

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 16734 of 2024**

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EMPLOYEES STATE INSURANCE CORPORATION & ORS.

Versus

GAURAV ZALAVADIA S/O MOHANLAL ZALAVADIA

Appearance:

MR SACHIN D VASAVADA(3342) for the Petitioner(s) No. 1,2,3,4
MS.HIMANSHI BALODI FOR MS PREETI R DIXIT(11328) for the
Respondent(s) No. 1

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CORAM: **HONOURABLE THE CHIEF JUSTICE MRS. JUSTICE****SUNITA AGARWAL**

and

HONOURABLE MR.JUSTICE D.N.RAY**Date : 07/08/2025****ORAL ORDER****(PER : HONOURABLE THE CHIEF JUSTICE
MRS. JUSTICE SUNITA AGARWAL)**

1. Having heard the learned counsels for the parties and perused the record, pertinent is to note that the only ground on which the transfer order dated 20.05.2023 has been set aside by the Tribunal (Central Administrative Tribunal) is that the same is in violation of DOPT Guidelines laid down by the Office Memorandum dated 24.11.2022, which requires posting of spouses at / near to the posting station of each other in case one of the spouses is in Central Government service and the other is in State Government, subject to availability of vacancies.

2. Pertinent is to note that the impugned transfer order dated 20.05.2023 was a mass transfer of 500 Doctors ESI Corporation, after a transfer / posting policy for clinical

posting of doctors in ESI Corporation was promulgated on 20.06.2022. When the respondent had approached the Tribunal, an interim order was passed on 09.09.2024 to the effect that no coercive steps shall be taken against the applicant / respondent herein, while issuing notice on the interim relief application.

3. It is submitted by the learned Counsel for the petitioner that the petitioner had been relieved on 29.08.2023 pursuant to the transfer order dated 20.05.2023. The interim order was passed by the Tribunal on 09.09.2024, much after the relieving of the petitioner.

4. It is pointed out by Ms.Himanshi Balodi, the learned advocate appearing on behalf of Ms.Priti R. Dixit, the learned advocate for the respondent that the interim order continued till the disposal of the original application by the Tribunal, wherein the transfer order dated 20.05.2023 was set aside vide judgment and order dated 23.10.2024.

5. The present petition challenging the order of the Tribunal was presented on 06.12.2024 and was registered on 09.12.2024. On 03.01.2025, Ms.Priti R. Dixit, the learned advocate had put an appearance on behalf of the respondent No.1 waiving the service of notice. In the affidavit filed on behalf of respondent, it is stated that inspite of setting aside of the transfer order and the stipulation in the Tribunal's order to implement the order within a period of 60 days, the respondent has not been reinstated.

6. The result is that the respondent is not working since the date of his relieving pursuant to the transfer order dated 20.05.2023, which was on 29.08.2023.

7. Moreover, for the fact that it was a mass transfer of 500 doctors, we do not find any merit in the order of the Tribunal in interfering with the transfer order only on the premise that the wife of the applicant / respondent was working in District Ahmedabad and hence his posting elsewhere would be contrary to the transfer Policy.

8. In a mass transfer of 500 doctors, no infirmity can be attached to the transfer order on the premise that the respondent / applicant has not been accommodated at the place near the place of posting of his spouse, which is purely in administrative exigencies.

9. With the above, while we do not concur with the order of the Tribunal and set aside the same for the reason given above, we direct that the respondent shall join at the place of posting pursuant to the transfer order dated 20.05.2023 with immediate effect. However, after joining at the place of transfer, it would be open for the respondent to make an application for adjusting his posting at an appropriate place in light of paragraph 'B (vii)' of the Office Memorandum dated 24.11.2022 (DOPT Guidelines). Such request, if made, shall be duly dealt with by the petitioner subject to availability of vacancies, keeping in mind the guidelines that all efforts should be made to post spouses at nearest places, as far as possible.

10. The respondent would also be at liberty to move a proper application for the period of his non-working, i.e. from the date of relieving till the date of joining at the transferred place, only after submitting his joining at the place of transfer. On such application being filed by the respondent, the same shall also be dealt with sympathetically.

11. At this stage, the learned advocate appearing for the respondent, upon instructions, would submit that the respondent is willing and undertakes to join the transferred place and would submit his joining report on or before **14.08.2025**.

12. We, thus, provide that after joining, the respondent would be free to move application, which shall be dealt with at the earliest and in a positive manner. It is clarified that the factum of setting aside the order of the Tribunal herein shall not be taken as an opinion drawn by us to reject the request of the respondent to accommodate him at a convenient place near the place of posting of his wife. With the above observations and directions, the present petition stands disposed of.

(SUNITA AGARWAL, CJ)

(D.N.RAY,J)

SAHIL S. RANGER