IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.11873 of 2026

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Ashwani Kumar Yadav, Son of Late Ranjan Prasad Singh, Resident of House No. 234, Sarita Vatika Adarsh Colony Saguna More PO- Danapur PS- Danapur, District-Patna, Pin- 801503, Presently Posted as TCM/II/Danapur/E.C. Railway.

... ... Petitioner/s

Versus

1. The Union of India through the General Manager, East Central Railway, Hajipur, Vaishali, Pin- 844101.
2. Divisional Railway Manager, Danapur Division, East Central Railway, Danapur, Pin- 801105.
3. Senior Divisional Personnel Officer, Danapur Division, East Central Railway, Danapur, Pin- 801105.
4. Senior Divisional Signal and Telecommunication Engineer, Danapur Division, East Central Railway, Danapur, Pin- 801105.
5. Divisional Signal and Telecommunication Engineer, Danapur Division, East Central Railway, Danapur, Pin- 801105.
6. Assistant Signal and Telecommunication Engineer, Danapur Division, East Central Railway, Danapur, Pin- 801105.
7. Senior Section Engineer/Telecom/General, Danapur Division, East Central Railway, Danapur, Pin- 801105.

... ... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Amrendra Narayan, Advocate
Mr. Ravi Bhushan, Advocate
For the Respondent/s : Ms. Shally Kumari, CGC

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
C.A.V. JUDGMENT
(Per: HONOURABLE MR. JUSTICE SOURENDRA PANDEY)

Date : 18-11-2026

Heard Mr. Amrendra Narayan assisted by Mr. Ravi Bhushan, learned counsels for the petitioner and Mrs. Shally Kumari, Central Government Counsel for the Union of India.

2. The present writ petition has been filed for the

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following reliefs:

"i. To issue a writ of certiorari or any other appropriate writ, order or direction calling for the records and quashing the final order dated 07.07.2026 passed by the Hon'ble Central Administrative Tribunal (CAT), Patna Bench in O.A. No. 050/358/2026 whereby the Hon'ble Tribunal arbitrarily dismissed the petitioner's original application in limine completely failing to exercise its statutory jurisdiction to correct an apparent fraud on administration.

ii. To issue a writ of certiorari quashing the Speaking Order dated 20.03.2026 issued via Letter No. E/S&T/ MISC/2025 under the signature of Respondent No.3 whereby the representation of the petitioner was rejected on the patently false assertion that there were no TCM-I vacancies available at Danapur, Patna or Patliputra.

iii. To issue a writ of certiorari quashing the Minor Penalty Charge Memorandum bearing No. C.S/Minor/21/2025 dated 19.11.2025 issued under Rule 11 of the RS(D&A) Rules, 1968, which was

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perversely initiated for an "unauthorized absence" directly engineered by the respondents' own conflicting and unauthorized internal instructions.

iv. To issue a writ of Mandamus commanding the Respondents to treat the Petitioner's "Refusal of Promotion" dated 13.04.2026 as legally void and non-est having been extracted under administrative coercion and further direct the respondents to restore his promotion to the post of TCM-I with all proforma benefits and seniority on par with his juniors from December 2024.

v. To direct the respondents to post the Petitioner against any of the continuously existing vacancies of TCM-I at Danapur or Patna Junction to enable him to comply with his statutory obligation of maintaining his cancer- stricken dependent mother.

vi. Pass any other appropriate writ, order or direction as the Hon'ble court may deem fit and proper in the facts and circumstances of the case."

3. The case of the writ petitioner is that he was initially appointed on compassionate grounds as Trainee, Grade-III (Signal and Telecommunication) *vide* Order dated

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10.08.2015 following the untimely demise of his father, Late Ranjan Prasad Singh, who served as Goods Supervisor. The petitioner in lieu of his appointment on compassionate ground, had executed an undertaking to comply with the condition of maintaining his dependent mother, failure whereof would lead to his termination. After completion of training, he was posted at Ara on 17.11.2016, however to fulfill his official duty as well as to take care of his mother, he was transferred to Danapur on the post of TCM, Grade-III vide order dated 15.06.2017. The mother of the petitioner having been diagnosed with breast cancer was referred to Tata Memorial Hospital, Mumbai for breast cancer treatment and with deteriorating health, mother of the petitioner needed constant assistance. Meanwhile, on 31.12.2020 petitioner was promoted to the post of TCM, Grade-II, Telecom, however, he was posted under Senior Section Engineer, Telecom, Danapur (West) by the appointing authority so that he keeps up with his duties, keeping in view the illness of his mother. Pursuant to an order dated 22.07.2022, the petitioner was directed to work as TCM, Grade – II from Patna junction to Pahleja Ghat Station which he performed up to 19.08.2025, fulfilling his official and moral duty.

4. The petitioner was then promoted to the post of

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TCM-I on 23.12.2024 but was ordered to be transferred to Ara ignoring his verbal choice for posting at Danapur made on 06.12.2024. A representation filed by the petitioner citing unavailability of specialized care at Ara for her mother was considered and Respondent No.4 (Sr. DSTE Danapur) permitted the petitioner to resume his duty at Danapur on 03.01.2025 and subsequently issued Office Order No. 04/2025 on 19.08.2025 directing the petitioner to remain at Danapur against TCM-I vacancies. However, on the same day, Respondent No.7 issued conflicting orders without authority, directing the petitioner to join at Ara. It is the case of the petitioner that he was prevented from marking his attendance at Danapur leading to issuance of a Minor Penalty charge memorandum on 19.11.2025 under Rule 11 of the RS (D & A) Rules, 1968 alleging unauthorized absence. The petitioner approached Ld. C.A.T., Patna through O.A. No. 21 of 2026, which was disposed of vide order dated 06.02.2026, with a direction to the Respondent No.3 to consider the medical distress of petitioner and decide his representation by passing a reasoned and a speaking order, however the representation of the petitioner was rejected by Respondent No. 3 by a Speaking Order dated 20.03.2026 compelling the petitioner to approach

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the Ld. C.A.T., Patna again by filing the connected OA No. 358 of 2026 with the relief sought as stated herein above. The Ld. C.A.T., Patna has dismissed the said OA in limine by the impugned order dated 07.07.2026.

Submissions on behalf of Petitioner

5. Learned counsel for the petitioner has submitted that the second order issued by Respondent No.7 overriding directions of Respondent No.4 is blatant display of administrative conflict which further prevented the petitioner from marking his attendance at Danapur leading to issuance of Minor Penalty Charge Memorandum on 19.11.2025 under Rule 11 of RS (D&A) Rules,1968, alleging unauthorized absence from 20.08.2025 onwards attributable entirely to Respondent 7. It is asserted by the petitioner that other promoted individuals, namely Sri Dhananjay Kumar Singh and Sri Binod Kumar, were permitted to remain in Danapur while he was forced to move despite his critical family necessity. It has further been submitted that in the application being O.A. No. 21 of 2026, preferred by the petitioner before the Ld. C.A.T., Patna, a direction was issued to Respondent No.3 to consider the medical distress of petitioner which was rejected by Respondent No. 3 by a Speaking Order dated 20.03.2026 stating "*At present, there*

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is no vacancy of TCM-I available at Danapur, Patna or Patliputra.”. However, to a RTI application filed by the petitioner on 06.04.2026, an information, furnished on 29.04.2026, reveals that multiple vacancies of TCM-I existed in units of Danapur and Patna throughout the year 2023, 2024 and 2025 rather it stated that no sanctioned vacancy existed at Ara at the time of issuance of transfer order, thus the administration misled the Ld. C.A.T., Patna.

6. It has further been submitted by the learned counsel for the petitioner that due to ongoing administrative pressure, petitioner submitted a “refusal for promotion” on 13.04.2026 to remain at Danapur and continued his duty on TCM-II post being deprived of his rightful promotion. It is submitted that Senior Personnel Officer-cum-Public Information Officer, Danapur, vide letter dated 20.04.2026 provided specific information which was enclosed in RTI response dated 17.04.2026 confirming that operational jurisdiction of the SSE/Tele/Ara post spans the vast and demanding area from Jamira to Ex. TWG. It is next submitted that service conditions at this station are governed by hours of Employment and Period of Rest Rules (HOER),2025 which underscores that the posting of petitioner at Ara involves massive operational radius and

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rigid working hours thereby hindering his assistance to his mother, being a critical cancer patient and it was validated by the respondents themselves that such a posting is incompatible with his legal and moral obligations as a compassionate appointee. It has been asserted that the petitioner has been subjected to hostile discrimination as similarly situated employees were permitted to remain at Danapur upon promotion. Notwithstanding that the petitioner is under medical hardship and there being vacancy at Patna and Danapur, the petitioner has been arbitrarily and discriminately transferred.

7. The learned counsel has vehemently argued that the refusal of promotion cannot be said to be a voluntary act rather the same was a forced refusal and therefore, the petitioner ought to have been restored to the post of TCM-I and should be posted at Danapur or Patna granting promotion since December, 2024. It has thus been submitted that Petitioner being served with minor penalty charges for being absent is also bad in law as petitioner’s non joining at Ara was a result of two conflicting orders having been passed by the authorities and therefore, the petitioner cannot be saddled with such a charge. The learned counsel for the petitioner has submitted that the Ld. C.A.T., Patna failed to take into account such circumstances and has

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dismissed the OA of the petitioner in limine by an order dated 07.07.2026 on an erroneous ground to the effect that the petitioner has submitted refusal of promotion, hence he cannot be considered for promotion under the guidelines within one year.

Submissions on behalf of Respondents

8. The learned counsel for Respondents has submitted that earlier, an application of the petitioner bearing O.A. No. 21 of 2026 was disposed of by the Ld. C.A.T., Patna vide order dated 06.02.2026 wherein nothing was observed on merits and the petitioner was granted liberty to file a representation for consideration of his request. It has further been stated that the petitioner did not comply with promotion-cum-posting order dated 23.12.2024 and has not joined Ara till date which is not justified. It is next submitted that as per Indian Railway Guidelines the petitioner cannot be considered for promotion to the same post within the period of limitation of one year. It has next been submitted by the learned counsel for the Respondent authorities that since petitioner remained absent from his duties without any sanction, the authorities had initiated disciplinary proceedings against him and charged him with a minor penalty. It is lastly submitted that the petitioner can

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not dispute the factual aspects of matter and there is no error committed by the Ld. C.A.T., Patna in dismissing the OA as it was/is devoid of any merit, thus the impugned order is not required to be interfered with by this Hon'ble court.

Consideration

9. We have heard the learned counsel for the parties and pursued the materials available on record. The admitted facts which emerge are to the extent that the writ petitioner was promoted to the post of TCM-I on 23.12.2024 and was directed to join at Ara by an order dated 26.12.2024. An office order No.04/2025 dated 19.08.2025 was issued by the Senior Divisional Signal and Telecommunication Engineer, Danapur Division, East Central Railway, Danapur (Respondent No. 4) showing the petitioner to be posted as TCM-II at Danapur. However, the Senior Section Engineer, Telecom/G, Danapur, on the same day, issued a letter dated 19.08.2025 sparing the petitioner from Danapur to join at Ara and discharge his function on the post of TCM-I at Ara. After almost 4 months of passing of the last order by which the petitioner was spared to join at Ara, the writ petitioner filed an Original application before the Ld. C.A.T., Patna bearing OA No. 21 of 2026, inter alia praying therein for quashing the order of transfer, directing

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him to join at Ara. The Ld. C.A.T., Patna disposed of the said OA vide order dated 06.02.2026, on the assertion of the petitioner that he may be granted liberty to file a representation and the authorities be directed to consider the same and pass orders. The Senior Divisional Personnel officer, ECR, Danapur had then passed a reasoned order on 20.03.2026, rejecting the representation of the petitioner. The petitioner, thereafter citing reasons of medical attention required for his mother and the same being not available at Ara, had forgone his promotion to the post of TCM-I on 13.04.2026. After more than a month of forgoing his promotion, the petitioner filed another OA before Ld. C.A.T., Patna bearing OA no. 358/2026 challenging not only the order by which his representation was rejected but also claiming promotion to the post of TCM-I from the date others were promoted i.e. 23.12.2024 as also claiming that he may be posted on the promoted post at Danapur or Patna as there is vacancy available.

10. We, having noted such admitted facts, find that the petitioner, after having been promoted to the post of TCM-I and being transferred and posted at Ara, continued to work at Danapur. Though the petitioner has claimed that he was permitted by Respondent No. 4 to resume duty at Danapur on

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03.01.2025, however no document has been brought on record to substantiate such claim.

11. We are equally perplexed as to how and why, despite being promoted and transferred to Ara, the petitioner was allowed to continue for almost 8 months and again an office order dated 19.08.2025 (Annexure-A/7 to the paperbook), showing the petitioner to be on the post of TCM-II at Danapur was passed by the same Respondent No. 4, referring it to be an internal order. We have noticed that the officer under whom the petitioner was shown to be posted i.e. Senior Section Engineer, Telecom/General, Danapur (Respondent No. 7) immediately passed an order dated 19.08.2025 stating that the petitioner having been promoted and posted at Ara is being spared to join at the transferred station at Ara. Such order was not only communicated to the petitioner but also to the Respondent No. 4, who had earlier passed an order showing posting of the petitioner at Danapur.

12. We have observed that no other or consequential order was passed by any superior authority cancelling the order by which the petitioner was spared to join at Ara by an order dated 19.08.2025 passed by the Respondent No. 7. Having noted that, we also find that though the petitioner has claimed that

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there was a conflict amongst the orders passed on the same day by two different authorities which precluded him from joining at Ara, however the writ petitioner did not file any representation before any of the authorities raising the said issue and only after more than 4 months, he filed the earlier Original Application bearing OA No. 21/2026 for quashing that part of the order whereby he was transferred to Ara on being promoted and for other reliefs.

13. Another peculiar fact, which needs to be taken into account is that prior to approaching the Ld. C.A.T., Patna, the petitioner was served with a memorandum of charges dated 19.11.2025 (Annexure - A/9 to the paperbook) for imposing minor penalty on account of being absent from duty since 20.08.2025, however no prayer was made in the said O.A. for setting aside the same, though the petitioner had an opportunity to do the same, which he conveniently chose not to challenge and thus the challenge to the Memo of charges, in a subsequent proceeding i.e. in the second Original Application is barred by the principles of *Res Judicata* and Constructive Res Judicata, as the petitioner was fully aware of such memo having been issued on the day the first OA No. 21/ 2026 was being filed in the month of January, 2026. Even on merits, the law is well settled

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as is evident from the judgment rendered by the Hon'ble Apex Court in the case of ***N.C. Singhal v Union of India reported in*** **(1980) 3 SCC 29,** which has explained the position as follows:

> *"If an employee eligible for promotion is offered a higher post by way of promotion, his refusal to accept the same would enable the employer, the Central Government in this case, to fill in the post by offering it to a junior to the Government servant refusing to accept the post and in so acting there will be no violation of Art.16. Further, the Government servant who refuses to accept the promotional post offered to him for his own reasons cannot then be heard to complain that he must be given promotional post from the date on which the avenue for promotion opened to him."*

14. Moreover, the substantial period of time, during which the petitioner did not decide to join the promotional post and did not abide by the transfer order is significant. Clearly, claim of any benefit or any such relief is baseless, however, such refusal to join the post from a given date attracts penalty, hence the decision of Respondent authority can not be interfered with by this court. This proposition also finds mention in a recent judgment rendered by the Hob'ble Apex Court in the case of

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***The Tamil Nadu Agricultural University & Anr. V R. Agila Etc.(*SLP (C) No. 13070-13075 of 2022),** where the apex court, in its judgment dated 20.08.2024 discussed the position in following terms:-

> *"It is established as a part of service law jurisprudence that transfer is an exigency of service. As such, when a person becomes an employee of the Government, the incidence of transfer becomes inherent in the terms of service unless it is specifically barred under certain provisions governing conditions of service.*
>
> *3. Under such terms and conditions of service, an employee has no right to remain absent or refuse to join the new place of transfer once relieved from their current place of posting. The employee is entitled to avail all available remedies for redressal of grievances, but it does not entitle them to not comply with the transfer orders. The employee is well within his rights to join the transferred place of posting and still continue to avail the remedies available under the law for redressal of his grievances against the transfer.*
>
> *4. ...*
>
> *18. Despite there being no interim order in their favour, respondent nos. 4 and*

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> *7 continued to remain absent after being relieved from their original place of posting. As such, this Court is not inclined to extend any benefit of salary for the period of unauthorised absence."*

15. We have also noticed the description of the cause title of OA No. 21/2026 (Annexure - 10 of the paperbook) wherein the petitioner has described himself to be "*presently waiting for posting against the vacancies of TCM, Grade-I at Danapur or at Patna."* (Emphasis supplied). Such description is *prima facie* erroneous and misleading as the order which the petitioner was challenging in the said OA No. 21/2026 was to the effect that he was being spared for Ara on account of his promotion and posting at Ara by an order dated 23.12.2024, which too was assailed by the petitioner in the aforesaid previous OA No. 21/2026.

16. The consideration made herein above, shows that the petitioner was not only disobeying the orders of his superior authorities but was delaying the joining at Ara by deliberately litigating the matter at his own convenience and pace. The time taken by the petitioner to challenge the order of transfer dated 23.12.2024 itself speaks volume of his conduct more so when it was reiterated by an order dated 19.08.2025.

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17. It was only after the rejection of the representation of the writ petitioner on 20.03.2026, which was filed in pursuance to the liberty granted by the Ld. C.A.T., Patna in OA No. 21/2026 that the petitioner gave a refusal of promotion on 13.04.2026 and thereafter, as an afterthought he filed the second original application before the Ld. C.A.T., Patna bearing OA No. 358/2026, *inter alia* praying therein to not only quash the order rejecting his representation but also the memorandum of charge and for other directions as reproduced in Para-2 of the present judgment. Thus, we also concur with the finding of the Ld. C.A.T., Patna, that the promotion was refused by the petitioner willfully taking into account the rejection of his representation, hence the claim of the writ petitioner that he was forced to refuse promotion, needs no consideration.

18. Now, coming to the argument made on behalf of the petitioner that he has been discriminated qua the similarly situated persons who were retained at their places of posting despite being granted promotion, it is needless to say that the law on this point is no longer *res integra, inasmuch* as it is a well settled law that an employee has no vested right to a particular posting, hence the claim of the petitioner to be not only promoted but also posted at Danapur or Patna cannot be

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permitted.

19. We are reminded of the case of ***Union of India vs. N.P. Thomas,*** *reported in* **AIR 1993 SC 1605** wherein the Hon'ble Supreme Court rejected the claim based merely on the fact that juniors had been retained. The Supreme Court laid down as follows (Paragraph -8):

> *"8. In the present case, it cannot be said that the transfer order of the respondent transferring him out of Kerala Circle is violative of any statutory rule or that the transfer order suffers on the ground of mala fide. The submissions of the respondent that some of his juniors are retained by Kerala Circle and that his transfer is against the Policy of the Government posting the husband and wife in the same station as far as possible cannot be countenanced since the respondent holding a transferable post has no vested right to remain in the Kerala Circle itself and cannot claim, as a matter of right, the posting in that Circle even on promotion."*

20. It is a well settled law that the High Court in exercise of its writ jurisdiction under Article 226 of the Constitution of India normally does not interfere with the transfer order unless the transfer order is shown to have been

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issued mala fide or in violation of any statutory rules. Reference in this regard may be made to certain judicial pronouncements.

21. In the case of **B. Varadha Rao v. State of Karnataka and Ors., reported in AIR 1986 Supreme Court 1955**, the Hon'ble Supreme Court of India has held as follows (Paragraph 4 of the judgment):

> *"4..... ..... We agree with the view expressed by the learned Judges that transfer is always understood and construed as an incident of service. The words 'or other conditions of service' in juxtaposition to the preceding words 'denies or varies to his disadvantage his pay, allowances, pension in Rule 19(l)(a) must be construed ejusdem generis. Any alteration in the conditions of service must result in prejudice to the Government Servant and some disadvantage touching his pay, allowances, pension, seniority, promotion, leave, etc. It is well understood that transfer of a Government Servant who is appointed to a particular cadre of transferable posts from one place to another is an ordinary incident of service and therefore, does not result in any alteration of any of the conditions of service to his disadvantage. That a Government Servant is liable to be transferred to a*

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similar post in the same cadre is a normal feature and incident of Government Service and no Government Servant can claim to remain in a particular place or in a particular post unless, of course, his appointment itself is to a specified, non-transferable post....."

22. In the case of ***Mrs. Shilpi Bose and Ors. v. State of Bihar and Ors.*****, reported in AIR 1991 Supreme Court 532**, it has been held as follows (Paragraph -4):

"4. In our opinion, the Courts should not interfere with a transfer order which are made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A Government Servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the Competent Authority do not violate any of his legal rights. Even if a transfer orders is passed in violation of executive instructions or orders, the Courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the Department. If the Courts continue to

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interfere with day-to-day transfer orders issued by the Government and its Subordinate Authorities, there will be complete chaos in the Administration which would not be conducive to public interest. The High Court over looked these aspects in interfering with the transfer orders."

23. In the case of ***Agbani Kanta Ray v. State of Orissa and Ors.*, reported in 1995 Supp. (4) Supreme Court Cases 169**, the Apex Court laid down as follows (Paragraph 10):

"10. It is settled law that a transfer which is an incident of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by mala fides or infraction of any professed norm or principle governing the transfer; .."

24. In the case of **State of U.P. vs Gobardhan Lal, reported in (2004) 11 SCC 402**, the Hon'ble Supreme court held that transfer can ordinarily be interfered with only where it is shown to be malafide or in violation of a statutory provision and not merely because the employee suffers hardship.

25. The Hon'ble Supreme Court in the case of ***Tushar D. Bhatt vs. State of Gujarat*,** *reported in* **2009 (11) SCC 678** has categorically held as follow:

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*"**16.** The legal position has been crystallised in a number of judgments that transfer is an incidence of service and transfers are made according to administrative exigencies.*

***17.** In the instant case, in the entire tenure of more than 18 years, the appellant was only transferred twice. The appellant's transfer order cannot be termed as mala fide. The appellant was not justified in defying the transfer order and to level allegations against his superiors and remaining unauthorisedly absent from official duties from 11-10-1999 to 27-4-2000 i.e. more than six months. In the interest of discipline of any institution or organisation such an approach and attitude of the employees cannot be countenanced.*

***18.** In Gujarat Electricity Board v. Atmaram Sungomal Poshani [(1989) 2 SCC 602 : 1989 SCC (L&S) 393 : (1989) 10 ATC 396 : AIR 1989 SC 1433] this Court had an occasion to examine the case of almost similar nature. This Court observed as under: (SCC p. 607, para 4)*

> *"4. ... Transfer from one place to other is necessary in public interest and efficiency in the public administration. Whenever, a public servant is transferred he must comply with the order but if there be any genuine difficulty in proceeding on transfer it is open to him to make representation to the competent authority for stay, modification or cancellation of the*

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transfer order. If the order of transfer is not stayed, modified or cancelled the public servant concerned must carry out the order of transfer. In the absence of any stay of the transfer order a public servant has no justification to avoid or evade the transfer order merely on the ground of having made a representation, or on the ground of his difficulty in moving from one place to the other. If he fails to proceed on transfer in compliance with the transfer order, he would expose himself to disciplinary action under the relevant rules, as has happened in the instant case. The respondent lost his service as he refused to comply with the order of his transfer from one place to the other."

26. In view of the aforesaid judicial pronouncements, it is evident that even if we agree to the contention raised on behalf of the petitioner that there was vacancy available at Danapur or Patna, it does give right to the petitioner for a particular posting. The defiance shown towards the orders of the superior authorities further compel us to take an adverse view of the matter, as it seems that writ petitioner was being shown undue favour by some authority which has enabled him to overstay at his original place of posting from 24.12.2024 till 19.08.2025, illegally.

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27. We do not see any illegality in imputation of charges against the petitioner, who after being spared from duty to join at Ara did not chose to do so and thereby defied the orders of his superior authorities, hence this court has no sympathy for employees like the petitioner who has blatantly defied the orders of transfer and has challenged the same at his own convenience, belatedly.

28. We have noticed one very important aspect in the present case, which should be accounted for, i.e. with respect to the reliefs prayed for in the writ application. The reliefs sought for in the present writ application is for quashing the (i) order dated 07.07.2026 passed by the Ld. CAT, Patna, (ii) order dated 20.03.2026, whereby the representation of the petitioner has been rejected and (iii) for quashing the memo of charges dated 19.11.2025, however no prayer has been made for quashing the original order of transfer, as contained in the order of promotion dated 23.12.2024. The same inherent defect was also there in the reliefs sought for in the original application bearing OA No. 050/358/2026, wherein also the applicant/writ petitioner did not pray for quashing of the original order of transfer dated 23.12.2024. It does not stand to reason that, if the original order of transfer has not been assailed, which was

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challenged by the applicant/writ petitioner earlier in OA No. 21/2026, however the said application was disposed of without the merits of the case being looked into, how all the subsequent orders, which have been passed pursuant to the original order of transfer and are subject matter of challenge in the present proceedings can be looked into. Therefore, we find that the relief sought for by the petitioner suffered from an inherent fallacy hence, on this score as well, the present writ application is fit to be dismissed. It is needless to point out that if the original transfer order dated 23.12.2024, which has not been challanged by the petitioner either in the connected O.A. or in the present writ petition is left untouched, no positive order can be passed in favour of the writ petitioner.

29. The prayer of the petitioner is now to the effect that he should not only be promoted but he should also be posted at his old station or Patna because vacancies were available during the relevant time, i.e the years 2023, 2024 and 2025, however we find that the same does not have any legs to stand in view of the well settled principle of law that merely because there is a vacancy, an employee should necessarily be retained at his old station and moreover, it is impermissible in law and outside the jurisdiction of the Courts to do so, as it is

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the employer who should be left with such discretion of posting the employees as per its requirement and suitability. The hardship being faced by the writ petitioner cannot be a ground for him to be retained at his old station has already been answered by us, herein above in the preceding paragraphs.

30. Thus, in view of the discussions made herein above, we do not find any illegality in the impugned order dated 07.07.2026 passed by the Ld. CAT, Patna in OA No. 050/358/2026, hence for the foregoing reasons the same does not require any interference, consequently the petitioner is not entitled for any relief as prayed for in the present writ application.

31. Accordingly, the writ petition stands dismissed

(Mohit Kumar Shah, J)

(Sourendra Pandey, J)

manoj/-

AFR/NAFR	AFR
CAV DATE	18.08.2026
Uploading Date	18.11.2026
Transmission Date	NA

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