

2025:PHHC:006235



**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

122+260

**CM-458-CWP-2025 in/and  
CWP-3-2025**

**Date of decision: 16.01.2025**

**VIJAY GARG**

.....Petitioner

**VERSUS**

**STATE OF HARYANA AND OTHERS**

.....Respondents

**CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

**\*\*\*\*\***

Present: - Mr. Sunil Kumar Nehra, Advocate with  
Mr. Rahil Mahajan, Advocate  
for the petitioner.

Mr. Amandeep Joshi, DAG, Haryana.

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**VINOD S. BHARDWAJ, J. (Oral)**

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For the reasons mentioned in the application, the same is allowed and replication to the written statement filed by respondents No.1 and 2 alongwith Annexure P-15 is taken on record.

**CWP-3-2025**

Challenge in the present petition is to the impugned Transfer Order dated 27.12.2024 (Annexure P-7) whereby the petitioner has been transferred in violation of the online transfer policy dated 04.04.2022.



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2. Learned Counsel appearing on behalf of the petitioner contends that the petitioner was appointed as Sub Divisional Engineer (Civil) in the respondent Department on 06.08.2014. On 17.12.2021, the petitioner was assigned the current duty charge (CDC) of the post of Executive Engineer and was placed at the disposal of the Bhakra Beas Management Board (BBMB). Later, vide order dated 24.03.2022, the petitioner was posted as Executive Engineer (CDC), Baggi Construction Division No.1, BBMB, Sundernagar. Thereafter, vide order dated 18.07.2022, the petitioner was transferred to Rai Water Services Division, Sonapat. Accordingly, the petitioner was relieved from BBMB and he joined at the new place of posting in Sonapat. Eventually, vide order dated 01.06.2023, the petitioner was regularly promoted as Executive Engineer (Civil) and as per order dated 27.06.2023, the petitioner was posted as Executive Engineer, Dadupur, Water Service Division Dadupur, District Yamuna Nagar which became as his first place of posting after his regular promotion as an Executive Engineer.

3. Learned Counsel contends that the respondent-State of Haryana had notified an online transfer policy for Executive Engineers on 04.04.2022, in exercise of the powers conferred under Article 162 of the Constitution of India. It is contended as per the aforesaid policy, which is applicable to all Executive Engineers who are members of the State Cadre, the 'prescribed tenure' for posting is the 'tenure of appointment for a period of three years in a particular division and six years in a particular circle'. A



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‘vacant post of transfer’ has also been defined under Clause 3 (g) of the said online transfer policy to be ‘a post not occupied by any Executive Engineer or a post presently occupied by any Executive Engineer for a period of three years or more in a division and six years in a circle’. A reference is also made to Clause 4 (i)(c) of the said policy to contend that every Executive Engineer who has completed three years of stay/tenure in a particular Division or six years of stay/tenure in a Circle cannot opt for his transfer within the same division/circle. He submits that Clause 11 of the said Online Transfer Policy confers a power on the Administrative Secretary to transfer any Executive Engineer to any place in relaxation of all or any of the above provisions after recording reasons justifying such relaxation and with the prior approval of the Chief Minister, Haryana.

4. He contends that notwithstanding the petitioner having been posted at the Dadupur Water Services Division vide order dated 27.06.2023, the respondents have now passed the impugned order of Transfer dated 27.12.2024 i.e. within a period of one and half year of the above said posting from Dadupur Water Service Division to Head Office, Panchkula. He submits that the said order of transfer has been passed on an administrative ground. He contends that no power of relaxation for justifiable reasons has been exercised by the Administrative Secretary as mandated under the statutory policy. He further submits that as per general practice, whenever any power of relaxation is exercised, a reference to invoking relaxation under Clause 11 of the Online Transfer Policy is made in the transfer order.



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He refers to an illustrative order passed by the Department on 14.07.2022 attached as (Annexure P-3) to support his above argument. It is contended that no reasons for transfer of the petitioner, despite the post not having fallen vacant and notwithstanding that the petitioner has not served on the post for the prescribed tenure, the order of transfer has been issued. The same being in violation of law, the present writ petition has been filed.

5. Learned Counsel appearing on behalf of the respondent-State, however, submits that even though there is no dispute that the petitioner was posted at Dadupur, Water Services Division, vide order dated 27.06.2023, however, taking into consideration the experience and the seniority of the petitioner, he was ordered to be transferred to the Head Quarters Panchkula, on receipt of a message from Officer on Special Duty to the Chief Minister, Haryana on 09.12.2024. He contends that as certain Sub Divisional Officers had been promoted to the post of Executive Engineers and they had to be given posting, hence, transfer of the petitioner was also included in the proposal and he was transferred to the Head Office to take benefit of his experience as being the senior Executive Engineer well versed with the functioning of the Department. Hence, the order of Transfer was passed to optimally utilize the service of the petitioner at the head office. He, however, is not in a position to dispute that the aforesaid reason does not find any mention in the transfer noting nor any such justification has been culled out by the Administrative Secretary while directing the transfer of the petitioner.



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6. I have heard learned Counsel appearing on behalf of the respective parties and have gone through the documents available on record.

7. It is evident from a perusal of the reply filed by the respondents and the averment as contained in reply to Para No. 20 of the petition that the respondent-State admits the statutory force of the online transfer policy that has been notified in exercise of the powers conferred under Article 162 of the Constitution of India. The respondent rather, reiterates its affirmation of the statutory applicability of the aforesaid transfer policy and has taken a stance that the department would never demean the statutory applicability and enforcement of the online transfer policy. Further, it is also evident that a specific reliance is made under Clause 11 of the Online Transfer Policy dated 04.04.2022 and to contend that the respondents are competent to transfer any Executive Engineer to any place in relaxation of all or any of the above provisions after recording reasons justifying such relaxation. Hence, the respondent-State itself is justifying its action within the parameters of the aforesaid policy. It could thus be necessary to extract Clause 11 of the aforesaid notified policy which reads thus:-

***“11. Power to relax:- Notwithstanding anything contained in the policy, the Administrative Secretary, Irrigation & Water Resources Department, Haryana with the prior approval of the Chief Minister, Haryana, shall be competent to transfer any Executive Engineer to any place in relaxation of any or all of the above provisions after recording reasons justifying such relaxation.”***



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8. It is evident from perusal of the same that even though the Government has the power to relax any/or all of the provisions contained in the online transfer policy, however, the procedure required to be followed for the same is that the Administrative Secretary of the Department has to seek prior approval of the Chief Minister after recording reasons justifying such relaxation. Even though the office file shows that there is an approval by way of WhatsApp message received from the office of the Officer on Special Duty to the Chief Minister, Haryana, there is no justifiable reason that was ever set out by the Administrative Secretary seeking relaxation of the provisions of the online transfer policy. The respondents-State cannot supplant a justification in a reply filed before the Court. A justification for such a transfer is required to be reflected through the file notings when the proposal for transfer of the petitioner from the post in question was mooted by the respondent-Department. Further, it is also reflected from the initial proposal of transfer, the petitioner was not amongst the persons to be transferred and that the said proposal was inducted only on receipt of WhatsApp message from the Officer on Special Duty in the office of the Chief Minister, Haryana. Thus, the office noting on the file and the proposal do not support the argument advanced today by the respondent. Notwithstanding the above, another reason cited by the respondents is that the department wanted to optimally utilize the long experience of the petitioner, however, it is evident from a perusal of the reply filed by the respondents that the petitioner had been regularly promoted only in the month of June, 2023 and as such, it cannot be said that the petitioner had a



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long standing career as Executive Engineer. Thus, the aforesaid justification sought to be portrayed before this Court also stands falsified.

9. Under the given circumstances, I find that the reasons given by the respondents for directing transfer of the petitioner, although stated in the column of “Remarks” is stated to be on the administrative grounds, however, there is no reason forthcoming as to why the statutory online transfer policy notified by the State, in exercise of the powers under Article 162 of the Constitution of the India, has been ignored. No compelling reasons or justifiable grounds have been extracted in the office proposal/noting by the respondents nor the procedure as contemplated under Clause 11 of the Online Transfer Policy has been followed.

10. Consequently, I find that the order passed by the respondents suffers from non-compliance to the procedure prescribed in the Online Transfer Policy. The present writ petition is accordingly allowed. The impugned order dated 27.12.2024 (Annexure P-7) directing transfer of the petitioner from Dadupur, Water Services Division, Dadupur, District Yamuna Nagar to Head Office, Panchkula is set aside.

**(VINOD S. BHARDWAJ)**  
**JUDGE**

**JANUARY 16, 2025**

*Vishal Sharma*

Whether speaking/reasoned : Yes/No  
Whether Reportable : Yes/No