

**HIGH COURT OF UTTARAKHAND AT NAINITAL****THE HON'BLE CHIEF JUSTICE SHRI MANOJ KUMAR GUPTA****AND****THE HON'BLE JUSTICE SHRI SUBHASH UPADHYAY****10th July, 2026****SPECIAL APPEAL NO. 303 of 2026**

Kuldeep Kumar

-----Appellant

Versus

State of Uttarakhand and Others

----Respondents

Presence:-

Mr. Tapan Singh, learned counsel for the appellant.

Mr. S.M.S. Mehta and Mr. Ranjan Ghildiyal, learned Standing Counsel for the State.

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

1. The present *intra Court* appeal is directed against the order of learned Single Judge dated 06.07.2026, whereby the writ petition filed by the petitioner(appellant herein), who is a Marketing Inspector, challenging his transfer order dated 29.06.2026, passed by the respondent no.3, has been dismissed.

2. The facts in brief are that the petitioner was earlier posted in Hirahedi, Roorkee, but, vide order dated 10.12.2018, he was attached at Laksar. On 28.05.2025, he was transferred from Laksar back to Roorkee. Now, by impugned order dated 29.06.2026, he has been transferred from Roorkee to Vikasnagar in public interest.

3. The contention before the learned Single Judge was



that a transfer in public interest is not contemplated under the Uttarakhand Annual Transfer of Public Servants Act, 2017 and therefore the transfer order was illegal. The second contention was that he could not have been transferred before four years in view of Section 7 of the Act.

4. The learned Single Judge has held that a transfer is an incident of service and no employee has indefeasible right to stay at a particular place. It has been observed that though the petitioner remained under attachment at Laksar vide order dated 10.12.2018, but, since his posting was at Roorkee, therefore, he would be deemed to be posted at Roorkee since the year 2018.

5. Learned counsel for the appellant submits that the view taken by learned Single Judge that the transfer could be made in exigencies of service in public interest is not correct, inasmuch as, the Uttarakhand Annual Transfer of Public Servants Act, 2017 does not contemplate transfer in public interest. He further submits that since the petitioner remained under attachment at Laksar, therefore, he could not be treated to have remained posted at Roorkee since the date of his posting at Roorkee. It is urged that the petitioner being at Roorkee only since 28.05.2025, the department erred in transferring him the very next year to Vikasnagar, which is in another District, i.e., Dehradun.



6. Learned State Counsel on the other hand, submits that the Government has every right to make transfer in public interest. He further submits that the petitioner would be deemed to have remained posted at Roorkee, since 10.12.2018, albeit, his attachment at Laksar, and he had thus completed more than four years, before he has been transferred.

7. All transfers of government employees are normally made in public interest except in case of request by the employee himself. The provisions under the Transfer Act, laying down the situations in which transfers can be made does not mean that transfers contemplated under the Act, are not transfers made in public interest. Thus, the contention of learned counsel for the appellant that his transfer could not have been made in public interest is wholly mis-conceived and is accordingly rejected.

8. As regards the second submission that the petitioner has been transferred within one year, we find some force in the said contention. Although, the petitioner was posted at Roorkee, but he remained under attachment at Laksar, in pursuance of order dated 10.12.2018, until he was transferred back to Roorkee vide order dated 28.05.2025. The duration of the present place of posting was thus to be counted from 28.05.2025.



9. We therefore permit the appellant to make representation to the respondents along with attested copy of the instant order. In the event, the representation is made within one week from today, the same shall be decided by the concerned respondents within next two weeks. Meanwhile, the transfer order shall remain in abeyance. In case of default in making representation within one week, the instant protection would be of no avail.

10. The order dated 06.07.2026 of learned Single Judge stands set-aside. The Special Appeal is disposed of accordingly.

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

(MANOJ KUMAR GUPTA, C.J.)

(SUBHASH UPADHYAY, J.)

Dated: 10.07.2026
KKS/PP