



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

(2)

**Reserved on : 30.04.2025
CWP-10323-2025 (O&M)
Date of pronouncement: 19.05.2025**

Dayanand and others ...Petitioners

VERSUS

State of Haryana and another ...Respondents

(1)

**CWP-10190-2025 (O&M)
Date of pronouncement: 19.05.2025**

Ashok Kumar and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

(3)

**CWP-10451-2025 (O&M)
Date of pronouncement: 19.05.2025**

Atter Singh and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents

(4)

**CWP-10459-2025 (O&M)
Date of pronouncement: 19.05.2025**

Manish Kumar and others ...Petitioners

VERSUS

State of Haryana and others ...Respondents



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(5)

CWP-11159-2025 (O&M)

Date of pronouncement: 19.05.2025

Ankur Suthar and others

...Petitioners

VERSUS

State of Haryana and another

...Respondents

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

Present :- Mr. Puneet Malik, Advocate for the petitioner(s)
in CWP-10190-2025, CWP-10451-2025 and CWP-10459-2025.

Mr. Rajat Mor, Advocate for the petitioner(s)
in CWP-10323-2025.

Mr. Umesh Narang, Advocate and
Mr. Chandra Sekhar, Advocate for the petitioner(s)
in CWP-11159-2025.

Ms. Tanisha Peshawaria, DAG Haryana.

Mr. G.S. Madan, Advocate for the Intervener,
in CM-6004-CWP-2025 in CWP-10323-2025.

VINOD S. BHARDWAJ, J.

CM-6007-CWP-2025 in CWP-10323-2025

Application is allowed as prayed for subject to all just exceptions.

Annexures P-9 to P-13 are taken on record. Registry is directed to do the needful.

Facts from Writ Petition:

1. Involving identical issues, all these writ petitions are being decided



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by a common judgment. Facts for reference are however being extracted from CWP-10323-2025 titled as 'Dayanand and others Vs. State of Haryana and another'.

2. The above writ petition challenges the list uploaded on the website of the respondent-department on 28.03.2025, whereby the petitioners have been included in the list of Veterinary Livestock Development Assistants (hereinafter referred to as 'the VLDAs') proposed to be transferred in the Online Transfer Drive 2024-25. It is alleged that the said action is in violation of the Notification dated 15.10.2020, pertaining to the Online Transfer Policy since the petitioners have not completed their prescribed tenure of posting and their posts cannot be declared as vacant .

3. The petitioners were appointed to the post of VLDA's between April 2022 and June 2022, and it was stipulated in the appointment orders that regular postings would be allotted to them in due course, at any location within the State. Subsequently, posting orders were issued on 24.06.2022, directing the petitioners to join at different places against vacant posts. The petitioners assert that they have been serving at their respective places of posting since then which period is less than 3 years.

4. A communication dated 20.12.2024, issued by respondent No.2, namely, the Director General, Animal Husbandry and Dairying Department, Haryana, was served upon the petitioners, pertaining to the online transfer drive of the VLDAs. The petitioners contend that they have neither completed the



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prescribed tenure of five years at their current places of posting nor have they submitted any willingness to participate in the transfer drive, nevertheless, they are being forcibly transferred.

5. The petitioners submitted a representation to the respondent-State asserting that they have only completed approximately two years and seven months at their current place of posting, hence, they ought not to be considered under the online transfer policy, having neither completed the prescribed tenure nor volitioned for transfer.

6. It is further stated that a subsequent communication dated 11.03.2025 was sent by respondent No.2 regarding the opening of willingness/consent for VLDAs, including those who had been posted for three to five years and who had been transferred during the online drive of 2022. It is the petitioners' case that as they were not part of the 2022 online transfer drive and were instead granted regular postings upon their initial joining, the said communication is inapplicable to them, hence, they could not lawfully be compelled to participate in the present transfer drive.

7. Aggrieved by the list uploaded on the website of the respondent-department, which reflects the involuntary inclusion of the petitioners in the list of VLDAs proposed to be transferred under the Online Transfer Drive 2024-25, the present writ petition has been filed.

Reply by the respondents:

8. The respondent-State, in its reply, has neither disputed the issue



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concerning the online transfer policy applicable to the VLDAs nor that the petitioners were appointed on a temporary basis between April 2022 and June 2022, with posting orders issued in June 2022 pursuant to recommendations made by the Haryana Staff Selection Commission. The respondent-State has however additionally submitted that a CWP No. 10388 of 2023, titled ‘Paramjeet Singh and others v. State of Haryana and another’, was filed before this Court by certain VLDAs seeking setting aside of the letter dated 06.04.2023. The petitioners therein sought a direction that the department should unblock stations that had been blocked on the grounds of rationalization and the State should thereby permit transfers to such stations as well.

9. In its response to the above, the State of Haryana submitted that the transfer process for the year 2023-24 had been completed and that the petitioners had been considered for transfer in accordance with the options exercised by them. The Writ Petition was hence dismissed. Aggrieved of the said order, a Letters Patent Appeal was filed before the Division Bench of this Court. Reference was also made to the order passed by the Single Judge in **LPA-247-2020** titled ‘**Nisha v. State of Haryana**’, wherein this Court held that even if the transfer was effected in violation of the transfer policy or anybody was forced to participate in the transfer drive, no enforceable right thereby accrued.

10. Aggrieved by the said circumstances, the employees preferred LPA-1609-2023 titled ‘Anil and others v. State of Haryana and others’ before this Court. In the said matter, the respondent-department eventually filed an



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affidavit dated 07.03.2024 to the effect that the petitioners would be permitted to participate in the subsequent transfer drive, including against the blocked posts from the 2022-23 online transfer drive. In light of the said affidavit filed by the respondent-department, the said LPAs' were disposed of as not pressed.

11. It is thus submitted that, in compliance of the affidavit dated 07.03.2024, the petitioners have been directed to participate against the 495 posts of VLDAs, which were filled up by the petitioners who had been recruited in the year 2022, in the current online transfer drive. Hence, all VLDAs who were appointed or posted through the offline transfer drive mode in the year 2023-24 have been brought under the ambit of the online transfer drive of 2024-25.

Arguments by the petitioners:

12. Learned counsel appearing on behalf of the petitioners contend that the action of the respondents in forcibly transferring the petitioners is unlawful and liable to be set aside on the following grounds:—

- (i) That the petitioners are being unfairly penalized through inconsistent and arbitrary administrative maneuvers designed to favour the interveners. The action of the respondent-State lacks support under the transfer policy, rendering their action arbitrary and discriminatory. It is further submitted that there has been a reversal of its stand by the department regarding the policy, hence, the decision to forcibly include the



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petitioners in the transfer list is illegal. Learned counsel further contend that the stance now adopted by the respondent-State is contrary to the stand taken in the reply filed by the Department in CWP-10388-2023, which was accepted and the writ petition filed by the serving employees (interveners herein) was dismissed vide order dated 28.08.2023. The affidavit filed by the respondent-Department w.r.t. the interpretation and application of the online transfer policy was never rejected or set aside and the LPA preferred against the judgment of the Single Judge in CWP-10388-2023 was finally disposed of as not pressed. It is submitted that the said affidavit has now become the sole basis upon which the petitioners are being unfairly compelled to participate in the Online Transfer Drive 2024-25, by categorizing them as ‘newly appointed’, notwithstanding the earlier stand of the respondent-Department—that the interveners (i.e., the petitioners in CWP-10388-2023) lack locus with respect to posts to be filled through direct recruitment in accordance with Clause 9 of the Transfer Policy 2020 and that such posting orders were made against long-standing posts in rural areas—remains unchallenged. At the time of the 2022 transfer drive, the interveners were not



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eligible to participate in the transfer drive, having not fulfilled the minimum tenure of posting prescribed under Clause 3(d) of the Transfer Policy. This compelled the interveners to file the said writ petition, apprehending that once these stations were blocked under rationalization and allotted to the newly recruited VLDAs, they would be denied the opportunity to be considered for postings against the same in the year 2023.

- (ii) Learned counsel appearing on behalf of the petitioners further contend that the transfer policy has been wrongly interpreted by the respondent-Department to forcibly include the petitioners by misapplying Clause 3(j)(iii), which is to be read conjointly with Clause 3(b) that prescribes a minimum tenure of three years for voluntary participation and five years for mandatory participation in the transfer drive. The petitioners having not completed the prescribed five years of tenure, could not have been compelled to participate in the online transfer drive. It is further argued that the respondents have adopted inconsistent positions with respect to the applicability of the transfer drive to the petitioners, thereby defeating the object underlying the introduction of the transfer policy for stability, transparency and fair treatment to



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the employees. Such contradictory stances adopted by the State affect the sanctity of the judicial process and demonstrate a malicious administrative intent to further contemporary vested interests. State cannot be permitted to adopt an interpretation tailored to suit itself on a case-to-case basis, rather, it remains bound by its understanding of Policy submitted before the Court, which has also been accepted. The true and correct interpretation and application would not get affected merely because the State eventually filed an affidavit to allow the petitioners therein to participate in the next transfer drive against those posts as well. It is submitted that since the petitioners were not parties to the said LPA, any concession given by the respondent-State cannot be construed as an authoritative judicial pronouncement on the scope of the transfer policy against them. The State had earlier defended its action in posting the newly recruited VLDAs, including the petitioners, against vacant posts which were earlier blocked under the rationalization process emphasizing that such postings were carried out in accordance with Clause 9 of the Transfer Policy 2020 to ensure effective field service delivery and to fill critical gaps in rural veterinary infrastructure. Any departure from the said



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stand, without any valid ground, changed Policy or judicial pronouncement would be invalid.

- (iii) Counsel further contends that the transfer policy was later amended in 2024 to introduce a provision mandating the participation of newly recruited officials in the next transfer drive. Such a clause did not exist at the time when the petitioners were appointed and posted in June 2022. This clearly establishes that the respondents themselves did not intend to mandate participation of newly recruited officials in the transfer drive at that time. The clause incorporated in 2024 could only be made applicable prospectively to appointments made thereafter. Applying the same to the petitioners would amount to retrospective application of an amendment, which is impermissible.
- (iv) It is further contended that the interveners, who claim that the petitioners should be made to participate in the online transfer drive, have no right to seek amendments in the transfer process, as they possess no right to claim a specific station or seek modification once they have availed the benefits of a prior transfer drive. They are not even eligible to participate in the next transfer drive. The initiation of repetitive litigation on settled issues is rather an attempt to



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reopen finalized judicial proceedings, thereby reflecting abuse of the process of law. The interveners cannot seek their transfers de-hors the statutory Policy, solely under the affidavit which only stated that the blocked posts would be considered in the next transfer drive. Such an affidavit cannot be construed as conferring a right on the interveners to seek modifications in the tenure requirements prescribed under the transfer policy. The interveners, having been allotted stations in the 2023 transfer drive, have not completed even two years at their present places of posting and are thus statutorily ineligible to participate in the 2025 transfer drive. The allotment of stations was based on merit and eligibility criteria; they accepted the same, joined their allotted stations, and have been serving there since. In view of the foregoing, it is submitted that the action of the State in including the petitioners in the online transfer drive is liable to be set aside.

Arguments by the respondents:

13. Responding to the above, learned State counsel submits that the petitioners were directly recruited in the year 2022 and were assigned manual postings between April and June 2022. The petitioners have thus never participated in the online transfer drive and, therefore, are required to participate in the same to ensure equitable distribution of postings in accordance with the



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prescribed criteria.

14. Learned counsel further submits that the State had previously blocked 495 posts for the online transfer drive of 2022 as direct appointments were to be made and those blocked stations were to be offered to direct recruits. Following the affidavit filed by the State agreeing to keep the said posts open for the subsequent transfer drive, the petitioners are hence being included in the current drive. It is thus submitted that there is no element of malice, discrimination, or arbitrariness in the action of the State.

Arguments by the Intervener(s):

15. Counsel appearing on behalf of the interveners has reiterated the submissions advanced by learned State counsel, contending that the respondent-State had blocked 495 stations, in the name of rationalization, thereby precluding them from exercising an option to seek transfer to those stations during the online transfer drive of 2022-23, which occasioned the filing of CWP-10388-2022.

16. In the said LPA, the respondent-Department filed an affidavit stating that the blocked 495 posts would be opened and included in the next online transfer drive. In view thereof, the LPA was disposed of as not pressed. Learned counsel further contends that the petitioners were assigned temporary postings manually due to the non-availability of an online transfer drive at that time and, consequently, are required to be included in the next online transfer drive for determining their place of posting.



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17. It is further submitted that the decision of the State to bring the blocked posts as well as the petitioners herein, within the online transfer drive is legal and is in furtherance of the affidavit filed before the Division Bench of this Court. Accordingly, it is prayed that the instant writ petition be dismissed.

18. No other argument has been advanced and no other judgment has been cited by the respective parties.

Consideration and Decision:

19. 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.

20. Before proceeding further in the matter, it would be pertinent to refer to the relevant terms and conditions of the notified online transfer drive, as published in the Haryana Government Gazette dated 15.10.2022. The relevant Clauses thereof are extracted as under:-

“PART – I

Notifications, Orders and Declarations by Haryana Government

HARYANA GOVERNMENT

ANIMAL HUSBANDRY & DAIRYING DEPARTMENT

Notification

The 15th October, 2020

Online Transfer Policy of Veterinary Livestock Development Assistants

xxxxxx

1. ***Vision:*** *To ensure equitable distribution of Veterinary Livestock*



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Development Assistants (VLDA's) at different locations in a fair and transparent manner and to maximize job satisfaction amongst VLDA's and further to improve performance of the Department.

2. ***Application:*** *This policy shall be applicable to all the regular VLDA's of the Department of Animal Husbandry & Dairying, Haryana.*
3. ***Definitions:*** *In this policy, unless there be anything repugnant in the subject or context.*
 - a. ***'Blocked Posts'*** *means the vacancies of VLDA's remained unfilled at any given point of time due to shortage of VLDA's in the Department.*
 - b. *xxxxxxx*
 - c. ***'Deemed Vacancy'*** *means a post occupied by such VLDA, who has either completed maximum permissible tenure under this policy; or has completed minimum required tenure and has opted for participation in transfer drive.*
 - d. ***'Prescribed Tenure'*** *means the tenure of appointment for a period of five years. While calculating the tenure of a VLDA for the purpose of this policy, the date from which someone is working at a particular place of posting as on 31st March of the calendar year of transfer shall be counted irrespective*



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of the fact he has been appointed by temporary transfer or otherwise. However, a VLDA may participate in the transfer drive subject to completion of minimum three years' service at a particular place of posting.

e. xxxxxx

j. 'Vacant Post' means:

- (i) a post not occupied by any VLDA;*
- (ii) a post presently occupied by a VLDA for a period of five years or more i.e. have completed the prescribed tenure on qualifying date;*
- (iii) a post on which a VLDA has been appointed by temporary transfer or due to non-availability of online transfer drive;*
- (iv) a post occupied by a VLDA who has not completed the prescribed tenure but has completed three years on qualifying date and is willing to take part in online transfer drive.*

Note 1.— The Blocked Posts shall be excluded from the number of vacant posts for transfer.

Note 2.— The post against which an employee has been posted/ transferred on compulsion of administrative reasons or litigation nature shall be excluded from the



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number of vacant posts for transfer.

Note 3.– Department will prepare the list of vacant posts for transfer and notify them for the VLDA's. Depending upon input from stakeholders, such list may be amended at the sole discretion of competent authority, if required.

9. *Appointment by direct recruitment/ repatriation/ promotion:*

VLDA's taken in through direct recruitment/ repatriation/ promotion shall be posted at the place of posting as per eligibility and availability. The fresh recruitment shall preferably be posted in rural areas for initial period of 5 years.”

21. While the State as well as the interveners have emphatically relied upon Clause 3(j)(iii) which defines a vacant post, to contend that since the petitioners were posted temporarily due to the non-availability of an online transfer drive, the said posts should be deemed as vacant posts, learned counsel for the petitioners has argued that Clause 3(j)(iii) must be read in harmony with Clause 9, which specifically deals with direct recruitment, repatriation, and promotion. It is contended that the petitioners do not fall within the category of persons appointed by way of transfer, as contemplated under Clause 3(j)(iii), and Clause 9 being a specific Clause has to be preferred over a general Clause.

22. In order to appreciate the contentions advanced, it is imperative to



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take into consideration the background of the online transfer policy. It was initially formulated by delineating broad principles for transfer, which were approved by the Council of Ministers and uploaded by the Office of the Chief Secretary, Haryana, on 13.02.2020. Thereafter, the respective department(s) was/were required to frame its own online transfer policy based on these general principles and by incorporating such modifications as are deemed necessary and to thereafter submit the same to the Chief Minister for his approval. Clause 3(g) of the Draft Policy was the equivalent of Clause 3(j) in the notified transfer policy of the VLDA's and reads thus:-

“HARYANA GOVERNMENT

GENERAL ADMINISTRATION DEPARTMENT

NOTIFICATION

General Principles for online transfer of employees

The 13th February, 2020

xxxxx

3. Definition:

xxxxx

(g) ‘Vacant Post for transfer’ means:

(i) a post not occupied by any employee;

(ii) a post presently occupied by an employee for a period of five years or more;

(iii) a post on which an employee has been appointed



by temporary transfer or due to non-availability of online transfer drive;

- (iv) *post occupied by an employee who has been adjudged eligible and allowed by the competent authority to participate in general transfer drive even if he has not completed the prescribed tenure in the zone where he is presently posted.*

Note 1.- *Where there are Blocked Posts in a cadre the same shall be excluded from the number of vacant posts for transfer.*

Note 2.- *The post against which an employee has been posted/transferred on compulsion of administrative reasons or litigational nature shall also not be included in the vacant posts for transfer.*

Note 3.- *Each and every Department shall prepare the list of vacant posts for transfer and notify them for the benefit of stakeholders. Depending upon input from stakeholders, such list may be amended if required.*

- (h) **'Zone'** *means an area prescribed by the competent authority for the purpose of calculation of prescribed*



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*tenure and entitlement of an employee for transfer
from one zone to another under this policy;*

23. Clause 8 of the said policy is equivalent to Clause 9 of the notified policy. The same is extracted as under:

“8. Appointment by promotion/direct recruitment: *Employees taken in a cadre through direct recruitment/promotion/repatriation shall be posted in the zone of eligibility and availability.”*

24. It is evident from a perusal of the aforesaid that Clause 8 of the draft policy and Clause 9 of the Policy notified by the Department confine to the appointments made by direct recruitment, repatriation, or promotion, mandating that such employees shall be posted in accordance with their eligibility, and that fresh recruits shall preferably be posted in rural areas for an initial period of five years. Reference of these provisions is made for a specific purpose since the Government of Haryana, through the Human Resource Department, later notified an amendment to the Online Transfer Policy, 2020, dated 08.02.2024, exercising its powers conferred under Articles 162 and 166 of the Constitution of India. In this regard, suggestions were invited from all Departments, corresponding to Clause 8, which is extracted hereunder:

“8. Appointment by promotion/direct recruitment: *Employees taken in a cadre through direct recruitment/promotion/repatriation/re-instatement after suspension will be posted in*



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the unit and/or posts of eligibility and availability.
Thereafter, they will have to compulsorily participate in the
upcoming transfer drive for the said cadre.”
(emphasis supplied)

25. The argument relied upon by the respondents to support their contention that the petitioners, having joined through direct recruitment, are required to compulsorily participate in the next online transfer drive for the said cadre, is in effect based on the amendment. To better appreciate the distinction and the shift in policy, the relevant Clause contained in the transfer policy applicable at the time when the petitioners were posted, as well as the proposed amendment, must be examined conjointly:

Clause 8 of Draft Policy	Clause 9 of Notified Transfer Policy 2020	Clause 8 of Amended Policy 2024
“8. Appointment by promotion/ direct recruitment: <i>Employees taken in a cadre through direct recruitment/ promotion/ repatriation shall be posted in the zone of eligibility and availability.”</i>	<i>Appointment by direct recruitment/ repatriation/ promotion:</i> <i>VLDA's taken in through direct recruitment/ repatriation/ promotion shall be posted at the place of posting as per eligibility and availability. <u>The fresh recruitment shall preferably be posted in rural areas for initial period of 5 years.</u></i> <u>(CHANGE)</u>	8. Appointment by promotion/ direct recruitment: <i>Employees taken in a cadre through direct recruitment/ promotion/repatriation/re-instatement after suspension will be posted in the unit and/or posts of eligibility and availability. <u>Thereafter, they will have to compulsorily participate in the upcoming transfer drive for the said cadre.</u></i> <u>(AMENDMENT)</u>



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26. A comparative examination of the said Clauses as originally enacted reveals that the ‘vacant posts’ for transfer, as prescribed in the general principles framed under the proviso to Article 309 of the Constitution of India, include a post on which an employee has been appointed by temporary transfer or due to the non-availability of an online transfer drive. However, Clause 9 specifically deals with appointments by direct recruitment/promotion etc. and mandates that such postings shall be made in accordance with availability and eligibility and preferably in rural areas, for an initial period of five years.

27. The proposed amendment to the aforesaid Clauses, pertaining to appointment by promotion, direct recruitment, repatriation, or reinstatement, provides that employees falling within these categories shall be posted to units and/or posts in accordance with eligibility and availability, and thereafter shall be compulsorily required to participate in the forthcoming transfer drive for the said Cadre. This amendment introduces a Clause that was absent in the earlier transfer policy and seeks to bring all such employees within the ambit of the transfer drive through legislative modification. The Clause as it existed in the 2020 Policy thus did not prescribe that persons appointed by direct recruitment would be exempt from the minimum tenure requirement and can be compelled to participate compulsorily in the transfer drive.

28. It is a well-established principle that Courts do not read into statutes what is not prescribed therein, nor do they legislate under the garb of interpretation or implication. The duty of this Court is to interpret the statutory



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provisions harmoniously, as they stand. The online transfer drive defines “transfer” in Clause 3(i) to mean ‘postings/appointments from one place of posting to another on or before completion of the prescribed tenure at a place of posting’. Clause 3(j)(i) of the transfer policy specifically contemplates a post of Veterinary Livestock Development Assistant (VLDA) where an appointment has been made by way of temporary transfer or due to the non-availability of a formal transfer drive. Consequently, to attract the definition of “transfer,” there must be an initial place of posting, and a subsequent movement from that posting, which, if temporary in nature or occasioned by the absence of an online transfer drive, would bring within its scope such VLDAs. The respondent-State has used the expression Transfer; Posting; appointment; direct recruitment; promotion and repatriation. While Clause 3(j) and Clause 3(i) use the first three expressions above, Clause 9 confines to last three. The legislature has shown not only its conscious awareness about different ways of appointment/transfer but has shown the distinction between transfer and the source/way of appointment. This reflects a fine intent to segregate the two and deep understanding of the context and its usage. There is no casual or over-lapping use of expression and the same have been finely curated.

29. The appointment and postings of Veterinary Livestock Development Assistants (VLDAs), who have been appointed through direct recruitment, repatriation, or promotion are thus proposed to be governed by Clause 9 of the transfer policy i.e. in accordance with eligibility and availability



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criteria, with a preference for posting in rural areas for an initial period of five years. There is thus no option made available to such employees who are governed by Clause 9 while such option has been made available to the other employees. The classification based on source of appointment for initial posting against the already in-Cadre employees cannot be held to be un-intelligible or not distinct. There is no condition of rural service for the already in-Cadre employees as well. Such employees thus can not to be equated with those posted by way of temporary transfer or mid-term transfer. Noticing that Clause 3(j) does not extend its application to individuals initially posted by way of direct recruitment, repatriation, or promotion appears to have precipitated the proposed amendment requiring such employees to compulsorily participate in the forthcoming transfer drive for the respective cadre. It is well-settled in the rules of statutory interpretation that subsequent amendments or proposals introduced by the Government may be taken into account in construing the application of a particular Clause.

30. It is a well settled position in law that generally a clarificatory amendment is deemed to be retrospective while a substantive amendment is deemed prospective and may suggest exclusion of the categories earlier and which are now proposed by the amendment. If the amendment creates new right/liability, it is to be held as substantive and only if it removes an ambiguity, it is deemed clarificatory. The change proposed is by altering Clause 9 and not by way of clarification of Clause 3(j) and while deleting the earlier condition of



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05 years rural service, tends to bring them at par with other in the next transfer drive. Thus, the changes are substantive and extinguish/create rights.

31. A perusal of the proposed amendment highlights the departure and clarifies that the Transfer Policy of 2020 did not encompass within its scope those employees who were directly appointed to a post. Accordingly, Clause 3(j)(iii) cannot be interpreted to include employees contemplated under Clause 9 and appointed by direct recruitment, repatriation, or promotion to fall within its ambit.

32. The legal position is also well settled that there can be no presumption of an inadvertent or erroneous omission on the part of the legislature or competent authorities; rather, the presumption is that such omission was conscious and desired.

33. Now, adverting to the other argument advanced by the respondent-State and the interveners as well and concerning the affidavit dated 07.03.2024 filed by the respondent-State in LPA-1609-2024, it is undisputed that CWP-10388-2023 titled *Paramjeet Singh and others Vs. State of Haryana and another* was filed before this Court challenging the letter dated 06.04.2023. The said letter had initiated the process of the online transfer drive of VLDAs, and the petitioners therein (interest at par with interveners) sought to set aside the same. A specific prayer was made that the stations blocked by the respondent-Department under the guise of rationalization be kept open and that the petitioners be allowed to seek transfers to those stations as well.



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34. A further prayer was also made that the respondent-Department be directed to make the online transfer policy of VLDAs dated 15.10.2020 applicable to appointments made by direct recruitment as well. This prayer itself demonstrates the interveners' own understanding and admission that Clause 3(j) of the policy was not applicable to appointments made by direct recruitment. It is also undisputed that the petitioners were not eligible to participate in the online transfer drive for the year 2022. The pleadings of the interveners in the said writ petition assume vital significance in this regard. The relevant paragraphs from the pleadings are extracted hereunder:

“6. That it is submitted that the entire grievance of the petitioners herein is with respect to the action of the respondent authorities whereby they in the garb of rationalization are blocking various stations. Meaning thereby, they are restricting the petitioners and other VLDAS from seeking transfer to the said blocked stations for the reasons best known to the respondent authorities.

7. That at this stage, it would be relevant to bring to the notice of this Hon'ble Court that the respondent No.2 in the month of March, 2022 had initiated an online transfer drive, similar to the one impugned in the present writ petition. It is submitted that the petitioners, who had not completed five years of service at their stations, were not eligible to participate in the said transfer drive.



8. *That it is submitted that the respondent-Department in the first half of 2022 had also issued an advertisement whereby applications were invited for the posts of VLDA by way of direct recruitment. About 495 appointments were made to the post of VLDA in pursuance to the said advertisement. It would be relevant to bring to the notice of this Hon'ble Court that transfer policy dated 15.10.2020 allows the respondents to rationalize the sanctioned posts and also to block actual vacant posts. It is submitted that the respondents in the garb of rationalization have blocked huge number of posts in various districts such as Fatehabad, Ambala etc. A table depicting the total sanctioned posts as well as total number of blocked stations as of March, 2022 is tabulated herein below:-*

<i>Total No. of sanction posts Haryana</i>	<i>Total No. of VLDA not eligible for transfer</i>	<i>Total no. of Block Post after Rationalization</i>	<i>Total No. of Vacant Post after rationalization</i>	<i>Name of VLDA transferred against vacant stations in March 2022</i>	<i>Vacant post remained out of rationalization</i>
<i>3000 approx.</i>	<i>1062 approx.</i>	<i>800 approx.</i>	<i>1138</i>	<i>832</i>	<i>306</i>

9. *That a perusal of the aforesaid table would reveal that about 306 posts remained vacant after completion of the transfer drive, which was initiated in the month of March, 2022. Out of the*



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total 495 directly recruited VLDAs, only about 60 have been appointed against vacant posts/stations whereas remaining 430 VLDAS have been appointed by unblocking the posts/stations, which were blocked for VLDAS like the petitioners herein. Posts/stations belonging to major districts are blocked by the respondents and are only opened or unblocked at the time when direct recruitment take place. It is submitted that a perusal of the transfer policy would reveal that comprehensive system has been framed in order to carry out transfers by determining the inter alia merit of each employee. The merit is determined as per procedure mentioned in the said policy. Most of the marks are for age and whoever is senior, shall predominantly have a choice of better posting, however, the respondents as is evident from the aforesaid table are offering blocked posts to fresh recruits whereas the petitioners, who are working for the past 15-20 years to the utmost satisfaction of the respondent-authorities are not being offered these blocked posts, which have been blocked in the garb of rationalization.

10. *That rationalization is being done only with respect to VLDAS, who are already working in the respondent-department and no system of rationalization is in place for fresh appointees, who have been appointed by way of direct recruitment. At this stage*



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it would be relevant to beseech the indulgence of this Hon'ble Court to Clause 9 of the transfer policy. The same is reproduced herein under for the kind perusal of this Hon'ble Court:-

"9. Appointment by direct recruitment/repatriation /promotion: VLDA's taken in through direct recruitment/repatriation/promotion shall be posted at the place of posting as per eligibility and availability. The fresh recruitment shall preferably be posted in rural areas for initial period of 5 years."

A perusal of the aforesaid Clause would reveal that VLDA's taken in through direct recruitment shall be posted as per eligibility and availability. Further, fresh recruits shall preferably be posted in rural areas for an initial period of 5 years. Clause 9 categorically states that fresh appointees shall be placed as per availability of posts. The respondent-State is acting in complete contravention of the said Clause, as the posts which have been blocked in the garb of rationalization and are not available to any VLDA, are being offered to fresh recruits by unblocking the said posts. Posts which are already vacant in various districts are not being offered to the fresh recruits for the reasons best known to respondent authorities in complete contravention to the transfer policy."

(emphasis supplied)



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35. The petitioners' therein (interveners) own pleadings in paragraph No. 10 of CWP-10388-2023, while referring to Clause 9 of the transfer policy, explicitly acknowledge that there is no system of rationalization for fresh appointees under the transfer policy. It is admitted by them that the vacant posts in various districts are not made available to in-service employees but are instead reserved for offering appointments to fresh recruits. Furthermore, in paragraph No. 7 of the same petition, the interveners concede that they were not eligible to participate in the transfer drive initiated in March 2022. It is also significant to note that at the time when the transfer drive of 2022 was initiated, the Haryana Staff Selection Commission had already made recommendations for the appointment of VLDAs, and their joining orders were being issued, although the posting orders had not yet been finalized.

36. In the reply that was filed by the respondent-Department in CWP-10388-2023, the stand of the respondent-State was as under:-

“6. That main grouse of the petitioners in the present writ petition is against the respondents that the respondents have blocked various stations and petitioners are restricted to seek transfer against those blocked stations, whereas, the fact of the matter is that as per clause 3(a) of the policy "Blocked post" means the vacancies of VLDAs remained unfilled at any given point of time due to shortage of VLDAs in the Department. It is also relevant to state here that to avoid disproportionate concentration



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of VLDAS in a particular district, by rationalizing its sanctioned posts and blocking actual vacant posts the department started process of online transfer and as per Note-1 of clause 3(j) the blocked posts shall be excluded from the number of vacant posts for transfer. Further, it is also imperative to state here that declaration of vacancy for transfer is the sole discretion of the Competent Authority, Hence, petitioners have no locus standi to challenge the action of the respondent when the policy itself make them liable to be transferred at any place of posting anywhere in the State, in public interest, on completion of prescribed tenure and since blocked posts were remained unfilled upto March 2022 therefore, posting transfer was given on these blocked posts to the newly appointed VLDAs for smooth functioning and public interest.

xxxxxxx

9. So far as, the question of including the VLDAs who have been appointed via direct recruitment in April 2022 is concerned, it is submitted that the newly appointed VLDAs were appointed by the respondent department and got joined at Directorate Animal Husbandry and Dairying Panchkula, thereafter they were allotted work at districts level as a temporary/stop gap arrangement because their postings orders were awaited and it was specifically mentioned in their appointment orders that regular postings will be



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allotted in due course of time anywhere in the State as per the requirement of the department in public interest. Regular postings were made after two months as per the requirement of the department and in public interest vide order dated 24.06.2022 (Annexure P-7) from the date they joined at the Directorate, which is clearly mentioned at point 2 (ii) of the endst. of these orders. Hence the directly recruited VLDAs have been allotted regular postings in consonance with point 9 of the transfer policy where it is inter-alia written that VLDA's taken in through direct recruitment shall be posted at the place of posting as per eligibility and availability and the fresh recruitment shall be preferably be posted in rural areas for initial period of 5 years and no temporary transfer was involved in the process.”

37. While the petitioners in the said writ petition acknowledged that the online transfer drive was not applicable to the directly recruited VLDAs, the respondent-State also consistently maintained the same position—that the direct recruits would be governed solely by Clause 9 and were not subject to the provisions of the online transfer drive under Clause 3(j). Thus, there was no dispute or controversy at all between the parties that Clause 9 exclusively applied to persons appointed by direct recruitment, and that Clause 3(j) of the Online Transfer Policy, 2020 did not extend to such recruits. The writ petition having been eventually dismissed, the respondent-State subsequently filed an



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affidavit before the Division Bench of this Court on 07.03.2024, wherein it was conveyed that the petitioners could participate in the next transfer drive, including against the posts that had been blocked during the 2022 online transfer drive. The said affidavit did not in any manner deny or dispute the applicable Clause or its interpretation adopted by the State.

38. There is also no discussion in the affidavit regarding the different Clauses of the Transfer Policy, rendering it nothing more than a concession made by the respondents, without any reference to the statutory transfer policy, its applicability, or any specific decision taken by the Government giving any other decisive interpretation in this regard. It appears that the affidavit dated 07.03.2024 was filed in light of the proposed amendment by the Government vide memo No. 15/27/2017-4 HR-I dated 08.02.2024, with the proposed Clause 8 and the corresponding amendment therein. The submission of this affidavit before the Court cannot be construed as a binding precedent or authoritative pronouncement of law on the issue.

39. Significantly, the Division Bench did not pass any judgment and disposed of the LPA as not pressed, in light of the affidavit. Hence, the Clauses never fell for judicial interpretation and/or to operate as a binding precedent.

40. Undisputedly, the petitioners herein were not parties to the said writ petition or even in the LPA and were probably not required to be impleaded since the interveners; the State as well as the petitioners now herein were all *ad-idem* that Clause 9 is a distinct clause governing the first appointees in the Cadre



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and were not governed under the transfer drive. The prayer was to bring them under the transfer drive, which the State also agreed to and introduced the amendment but in its affidavit committed an error by opening a right against post for which a right had accrued in the meanwhile in favour of the petitioners. The State now wants to bind the rights of the petitioners, by relying on its affidavit filed before this Court and to clothe the same with binding force of a judicial pronouncement on interpretation of Clause. The same is not a legal way of creating binding precedents. The affidavit was tendered by the respondent-Department without a thorough examination of the statutory provisions, their applicability, or the far-reaching consequences such affidavit might entail. This reflects an act of undue haste and ministerial way of filing affidavits or replies, with a limited understanding of the legal ramifications involved. Had such a brazen affidavit not been filed by the respondent-State, the instant batch of writ petitions may never have arisen. Now, in an attempt to protect itself, the respondents have resorted to an exercise that goes beyond the scope of the transfer policies. Despite the statutory transfer policies remaining unamended with respect to the petitioners, the respondents seek to apply them in a manner inconsistent with strict statutory principles by relying on their own affidavit.

41. It is the episodic *ad hoc* actions of the State which frequently give rise to unnecessary litigation. The present case being a clear example thereof. The affidavit dated 07.03.2024, filed by the respondent-State, cannot be equated to a binding judicial precedent. Consequently, this Court cannot place reliance



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on such affidavit to interpret the scope and applicability of the Clauses of the transfer policy of 2020 and to hold it applicable to the direct recruits falling Clause 9 thereof.

42. To hold otherwise would be to abdicate the judicial responsibility entrusted to this Court to interpret and apply the law independently. Accordingly, the act of the respondents in forcibly applying the transfer policy of 2020 to the directly recruited VLDAs of 2022 is contrary to law and cannot be sustained. The act of the respondents in forcibly directing the online transfer of the petitioners is accordingly **set aside**.

43. This Court also remains mindful of the claim advanced by the interveners regarding the extension of the transfer policy to the newly recruited VLDAs. However, it is noticeable that neither such Clause nor its application is under challenge in the instant writ petition before this Court. Furthermore, the writ petition preferred by the interveners seeking extension of the transfer policy also did not seek any declaration in their favour.

44. In view of the foregoing, I hold that the respondents' action in forcibly extending the online transfer policy to the petitioners is illegal. The posts occupied by the petitioners cannot be treated as vacant posts within the meaning of Clause 3(j) of the said online transfer policy. The amendment being substantive by its nature, can only be applied prospectively and cannot be given retrospective effect to affect those who were already appointed prior to its enactment.



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45. Accordingly, the respondents are directed to exclude the petitioners, along with the posts occupied by them, from the ambit of the online transfer drive. Since their posts cannot be construed as a vacant post.

46. Given the Court's earlier expressed displeasure at the cavalier manner in which the respondent-State has filed affidavits, ignoring the applicable statutes and its own policy decisions, thereby precipitating litigation detrimental to the cause of law, this Court deems it appropriate to impose a cost of Rs. 2,00,000 (Two Lakhs) on the respondent-State. This cost is imposed as a stern warning to ensure that due application of mind and proper caution is exercised before any future responses or affidavits are filed before this Court.

47. Let the aforesaid cost be deposited with the Poor Patient Welfare Fund (PPWF) of Post Graduate Institute of Medical Education & Research, Chandigarh.

48. **The writ petitions are accordingly allowed.**

49. CM-6004-CWP-2025 in CWP-10323-2025 preferred by the Intervener(s) also stands disposed of in above terms.

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

(VINOD S. BHARDWAJ)
JUDGE

19.05.2025

Mangal Singh

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