

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.15173 of 2025
Date of Decision: 30.12.2025

Nishitha Bali

.....Petitioner

Versus

State of Himachal Pradesh & Anr.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting?

For the Petitioner: Mr. Vinay Sharma, Advocate.

For the respondents: Mr. Rajan Kahol, Additional Advocate General with Mr. Ravi Chauhan & Mr. Anish Banshtu, Deputy Advocates General, for the respondent-State.

Mr. Manohar Lal Sharma, Advocate, respondent No.2.

Mr. Sandeep Handil, Sr. Law Officer, State Taxes and Excise and Mr. Aatish Kapta, HP Secretariat (Excise Branch).

Sandeep Sharma, J. *(Oral)*

Petitioner herein, who at present is working as Assistant Commissioner at ACST &E, GST, Amb Circle, District Una, Himachal Pradesh, is aggrieved by order dated 16.09.2025 (Annexure P-1), whereby she has been transferred from afore station to ACST&E Excise, Sundernagar, District Mandi, Himachal Pradesh, vice Mr. Ramesh Kumar, respondent No.2.

2. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Vinay Shama, learned counsel representing the petitioner, is that impugned transfer

order is in violation of Transfer Policy because petitioner has not been permitted to complete her normal tenure at present place of posting, rather she has been transferred within a period of less than one year, whereas normal tenure of posting is three years. Besides above, it has also been alleged that impugned transfer order has been effected on the basis of DO Note issued by some extra constitutional authority. This Court, with a view to ascertain the correctness of allegations levelled by the petitioner, called upon learned Additional Advocate General to have instructions and produce the relevant record.

3. Pursuant to direction passed by this Court, learned Additional Advocate General, besides placing on record instructions, has also produced record, perusal whereof reveals that impugned transfer order has been issued with the prior approval of the Hon'ble Chief Minister, who is otherwise the head of the Department of Excise and Taxation.

4. Though this Court has not been able to find any DO Note, thereby recommending the transfer of the petitioner, but as per respondents, petitioner was also a recipient of DO Note in past. On the basis of DO Note issued in favour of the petitioner, she was transferred from Mandi to Amb. Since petitioner herself has been a recipient of the DO Note in past, she is estopped from claiming that impugned transfer

has been effected on the basis of DO Note. Moreover, this Court finds that transfer order has been issued by the Hon'ble Chief Minister, who happens to be incharge of the Excise Department, after condoning the delay and approving the inter wing transfer. Though this Court, having taken note of the fact that petitioner has not completed normal tenure, is persuaded to agree with learned counsel for the petitioner that impugned transfer order is not sustainable, but having taken note of the fact that petitioner herein has already proceeded on maternity leave, coupled with the fact that post otherwise occupied by the petitioner in the capacity of Assistant Commissioner cannot be left vacant, this Court sees no reason to interfere with the impugned transfer order, as such, same is upheld.

5. Consequently, in view of the above, present petition is disposed of with a direction to the respondents to ensure that petitioner is considered for posting at a convenient station on the ground of couple case. Since husband of the petitioner is presently working as Executive Engineer in the Central University, Dehra, prayer, if any, made by the petitioner through representation for her adjustment at a convenient station shall be considered sympathetically. Needless to say, authority concerned, while doing the needful in terms of instant order, shall afford an opportunity of being

heard to the petitioner and pass appropriate orders taking note of fact that though impugned transfer order was not sustainable, but yet upheld by the Court to ensure smooth functioning of the GST Wing at Amb. Pending applications, if any, stand disposed of.

**(Sandeep Sharma),
Judge**

December 30, 2025
(sunil)