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

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**CWP-10313-2025 (O&M).  
Date of Decision: 28.05.2025.**

**ASHOK KUMAR**

... Petitioner(s)

Versus

**UNION OF INDIA AND OTHERS**

... Respondent(s)

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

Present: Mr. Ajay Pal Singh Rehan, Advocate,  
for the petitioner.

Ms. Gurmeet Kaur Gill, Senior Panel Counsel,  
for the respondents/UOI.

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

Challenging the order dated 24.03.2025 issued by the official respondents whereby the petitioner has been transferred from Frontier Headquarter Punjab (FTR HQ BSF PB) at Jalandhar to Command HQ ANO, Raipur, Chhattisgarh, the instant writ petition has been filed by the petitioner.

2 Learned counsel for the petitioner contends that the petitioner was initially appointed to the Border Security Force on 20.02.1989 as Sub

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Inspector (General Duty), Junior Engineer (Civil). Upon successful completion of training at Hazaribagh, Bihar, the petitioner was first posted in the Rajouri Sector of Jammu and Kashmir and thereafter served at various stations across the country. Owing to his service and performance, the petitioner earned promotion to the post of Assistant Commandant (Works) on 18.07.2011 and was posted at New Delhi. Subsequently, in the normal course of administrative exigencies, the petitioner was transferred to Chhattisgarh Frontier Headquarters in July 2013, to Force Headquarters at New Delhi in June 2018, and then to the West Bengal Frontier Headquarters, Siliguri, in September 2022. He was thereafter promoted as Deputy Commandant (Works), which led to his posting at Punjab Frontier Headquarters, Jalandhar, where he assumed charge on 19.04.2023.

3           It is the specific contention of the learned counsel that the Government of India, Ministry of Home Affairs, had issued guidelines pertaining to the tenure and transfer of Border Security Force personnel vide communication dated 14.12.2001, wherein a minimum tenure of four years at a Frontier Headquarters was mandated. Although these instructions were subsequently revised by the Ministry on 10.04.2024, the petitioner asserts that the revised policy is not applicable to his case, having already been posted prior to its issuance. It is further submitted that the impugned transfer order dated 24.03.2025, transferring the petitioner to ANO BSF Headquarters, Raipur (Chhattisgarh), is in blatant disregard of the aforementioned tenure policy, the petitioner having not yet completed even

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one year at his present place of posting in Punjab. Such premature transfer, it is contended, is arbitrary, illegal, and violative of the binding administrative instructions that seek to ensure fair and predictable service conditions for BSF personnel.

4            Learned counsel appearing on behalf of the petitioner has urged, with considerable vehemence, that the impugned order of transfer dated 24.03.2025 is not only arbitrary and illegal but is also in stark violation of the binding tenure policy laid down by the Ministry of Home Affairs. It is the petitioner's categorical assertion that he has served only one year out of the prescribed minimum tenure of four years at the Frontier Headquarters, Punjab, and that his premature displacement is without justifiable cause and in breach of the established guidelines. It is further contended that the petitioner, aggrieved by the said order, submitted a detailed representation dated 31.03.2025 to respondent No.2, articulating his grievance and requesting reconsideration. However, the same was met with inaction, and no response was accorded by the authorities. Learned counsel has also emphasized that during the petitioner's tenure at the Punjab Frontier, he has rendered commendable and meritorious service, having successfully completed 15 infrastructure projects and secured approval for 110 new undertakings within a single financial year. This, it is argued, reflects the petitioner's professional dedication and competence, which ought to have been duly appreciated. A serious allegation has also been raised that the petitioner has been maligned due to the orchestrated acts of certain officials,

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namely the Deputy Commandant (Electrical), Assistant Commandant (Electrical), and Assistant Commandants (Works) I & II, who allegedly conspired to undermine the petitioner's standing by cancelling 99 Technical Bid Board proceedings, thereby casting a shadow upon his reputation. It is submitted that these very officers are undergoing their second tenures at the same station, whereas the petitioner has not even completed two years, and has been removed on administrative grounds, cloaked in mala fides and disguised as routine service exigency. The petitioner has further submitted that multiple representations were made to the higher authorities to apprise them of this alleged conspiracy, however, notwithstanding the serious nature of these averments, movement orders were issued with exceptional haste on 28.03.2025, directing the petitioner to hand over charge and report to his new place of posting. Learned counsel has also placed before the Court the compelling personal circumstance of the petitioner's son, who suffers from 87% permanent disability due to quadriparesis and moderate mental retardation, and is undergoing continuous treatment at a private medical facility in Jalandhar. It is argued that the medical condition of the petitioner's son is not likely to improve in the foreseeable future, and that the premature transfer will cause grave hardship to the petitioner's family, particularly in accessing essential medical care. It is the petitioner's final submission that the entire episode of transfer is not only contrary to the rules but is tainted with mala fides, victimisation, and procedural impropriety, and hence deserves to be set aside. A prayer is, accordingly, made for quashing the impugned transfer order dated 24.03.2025.

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5            Learned counsel for the respondents, while not controverting the broad factual matrix of the petitioner's induction into service, his past postings, or his current family situation, has nonetheless opposed the relief sought with persuasive reference to the institutional prerogatives of the Border Security Force (BSF) and the conduct of the petitioner. With reference to the written statement filed, it is contended that the petitioner has approached this Hon'ble Court without disclosing material facts, and thereby failed to come with clean hands. It is specifically pointed out that three Staff Court of Inquiries have been instituted to examine alleged irregularities and procedural lapses in the scrutiny of bids, wherein the petitioner's role is under question. It is further submitted that the petitioner deliberately omitted to place on record the communication dated 23.01.2025, wherein the competent authority had formally advised him to exercise greater care and professionalism in discharging his official duties. Said communication also records that the IG, Punjab Frontier Headquarters, had recommended the posting out of the petitioner owing to his "unprofessional approach, concealment of crucial information from higher authorities, and inappropriate conduct towards subordinate staff."

6            Acting upon such recommendation, the Frontier Headquarters, New Delhi, approved the proposal and, in exercise of administrative discretion, the Director General of the BSF issued the posting order dated 24.03.2025. Learned counsel has emphasized that the transfer was neither arbitrary nor punitive but was effected in terms of para 20 of the transfer

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policy dated 14.12.2021, which vests the Director General, BSF, with plenary powers to issue posting orders in view of exigencies of service or on administrative and operational grounds. It is urged that such orders, when made in the interest of service discipline, do not warrant judicial interference unless shown to be vitiated by mala fides or in clear breach of rules – neither of which, it is contended, is established in the present case. The Court is further informed that pursuant to the said transfer order, the petitioner has been relieved from his former posting and has already assumed charge at his new station, thereby giving effect to the impugned order. The challenge, it is submitted, has thus become infructuous to a considerable extent. Lastly, it is strongly urged that as a member of a disciplined force, the petitioner is bound to adhere to the command hierarchy, maintain professional decorum, and conduct himself with dignity, especially at sensitive postings. Any deviation from such standards undermines operational integrity and justifies appropriate administrative action.

7           It is a matter of record that though the written statement on behalf of the respondents was duly filed on 08.05.2025, learned counsel for the petitioner has chosen not to file any replication thereto. As a result, the specific assertions made by the respondents regarding the professional misconduct of the petitioner remain unrebutted and stand uncontroverted on record. Notably, it has been clearly averred by the respondents that 99 Technical Bid Board proceedings had to be cancelled due to the alleged acts and omissions of the petitioner. Moreover, serious procedural irregularities

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and lapses were attributed to him in the execution of his official responsibilities. It has also been specifically stated that the petitioner's behaviour towards subordinate staff was inappropriate, resulting in administrative concerns being raised at the highest level. The issuance of a formal advisory dated 23.01.2025 by the competent authority, cautioning the petitioner to exercise greater professional restraint and vigilance, is also part of the respondents' pleadings. In the absence of any replication or rebuttal, these factual assertions attain presumptive correctness under the settled principles of pleadings and procedure. It is well established that averments which remain unrebutted and unchallenged must be deemed to have been admitted, unless such acceptance leads to an absurdity or is contrary to the record. No material has been brought on record by the petitioner to dispute or explain the circumstances under which the cancellation of Technical Bid Board proceedings took place or to refute the advisory issued to him. Accordingly, this Court has no hesitation in holding that the conduct of the petitioner, as narrated by the respondents, has gone uncontroverted and must therefore be treated as admitted for the purpose of adjudication of the present lis. This omission on the part of the petitioner to respond to serious factual assertions weakens the foundation of his claim and substantially diminishes the credibility of the challenge laid to the impugned transfer order.

8           The defence put forth by the petitioner is that a so-called unholy conspiracy was allegedly hatched by the Deputy Commandant (Electrical) and the Assistant Commandant (Works) to tarnish his reputation—is, in the

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considered opinion of this Court, a disputed question of fact, not amenable to adjudication under writ jurisdiction under Article 226 of the Constitution of India. It is trite law that issues requiring resolution of complex factual controversies and which demand oral evidence or cross-examination fall outside the purview of summary writ proceedings. The law in relation to the transfer and posting of the personnel deployed in para military forces leaves a very little room for a Court of law to determine as to where the resources are to be optimally used. It would not be appropriate for this Court to assume the element of victimization at the level of Director General of BSF or the IG BSF, more-so when there is no such allegation or aspersion cast by the petitioner in the instant writ petition. In fact, the writ petition is conspicuously silent on any such allegations or material particulars suggesting personal bias, extraneous consideration, or legal infirmity in the impugned order dated 24.03.2025. What emerges from the record is that the transfer has been effected on the basis of specific complaints, adverse inputs, and an advisory issued to the petitioner, as discussed earlier. A recommendation was made by the Inspector General of the Punjab Frontier HQ citing the petitioner's unprofessional conduct, procedural lapses, and strained relations with subordinates. Thus a decision taken by the respondents to transfer an employee on administrative exigencies and given the large number of complaints having been noticed by them on the basis whereof a recommendation was made to transfer the petitioner cannot be said to be an order that would warrant interference by this Court. Transfer being an incidence of service, it is only in sparing and exceptional circumstances that

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the High Court would sit in judgment of the authorities. In the present case, the petitioner has failed to make out any such exceptional circumstance warranting interference by this Court.

9           For the foregoing reasons, I am of the considered opinion that the petition lacks merit. No ground has been made out to warrant interference with the impugned transfer order dated 24.03.2025. Consequently, the writ petition is hereby dismissed.

May 28, 2025.  
raj arora

(VINOD S. BHARDWAJ)  
JUDGE

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