



2025:0004-1 K03:29804

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - A No. - 14411 of 2025

Dr. Mohd. Shoeb Ali

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Medical Health And Family
Welfare U.P. Lko. And 3 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Pankaj Gupta
Counsel for Respondent(s)	:	C.S.C.

Court No. - 7

HON'BLE MANISH MATHUR, J.

1. Heard Mr. Pankaj Gupta, learned Counsel for petitioner and learned State Counsel for opposite party Nos.1, 2 & 3.
2. In view of the order being passed, issuance of notice to opposite party No.4 stands dispensed with.
3. Petition has been filed challenging order dated 16.11.2025 whereby petitioner currently employed as Medical Officer in Community Health Center has been transferred to another Community Health Center in district Unnao.
4. It has been submitted that impugned order has been passed as a punitive measure of punishment and that too on Sunday, which is a government sanctioned holiday. Learned counsel has adverted to documents on records to indicate that an inquiry had been instituted against petitioner on the allegation that he took illegal gratification from a Medical Company for purposes of prescribing medicines from the same company. He has also adverted to report dated 29.08.2025 to indicate that allegations levelled against petitioner were not substantiated but despite same, impugned order has been passed which is clearly in the nature of punishment.
5. Learned State Counsel has been provided written instructions dated 16.12.2025 which are taken on record and admits that the impugned order was in fact passed on Sunday. It is also indicated that there are serious allegations levelled against petitioner as

indicated here-in-above for which purposes, an inquiry was already instituted against petitioner.

6. Upon consideration of submissions advanced by learned counsel for parties and perusal of material on record, it is thus evident that petitioner's transfer has been effected as a mode of punishment with regard to allegations levelled against him. However it is also evident that allegations levelled against petitioner were not found to be substantiated in the inquiry proceedings.

7. Hon'ble Supreme Court in ***Somesh Tiwari v. Union of India and others [(2009) 2 SCC 592]*** has held that transfer cannot be effected as a mode of punishment. Relevant portion of the order is as follows:-

"20. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal."

8. Upon applicability of aforesaid judgment in the present facts and circumstances of the case, it being evident that impugned transfer order dated 16.11.2025 has been effected as a mode of punishment, it is hereby quashed by issuance of a Writ in the nature of Certiorari granting liberty to opposite parties to effect transfer of petitioner in the routine transfer on administrative or public interest, but not as a mode of punishment.

9. Resultantly, petition succeeds and is **allowed** at the admission stage itself. Parties to bear their own costs.

December 17, 2025
lakshman

(Manish Mathur,J.)