



Serial No. 47
Supplementary List

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 379 of 2025

Date of Decision: 09.09.2025

Mr. Sunil Kumar Savita
S/o Shri. Nandu Lal Sharma
Commandant, 67 BN CRPF,
East Khasi Hills, Shillong, Meghalaya

:::Petitioner

-Vs-

1.Union of India,
Through the Secretary, Ministry of Home
Affairs, North Block, Government of India,
New Delhi – 110001

2.Director General,
Central Reserve Police Force (CRPF),
Directorate General, Block No. 1, CRPF,
CGO Complex, Lodhi Road, New Delhi-11000

3.Inspector General, CRPF,
North East Sector, Shillong,
Meghalaya

:::Respondents.



Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Chief Justice (Acting)

Appearance:

For the Petitioner/Appellant(s) : Mr. K. Paul, Sr. Adv. with
Mr. S. Thapa, Adv.
Mr. S. Chanda, Adv.

For the Respondent(s) : Dr. N. Mozika, DSGI with
Ms. M. Myrchiang, Adv.

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| i) | Whether approved for reporting in
Law journals etc.: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. The petitioner who is posted as Commandant, 67BF CRPF, Shillong, being aggrieved with the impugned transfer order dated 28.08.2025, is before this Court, assailing the same on the ground that the transfer is premature, inasmuch as, as per the Standing Order – 05/2022 dated 27.09.2022, governing the transfer policy for Group 'A' Gazetted Officers, the normal tenure of posting is 3(three) years subject to administrative or operational which requires the transfer of an officer at any time to a suitable place. Further, ground taken to assail the transfer, is that though there is a preliminary inquiry regarding allegations against the



writ petitioner on a complaint received confidentially, the impugned order does not disclose any administrative exigency or involvement of any public interest, but has been issued malafide in an arbitrary manner.

2. When the instant matter was taken up by this Court, instructions were called for from the learned DSGI, Dr. N. Mozika, who has placed before the Court written instructions dated 04.09.2025 and 08.09.2025. On a perusal of the written instructions, which have been taken on record, it is seen that the main reason attributed for the transfer, is due to instances of inter-personal conflict between the petitioner and one Shri. Sanjeev Kumar, the Second-in-Command of 67BN Shillong, which has come to the notice of the DIG (Ops/Int & Trg) NES, DIG Range, Guwahati and IG NES. As there was no improvement in the matter, and due to the extremely strained relationship between the Commandant and Second-in-Command, it was recommended that both officers be transferred out from 67BN, as soon as possible. The instructions also state that the transfer has been done after considering all the aspects of the case, where even counselling by the Senior Officers to both of them, and exhausting all remedies to improve the situation failed to improve the situation, and the transfer was necessary in order to maintain good discipline and morale of the jawans of 67BN, as well as, administrative and operational requirements of the force. In so far as the Standing Order No. 05/2022 is concerned, it is stated that as the



transfer is due to administrative and operational reasons, Para – 5(b) of the Standing Order provides for the same.

3. Mr. K. Paul, learned Senior counsel assisted by Mr. S. Thapa, learned counsel for the petitioner has submitted that the impugned transfer suffers from serious illegalities, inasmuch as, apart from being violative of the Standing Order is also vitiated, inasmuch as, the reasons attributed for the transfer is not due to administrative or operational reasons, but in fact, is punitive in nature. The learned Senior counsel has submitted that the inter-personal conflict, is due to the fact that the Second-in-Command suffers from mental illness and in this context, has referred to a Unit Behavioural Report for Psychiatric Case, regarding an incident of suicidal intention on 31.07.2025, by the Second-in-Command, Shri. Sanjeev Kumar. It is further submitted that for the mental condition of the Second-in Command, the petitioner has been victimized and as such, the transfer is malafide and liable to be interfered with by this Court.

4. On hearing the learned counsel for the parties, and on consideration of the facts and materials, it is first to be kept in mind that in matters of transfer, the scope of judicial review is limited to examining as to whether the transfer is visited with malafides, punitive, or in clear violation of statutory provisions. In the instant case, the petitioner has alleged that the Standing Order No. 05/2022 has been violated, as he has served in the



present station for only about 2(two) years, whereas, it has been stipulated that normal tenure under the policy would be 3(three) years, subject to the provisions of Para – 5(b). For the sake of convenience Clause – 5 of the Standing Order No. 05/2022, with regard to tenure of posting is reproduced hereinbelow.

“STANDING ORDER – 05/2022

Subject :- Transfer policy for Group ‘A’ Gazetted Officers (GD : 2-I/C to DIG), Engineering and Medical Officers

5. Tenure of Posting

(a) The normal tenure of all officers under this policy will be 03 years subject to the provisions of para 5 (b) of this S.O.

(b) As CRPF is Central Armed Police Force of GoI constituted under Special Act and is tasked with important operational duties regarding maintenance of security of the nation, therefore there are certain operational and administrative requirements of the Force. In view of such requirements, any officer may be posted to any Unit or office at any point of time. The above policy does not create any right for any officer for posting to a particular place or for a particular tenure as mentioned in Para – 5(a).

If during the posting of any officer it comes to the notice of the supervisory/senior authorities that officer needs to be transferred out at any time from present place due to



administrative or operational reasons, then the concerned authority may transfer such officer at any time to a suitable place.”

5. A perusal of Clause – 5(b) quoted above, clearly shows that for certain operational and administrative requirements of the force, any officer may be posted to any unit or office at any point of time. This Clause has also underlined the fact, that the policy does not create any right for any officer, for posting to a particular place, or for a particular tenure as mentioned in Clause – 5(a), quoted above. As such, the Standing Order does not cloak the writ petitioner with any legally enforceable right, on the ground that he has not completed the normal tenure of posting.

6. On the other aspect that is the reason for the transfer as observed hereinabove, from the written instructions, the same was due to inter-personal conflicts between the petitioner and the Second-in-Command which could not be resolved, and the transfer was necessitated in the said circumstances in the interest of the force. Though, efforts have been made by the petitioner to show that he is blameless in this episode, and that the dispute or conflict was due to the mental condition of the Second-in-Command, who has also been transferred, this Court will not venture to further examine the matter, on the contentions of the petitioner, but observes that, no case of the transfer being visited by malafides, or that the



same is punitive in nature or prejudicial to public interest has been made out. The matter regarding the preliminary enquiry, not being central to the issue, also does not warrant any deliberation on its legality or illegality.

7. In the context of the instant case, reference can be made to the recent judgment of the Supreme Court in the case of ***Pubi Lombi vs. State of Arunachal Pradesh & Ors.*** reported in ***2024 SCC OnLine SC 279***, wherein in Paragraphs – 9 to 14, reproduced hereinbelow, various judgments on the law governing transfers have been illustrated.

“9. In the case of Union of India v. S.L. Abbas, (1993) 4 SCC 357, it is clearly observed by this Court that the scope of judicial review is only available when there is a clear violation of statutory provision or the transfer is persuaded by malafide, non-observation of executive instructions does not confer a legally enforceable right to an employee holding a transferable post. The relevant paragraph reads as under:

“7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject.....”

10. Further, following the footsteps of S.L. Abbas (supra) this Court in the case of Union of India v. N.P. Thomas, 1993 Supp (1) SCC 704 held that the interference by the Court in an order of transfer on the instance of an employee holding a transferrable post without any violation of statutory provision is not permissible.



11. This Court further curtailed the scope of judicial review in the case of N.K. Singh v. Union of India, (1994) 6 SCC 98 holding that the person challenging the transfer ought to prove on facts that such transfer is prejudicial to public interest. It was further reiterated that interference is only justified in a case of malafide or infraction of any professed norm or principle. Moreover, in the cases where the career prospects of a person challenging transfer remain unaffected and no detriment is caused, interference to the transfer must be eschewed. It is further held that the evidence requires to prove such transfer is prejudicial and in absence thereof interference is not warranted. The law reiterated by this Court is reproduced, in following words:—

“9. Transfer of a public servant from a significant post can be prejudicial to public interest only if the transfer was avoidable and the successor is not suitable for the post. Suitability is a matter for objective assessment by the hierarchical superiors in administration. To introduce and rely on the element of prejudice to public interest as a vitiating factor of the transfer of a public servant, it must be first pleaded and proved that the replacement was by a person not suitable for the important post and the transfer was avoidable. Unless this is pleaded and proved at the threshold, no further inquiry into this aspect is necessary and its absence is sufficient to exclude this factor from consideration as a vitiating element in the impugned transfer. Accordingly, this aspect requires consideration at the outset.

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“23. Unless the decision is vitiated by mala fides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially, there are no judicially manageable standards for scrutinising all transfers and the courts lack the necessary expertise for personnel management of all government departments. This must be left, in public interest, to the departmental heads subject to the limited judicial scrutiny indicated.”



“24. ...Challenge in courts of a transfer when the career prospects remain unaffected and there is no detriment to the government servant must be eschewed and interference by courts should be rare, only when a judicially manageable and permissible ground is made out. This litigation was ill-advised.”

12. The issue involved in the present case is somewhat similar in the case of Mohd. Masood Ahmad v. State of U.P., (2007) 8 SCC 150 wherein this Court in paragraph 8 has observed as thus:—

“8. In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people in the legislature to express the grievances of the people and if there is any complaint against an official the State Government is certainly within its jurisdiction to transfer such an employee.....”

13. It is not tangential to mention that this Court in the case of State of Punjab v. Joginder Singh Dhatt, (1990) 2 SCC 661 : AIR 1993 SC 2486 observed as thus:—

“3.....It is entirely for the employer to decide when, where and at what point of time a public servant is transferred from his present posting.....”

14. It is also imperative to refer the judgment of this Court in the case of Ratnagiri Gas and Power Private Limited v. RDS Projects Limited, (2013) 1 SCC 524 where it reiterated one of the pertinent principles of administrative law is that when allegations of malafide are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer. The relevant excerpt is reproduced as thus:



“27. There is yet another aspect which cannot be ignored. As and when allegations of mala fides are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer the charge. In the absence of the person concerned as a party in his/her individual capacity it will neither be fair nor proper to record a finding that malice in fact had vitiated the action taken by the authority concerned.....”

8. As such, in view of the findings and discussions made hereinabove, no case is made out for any interference with the impugned transfer order and the writ petition is accordingly dismissed, however, with no order as to costs.

Chief Justice (Acting)

Meghalaya
09.09.2025
“D.Thabab-PS”