>	<i>100047</i>	<i>Mr. Surajit Roy</i>	<i>ER</i>	<i>ER</i>
<i>6</i>	<i>100232</i>	<i>Mr. Yakoob Shah</i>	<i>SR</i>	<i>SR</i>

16. Mr. Singh further submits that there was no vacancy in the Northern



Region at the relevant level. No candidate from the waiting panel was accommodated in the Northern Region in E-4 on the technical side. If the Petitioner were now to be shifted to Delhi at the promoted level, it would disturb the position of the senior candidate and lead to inequitable consequences. The matters of transfer and posting fall within the domain of the employer, and it is well settled that transfer is an incident of service with which courts ought not to interfere in the absence of *mala fides* or violation of statutory rules. Further, during the pendency of the present proceedings, the Petitioner has already been shifted from Rourkela to NOC/Kolkata by order dated 8th August, 2025, which is a non-field posting, indicating that the organisation has attempted to accommodate the Petitioner to the extent feasible.

17. On the leave issue, the Respondents maintain that the DoPT Office Memorandum dated 19th November, 2008 applies to Central Government employees and not, by itself, to employees of RailTel as a CPSE. The Petitioner has mixed up unrelated instructions and is attempting to derive an entitlement where none exists.

Analysis

18. The objection to territorial jurisdiction does not persuade the Court to non-suit the Petitioner at the threshold. The Petitioner was serving in Delhi when the order dated 8th October, 2024 was issued. RailTel's corporate office is at New Delhi. The Petitioner's request for exemption from the transfer consequence of promotion was addressed there. The rejection communicated through CPGRAMS also emerged from that administrative structure. It cannot therefore be said that no part of the cause of action arose within the jurisdiction of this Court.



19. Turning to the main issue, the Court is unable to accept the Petitioner's submission that the present case can be approached as though it involved an ordinary transfer, standing apart from the promotion granted to him. The difficulty for the Petitioner lies precisely there. The record does not show a routine rotational transfer imposed upon an employee who was otherwise continuing in the same post. It shows a promotion-linked placement against a specific vacancy in another region. The office order dated 9th May, 2024, placed on record by the Respondents, shows that in the main panel for promotion from E-3 to E-4, Nagendra Singh, who was then serving in the Northern Region, was posted on promotion to the Eastern Region. His letter dated 15th May, 2024 declining that promotion is also on record, and it leaves no doubt that he was unwilling to relocate out of Delhi-NCR. The Petitioner does not figure in that main panel. He appears only later, in the provisional waiting list dated 28th May, 2024. It is only thereafter that the office memorandum dated 8th October, 2024 came to be issued in his favour, granting him promotion with posting in the Eastern Region. That sequence lends substantial support to the Respondents' case that the Petitioner's promotion did not arise against some interchangeable vacancy at large, but against the very opening created when the main-panel candidate declined relocation to the Eastern Region.

20. Once the matter is seen in that light, the nature of the Petitioner's case becomes clearer. He seeks to retain the promotion, but asks the Court to sever from it the regional placement attached to the vacancy against which he was promoted. That is a far more difficult submission than a challenge to a routine transfer. In service law, a posting made as an incident of promotion stands on a different footing from an ordinary rotational transfer, because it



is tied to cadre management, availability of vacancies, and comparative claims within the zone of consideration. Courts are slow to recast that structure by judicial direction, unless a clear statutory infraction, demonstrable *mala fides*, or patent perversity is shown. Here, the contemporaneous documents relied upon by the Respondents show that the vacancy in the Eastern Region first went to a candidate senior in merit, that he refused to move, and that the Petitioner then accepted advancement against that very vacancy. In that backdrop, the Petitioner's request cannot be treated as a simple plea for a more convenient posting. It is, in substance, a request that the Court preserve the benefit of promotion while reworking the vacancy position and posting consequence on which that promotion was granted. That is precisely the area in which judicial restraint is ordinarily called for.

21. The Petitioner has pointed to instances where other employees, including those junior to him, are alleged to have been accommodated in the Northern Region. However, that circumstance, cannot negate the fact that the Petitioner's own promotion arose against a specific vacancy in the Eastern Region. As mentioned above, cadre management decisions are shaped by the timing of vacancies, the nature of posts, and the comparative position of employees at different stages of the process. The existence of isolated instances of retention or accommodation elsewhere does not establish that a corresponding vacancy was available for the Petitioner at the relevant time, nor does it warrant a judicial reconfiguration of the vacancy against which his promotion was granted.

22. The present petition, in substance, seeks to preserve the benefit of advancement while restructuring the vacancy position against which that



advancement was granted. In an exceptional case, disability-protective instructions may justify intervention where the employer has acted mechanically or without regard to the employee's condition. Indeed, the DoPT and DPE instructions invoked by the Petitioner are meant to ensure preference, sensitivity, and reasonable accommodation. However, they do not confer an absolute right to a posting of choice. Nor do they permit the Court to direct that a promotion accepted against one vacancy be notionally relocated to another region altogether.

23. It must also be emphasized that this Court is unable to accept the Respondents' attempt to treat the Petitioner's disability as insignificant to merit serious consideration. That line of argument was both unnecessary and misconceived. A person holding a valid disability certificate is not required to demonstrate complete incapacity before seeking reasonable accommodation. Nor can it be said that, merely because the disability existed at the time of entry into service, the employee must thereafter accept every posting consequence without complaint. Disability rights cannot be read in that narrow way. The Petitioner was entitled to have his condition considered with real sensitivity and not as an afterthought. But once that is acknowledged, the question still remains whether the facts of the present case justify the specific mandamus sought. In the opinion of the Court, they do not. The Respondents were bound to consider accommodation; they were not bound to place the Petitioner at the exact station of his choice. The record shows that the Petitioner's difficulty was not ignored altogether, and the later non-field posting at NOC/Kolkata reflects at least some attempt at accommodation within the organisational structure. That may not satisfy the Petitioner's preference for Delhi, but it weakens the case for judicial



intervention commanding a particular posting.

24. The Petitioner may be right in saying that Kolkata is not Delhi, and that, from his point of view, it does not meet the need for proximity to Hathras and Shahdara. But the law does not permit the Court to convert that preference into a binding command to the employer.

25. The decision in *V.K. Bhasin* do not compel a different result. The decision emphasise that disability-related protections are real and that a transfer decision may be interfered with where statutory safeguards are treated as irrelevant. That principle is not in doubt. The difficulty here is factual, not conceptual. This is not a case where the employer ignored disability altogether and simply insisted upon a routine transfer in the face of a binding exemption. It is a case where promotion arose against a vacancy in another region, the Petitioner accepted that advancement, and the employer later adjusted him from a field to a non-field post though not at the station he preferred. The decision in *Bhavneet Singh* does not help the Petitioner's case either. There, the transfer was set aside for want of a justified administrative basis despite availability of other employees. Here, the posting flows from a specific vacancy against which the Petitioner was promoted after a senior declined it. The impugned action is thus vacancy-linked, not a standalone transfer, and cannot be recast in the same manner.

26. The prayer for a direction that the Petitioner be transferred from the Eastern Region to the Northern Region at Delhi in a non-field is declined. However, in relation to the Petitioner's claim for four additional casual leaves, liberty is granted to the Petitioner to submit a fresh representation, enclosing the office memoranda and communications on which he relies, within two weeks from today. If such a representation is made, Respondent



no. 2 shall consider and dispose of the same by a reasoned order within six weeks thereafter.

27. The writ petition is disposed of in the above terms. Pending applications, if any, also stand disposed of.

SANJEEV NARULA, J

APRIL 2, 2026/as