



2026:UHC:1114-DB

IN THE HIGH COURT OF UTTARAKHAND
AT NAINITAL

HON'BLE THE CHIEF JUSTICE SRI MANOJ KUMAR GUPTA
AND
HON'BLE SRI JUSTICE ALOK MAHRA

WRIT PETITION (S/B) NO. 81 OF 2026

19TH FEBRUARY, 2026

Girdhar Singh Bisht Petitioner

Versus

State of Uttarakhand & others Respondents

Counsel for the petitioner : Mr. Abhijay Negi, learned counsel

Counsel for the respondents : Mr. Gajendra Tripathi, learned
Standing Counsel for the State

: Mr. Tanmay Tiwari, learned counsel
holding brief of Ms. Devika Tiwari,
learned counsel for respondent No. 3

The Court made the following:

JUDGMENT: (per Sri Manoj Kumar Gupta, C.J.)

1) The petitioner by means of instant writ petition has assailed the order dated 02.02.2026, issued by the Director General, Medical Health and Family Welfare, Dehradun. By the said order the petitioner has been promoted to the post of Senior Administrative Officer and



has been posted in the Office of Chief Medical Officer, Chamoli.

2) The case of the petitioner is that he is suffering from a medical condition known as "*Post Embolisation of Right Choroidal AVM*", which is a disease of a serious nature and, therefore, the petitioner would fall under the definition of '*serious patient*' as defined in Section 3(d) of the Uttarakhand Transfer Act, 2017.

3) For ready reference, Section 3(d) is reproduced below :

"3(d) "Serious Patient" means the spouse and family (which includes the children of the age up to 18 years and parents) of any employee suffering from a serious disease and it includes Cancer, Blood Cancer, AIDS / HIV (positive), Heart disease (Having Bypass surgery or Angioplasty done), Kidney disease (dependent on the dialyses due to failure of both the kidneys or kidney transplanted or one kidney removed), Tuberculosis (both the lungs infected or one lung fully damaged), SARS (third stage), epilepsy, mental disease and any such other disease for which State Medical Board doesn't recommend for posting in any particular place / area and the committee constituted under section 27 of the Act given its approval thereon."

4) In support of the contention, the petitioner placed reliance on a certificate issued by the State Medical



Board along with covering letter dated 10.02.2026. It states that upon examination it has been found that the petitioner is *'a case of Right Choroidal Arteris Venous malfunction (Reptured) Endovascular Embolisation, again DSA and embolgal on 23/04/25, only 30-40% of AVM is embolised, on medication patient needs life time follow up and treatment by Neuro surgeon and avoid exertion also.'*

5) Learned State counsel has placed on record the instructions received from respondent No. 2. Therein the stand taken is that the medical condition from which the petitioner is stated to be suffering would not bring his case within the ambit of Section 3(d) of the Transfer Act, 2017.

6) The certificate issued by the State Medical Board does not mention that the medical condition from which the petitioner is suffering would not warrant his posting in any particular place / area, on the other hand, it only mentions that the petitioner should avoid exertion.

7) Learned counsel for the petitioner submits that the aforesaid recital in the certificate issued by the Medical Board should be construed as a recommendation for not posting him at high altitude. However, we are



unable to accept the submission. The opinion as expressed by the State Medical Board in the certificate in question would not bring the case of the petitioner within the ambit of Section 3(d).

8) Learned counsel for the petitioner submits that the petitioner should not be put to prejudice because of the vague recommendation of the State Medical Board. He submits that in ***Writ Petition (S/B) No. 268 of 2025, Shankar Bora Vs State of Uttarakhand and others***, this Court had directed the State Medical Board to ensure that the certificates issued by it are in consonance with the provisions of Section 3 of the Transfer Act, 2017. The relevant radiological reports and other diagnosis and medical records should be annexed with the certificate to demonstrate that on what basis the opinion was formed. He submits that in the instant case the State Medical Board has also not complied with the directions issued in the said writ petition. He submits that the petitioner is ready to present himself for re-examination by the State Medical Board on any date as may be filed by this Court and prays that the State Medical Board be directed to re-examine the petitioner and give certificate in consonance with the provisions of Section 3 of the Act.



9) Having regard to the fact that the petitioner is claiming that he is serious patient, but the certificate issued is vague, we are of the opinion that interest of justice would be served in directing the State Medical Board to re-examine the petitioner and furnish certificate along with relevant medical records and radiological reports or any other report as the State Medical Board deems appropriate. The said examination should be completed by the State Medical Board within two days of the petitioner appearing before it.

10) Accordingly, the writ petition is disposed of by providing that the petitioner may appear before the Director General, State Medical Board, Uttarakhand, Dehradun along with true copy of the instant order within ten days from today. In such event, he will constitute the Medical Board and ensure re-examination of the petitioner by the Medical Board within two days. The Medical Board will furnish certificate to the petitioner keeping in mind the provisions of Section 3 of the Uttarakhand Transfer Act, 2017.

11) In case the petitioner is found to be serious patient upon re-examination, it shall be open to the petitioner to apply before respondent No. 2 for modification of the order of posting, and respondent No. 2



2026:UHC:1114-DB

will take appropriate decision based on the certification expeditiously, preferably within next two weeks.

12) Writ petition stands ordered accordingly.

13) Pending application(s), if any, also stand disposed of.

MANOJ KUMAR GUPTA, C.J.

ALOK MAHRA, J.

Dt: 19TH FEBRUARY, 2026
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