



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

258

CWP-3089-2025 (O&M)

Date of decision: 12.08.2025

Sneh Kumar

...Petitioner

VERSUS

State of Haryana and others

...Respondents

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

Present :- Mr. Sandeep Sharma, Advocate for the petitioner(s).

Mr. Vivek Chauhan, Addl. A.G. Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. Seeking quashing of the order dated 28.01.2025, whereby the petitioner has been directed to shift from the Transport Department (Regulatory Wing) to the Haryana Roadways Department (Commercial Wing), in the office of the General Manager, Haryana Roadways, Sonapat, the instant writ petition has been filed.

2. Learned counsel for the petitioner submits that the petitioner has been serving as a Driver in the office of the Regional Transport Authority, Rewari. It is urged that the petitioner was initially appointed on 27.12.1995 in the respondent-Department and, over the years, was posted at the office of the General Manager, Haryana Roadways, Chandigarh, and thereafter at Gurugram and various other depots under Haryana Roadways. Eventually, the petitioner was transferred to the office of the District



Transport Officer-cum-Secretary, Regional Transport Authority, Rewari, on 28.01.2016, where he has continued to discharge his duties till date. It is further submitted that in the year 2018, the Department of Transport was bifurcated into two distinct wings namely, the Commercial Wing under the Director General, State Transport, and the Regulatory Wing under the Transport Commissioner. At that stage, employees were given an option to elect the wing in which they wished to serve, with the stipulation that non-submission of such option would be deemed as an acceptance of the existing posting. The petitioner, being satisfied with his position in the office of the Secretary, RTA, Rewari, did not opt for transfer or absorption in the Commercial Wing. Nevertheless, in contravention of their own office order bearing Memo No. 1965-89/EA1/E dated 04.04.2018, the respondents, vide order dated 07.03.2019, transferred the petitioner from the office of Secretary, RTA, Rewari, to the office of the General Manager, Haryana Roadways, Sonapat, on administrative grounds.

3. The said order of transfer was assailed in CWP-6855-2019, wherein, after considering the petitioner's submissions, this Court was pleased to stay the operation of the impugned transfer order vide order dated 13.03.2019. Learned counsel further contends that an identical issue had arisen in a batch of writ petitions, with the lead matter bearing CWP No. 17718 of 2020, *Rajesh Kumar and others v. State of Haryana and others*, wherein, under similar circumstances, the action of the respondents in transferring employees from the Regulatory Wing to the Commercial Wing was set aside by the learned Single Judge vide judgment dated 10.02.2021. It



was held therein that the act of deputing, deploying, or repatriating employees from one wing to another, and vice versa, is unsustainable in law as well as on other facts and for multiple reasons as elaborated in the judgment.

4. Seemingly, Letters Patent Appeals bearing Nos. 382 to 386 of 2021 were preferred by the State of Haryana against the aforesaid judgment. When CWP-6855-2019 filed by the petitioner came up for hearing on 27.04.2022, it was noticed by the learned Single Judge that an identical controversy was already *sub judice* in LPA-386-2021. Consequently, the said writ petition was adjourned sine die, with a direction that it be taken up along with LPA-386-2021. It is not in dispute that LPA Nos. 382-2021, 384-2021 and 385-2021, arising out of the judgment of the learned Single Judge dated 10.02.2021 passed in CWP-17718-2020, were disposed of as having been rendered infructuous, in view of the respondents having subsequently issued orders cancelling the earlier transfer orders dated 17.10.2020/19.10.2020 (set aside vide judgment dated 10.02.2021). In light of the cancellation of such transfer/repatriation orders by the respondents themselves, the petitioner also preferred CM-1144-CWP-2023 in CWP-6855-2019, seeking permission to withdraw the said writ petition with liberty to approach the respondents afresh. The writ petition was accordingly permitted to be withdrawn vide order dated 17.07.2023.

5. Thereafter, the petitioner submitted a representation before the respondents. However, vide the impugned order dated 28.01.2025, the respondents have directed that, consequent upon the withdrawal of the writ



petition, the interim order of stay granted in his favour would cease to operate, and that the petitioner be relieved from the office of Secretary, RTA, Rewari. He was directed to report for duty in the office of the General Manager, Haryana Roadways, Sonapat. Aggrieved thereby, the petitioner has instituted the present writ petition.

6. Counsel contends that, the controversy having already been adjudicated against the Government in a batch of writ petitions wherein the transfer orders issued by the State had been set aside and the said judgment having attained finality, the action of the respondents in nevertheless seeking to enforce the transfer orders dated 07.03.2019 is contrary to the binding judicial pronouncements of this Court.

7. Responding to the aforesaid submissions, learned State counsel submits that the petitioner was never an employee of the office of the Transport Commissioner but was, in fact, an employee of the General Manager, Haryana Roadways and had merely been serving on deputation in various field offices under the Transport Commissioner. It is contended that, the petitioner having been originally appointed in Haryana Roadways and deputed to the office of the Secretary, RTA, upon withdrawal of CWP-6855-2019 by him, the original transfer order dated 07.03.2019 stood revived and became enforceable. Accordingly, the impugned order dated 28.01.2025 has been passed in due exercise of authority and in conformity with law.

8. I have heard the learned counsel for the respective parties and have gone through the documents appended with the present writ petition, with their able assistance.



9. It is evident from the record that the respondents do not dispute that, prior to the year 2003, the Department of Transport was headed by a single authority, namely, the Transport Commissioner, and that the service conditions of employees in both the Regulatory Wing and the Commercial Wing (Haryana Roadways) were governed by the Haryana Transport Department (Group-C), Transport Commissioner's Office Service Rules, 1998 for headquarters staff, and the Haryana Transport Department (Group-C), Roadways Service Rules, 1995 for depot-level staff. Upon bifurcation of the Department in 2003, the Directorate of State Transport, Haryana, and the office of the Transport Commissioner, Haryana, were intended to function as separate entities.

10. Even though the respondents contend that the petitioner did not belong to a common cadre and was not governed by the 1998 Rules applicable to the Transport Commissioner's Office and instead was governed by the 1995 Rules applicable to Haryana Roadways, he thus remained an employee of the Commercial Wing and ordering his repatriation was lawful. However, it remains undisputed that the petitioner was serving in the office of the Secretary, RTA, in 2016. It is not in dispute that notwithstanding the existence of separate service rules, both wings functioned under the same administrative head and inter-cadre depositions from the Commercial to the Regulatory Wing were routinely effected and implemented. A formal bifurcation of cadres occurred only in 2018, at which time the petitioner was already working in the Regulatory Wing in the office of the Secretary, RTA, Rewari. It is further undisputed that Memo No.1965-



89 dated 04.04.2018 was issued by the respondents, whereby, for the first time, a formal decision was taken to divide the staff into two distinct wings from what had hitherto been a common cadre. The same reads thus:-

“Sub: Regarding the bifurcation of two wings of Transport department.

Regarding the above mentioned subject:

Transport department is working in two wings since 2000, i.e. one is commercial wing (O/O DGST) and regulatory wing (O/O TC). Now working staff will be divided in two different wings from the common cadre.

It has been decided as per the recommendation of the committee constituted by department that working employees in the commercial wing office of Director Roadways department Haryana have given option for appointment in regulatory wing (List attached) that if employees of regulatory wing Transport Department Haryana or RTA office Haryana want to give option for merger, then they can give in writing by 06.04.2018 5.00 PM. If they don't give in writing regarding merger, then it will be understand that they are satisfied at their present working.

You are informed to give the information to the employees of your office regarding the above mentioned information.”



(emphasis supplied)

11. If the respondents' submission is accepted that two separate cadres were already in existence, there would have been no justification for issuance of Memo No.1965-89 dated 04.04.2018, which mandated the division of staff into two distinct wings from the previously common cadre. Pursuant to this memo, a Committee was constituted by the Department to seek options from employees working in the Regulatory Wing as to whether they wished to continue in the Commercial Wing or intended to remain in the Regulatory Wing, with a deadline of 16.04.2018. In the absence of a response, it was to be presumed that the employees were satisfied with their present posting. The expression "at present working" is of critical significance. Since the petitioner was then working in the office of the Secretary, RTA, Rewari at that time, hence, he did not submit any option and continued working in his existing posting. It was only in 2019, when an office order was issued transferring him, that the petitioner was compelled to approach this Court. It is further admitted that similar aspect had also been noticed by the Single Bench of this Court in its judgment passed in CWP-17718-2020, the contention as noticed is extracted as under:-

"In the cases of the Drivers, they asserted that prior to the allocation of employees between the two wings on a permanent basis, all the Drivers in the department were common, but options were not obtained from any of them. They contended that in terms of the policy adopted by the authorities, the Drivers were to be allocated on an 'as is where is' basis in



keeping with the letter dated 04.04.2018. It is pointed out that CWP-13102- 2018 was filed by some of the Drivers working in the Regulatory Wing when the authorities issued Communication/Circular dated 12.04.2018 seeking to fill up the posts of Drivers in the Regulatory Wing on transfer basis, by replacing them. They assailed the same and also sought a direction to the authorities to allow them to continue in the Regulatory Wing. While so, the Communication/Circular dated 12.04.2018 was withdrawn by the authorities themselves and in the light thereof, the writ petition came to be dismissed on 01.03.2017 as having been rendered infructuous. However, CM-7107-2019 was then filed in the said writ petition seeking recall of the dismissal order dated 01.03.2017 and praying for a direction to the authorities to allow the petitioners therein to continue in the Regulatory Wing. This application is still pending consideration. It is contended that as the claim of Drivers that they already stood absorbed in the Regulatory Wing is yet to be adjudicated in the pending writ petition, it is not open to the authorities to repatriate them to their so-called parent department, ignoring the fact that they have been working in the Regulatory Wing since a very long time. It is asserted that though the authorities claim that there was no division of Drivers between the two wings, their actions demonstrate to the contrary.”



12. A similar objection, as is being raised by the respondents in the instant writ petition, was also taken therein and the same was noticed and rejected by the Single Judge. The same reads as under:-

“Responding to the aforestated contentions, the learned Advocate General, Haryana, would contend that deputation of the petitioners from one wing to the other did not require their consent. He would rely upon Rule 12 of the Rules of 1998 and also Rule 108 of the Haryana Civil Services (General) Rules, 2016 (for short, 'the Rules of 2016'). He would assert that the Rules of 1998 have application to the Commercial Wing and also the Head Office of the Transport Commissioner, viz., the Regulatory Wing, while the Field Offices of the Regulatory Wing would be governed by the Rules of 1995. He would state that separate rules are yet to be framed and in the interregnum, the Rules of 1998 would apply to both wings. He would point out that the present deployment is only for a limited period of one year and assert that this measure was adopted in public interest so as to streamline the administration, owing to complaints about the functioning of the Regulatory Wing. He would state that such complaints were not made against specific individuals and that is the reason why general orders of deputation/deployment were passed, which could not be treated as stigmatic. Learned Advocate General would also assure this Court that none of the petitioners would be made to



work under their juniors or suffer any adversity in terms of their pay-scales or equivalence of posts due to their being posted in the Commercial Wing. He would further state that their promotional opportunities would not be impacted by this arrangement for a period of one year.”

13. After noticing the lack of clarity with respect to the applicability of the separate set of Rules at different levels in the Transport Department, the Single Judge recorded his findings as under:-

“As regards the Drivers who are sought to be repatriated, it is their contention that they are deemed to have been allocated permanently to the Regulatory Wing owing to the letter dated 04.04.2018. It is also to be noted that most of them were posted on 'transfer' basis in the Regulatory Wing as long back as in the year 2008. Further, the order dated 14.08.2016, whereby the Additional Transport Commissioner, Haryana, transferred/ posted not only Assistants and Clerks from one RTA to another but also one Satbir Singh, Driver No.224, who was working in Haryana Roadways at Karnal to the RTA at Yamunanagar, belies the contention of the authorities that the Drivers in both wings were not treated as common. If Satbir Singh did not form part of the same department, the question of transferring him would not have arisen. The feeble argument that they were sent on deputation to the Regulatory wing needs mention only to be rejected. The



orders categorically state to the effect that they were transfers. That apart, deputation, by its very nature, would have to be for a limited period and cannot be continued for over a decade! In addition thereto, as the claim of the Drivers that they are entitled to be retained in the Regulatory Wing is still pending consideration before this Court in the other writ petition, wherein a recall application is pending, it was premature on the part of the authorities to treat the issue as a closed one, whereby they could unilaterally treat them as part of Haryana Roadways and subject them to repatriation.

In any event, there is no explanation forthcoming from the orders under challenge as to why the situation that was obtaining since over a decade suddenly had to be subjected to change, whereby the petitioners were sought to be displaced. This exercise is also equally bereft of application of mind and rationale.

Before concluding, it may be noted that an abundance of case law was pressed into service by both sides on general principles relating to deputation, repatriation, etc. However, this Court does not deem it necessary to burden this judgment with references to precedents as this adjudication essentially turned upon the peculiar facts obtaining in these cases.

On the above analysis, this Court finds that the action of the authorities of the Transport Department, State of Haryana,



in deputing, deploying or repatriating employees working in one wing to the other wing, and vice versa, is unsustainable in law and on facts on grounds more than one.

The writ petitions are accordingly allowed setting aside all the impugned proceedings. Pending miscellaneous applications shall stand closed in the light of this final order.”.

14. It is evident from a perusal of the above that the contention now sought to be advanced by the respondents has already been considered and adjudicated upon by the Single Judge, who held that the action of the respondents in repatriating employees serving on deputation was improper and legally unsustainable.

15. It is further not in dispute that the Division Bench recorded a specific finding that the impugned orders had been withdrawn by the respondents, rendering the LPA infructuous. Consequently, the judgment of the learned Single Judge has attained finality and is binding on the parties.

16. In my considered view, the controversy in the present matter is squarely covered by the judgment dated 10.02.2021 passed in the batch of writ petitions, including CWP-17718-2020 titled ‘Rajesh Kumar and others Vs. State of Haryana and others’. Accordingly, the impugned order dated 28.01.2025, directing the petitioner to report to the office of the General Manager, Haryana Roadways, Sonapat, consequent to the transfer order dated 07.03.2019 from the office of the Secretary, RTA, Rewari, is hereby set aside.



258 CWP-3089-2025 (O&M)

17. Even though LPA-386-2020 is stated to be pending, it is undisputed that no stay has been granted on the judgment delivered by the learned Single Judge. Mere pendency of an LPA in a similar matter cannot operate as a bar to the adjudication of another *lis* raising analogous issues.

18. The present writ petition is hence ***allowed*** in terms of **Rajesh Kumar and others (supra)**.

19. All pending civil misc. application(s), if any, stand disposed of.

(VINOD S. BHARDWAJ)
JUDGE

12.08.2025
Mangal Singh

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No