

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

203

CWP-26382-2025
DECIDED ON:28.10.2025

INDRAJ SINGH

...PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunil K. Nehra, Advocate with
Mr. Anuj Chauhan, Advocate
for the petitioner

Mr. Rahul Dev Singh, Addl. AG. Haryana

SANDEEP MOUDGIL, J

1. Prayer

The jurisdiction of this Court has been invoked under Article 226/227 of the Constitution of India for issuance of a writ in the nature of Certiorari quashing the impugned transfer order dated 28.08.2025 (Annexure P-3) as the same has been issued in violation of the online transfer policy dated 25.11.2021 (Annexure P-2). It is further prayed that during the pendency of the present writ petition, operation of the impugned transfer order dated 28.08.2025 (Annexure P-3) may kindly be stayed, in the interest of justice.

2. Brief Facts

The petitioner is working as Sub Divisional Engineer (Current Duty Charge) in the Public Health Engineering Department, Haryana. Vide order dated 04.10.2023 (Annexure P-1), he was posted at PHESD, Guhla Cheeka, District Kaithal against a vacant post.

The Online Transfer Policy for Assistant Engineers/Assistant Executive Engineers was notified by the Department on 25.11.2021 (Annexure P-2) in exercise of powers under the proviso to Article 309 of the Constitution of India. As per the policy, the prescribed tenure is five years in a Sub Division, ten years in a Division, and twelve years in a Circle. The policy further provides that transfer before the completion of tenure can only be made by invoking the power to relax, which requires recorded reasons and prior approval of the Chief Minister.

3. Contentions

On behalf of Petitioner

Learned Senior counsel for the petitioner contends that the impugned transfer order dated 28.08.2025 (Annexure P-3) is arbitrary, illegal, and violative of the Online Transfer Policy dated 25.11.2021 (Annexure P-2), which has been framed under the proviso to Article 309 of the Constitution of India.

It is submitted that the petitioner was posted at his present place of posting, PHESD, Guhla Cheeka, District Kaithal, vide order dated 04.10.2023 (Annexure P-1), and has not yet completed the minimum prescribed tenure of five years in the Sub-Division as mandated under Clause 3(c) of the transfer policy. The premature transfer is, thus, in direct violation of the prescribed tenure provisions.

Learned counsel further submits that the impugned order describes the transfer as a “mutual transfer”, but the petitioner has never given any consent or representation for such a transfer. Hence, the foundation of the order is factually incorrect and unsustainable in law.

It is further urged that Clause 11 of the transfer policy vests the power of relaxation only in the Administrative Secretary, and such relaxation can be exercised only with prior approval of the Hon'ble Chief Minister and after recording reasons in writing. In the present case, no such reasons have been recorded, nor any approval of the Chief Minister has been obtained, as evident from the record. Consequently, the transfer order is non est in the eyes of law.

Counsel also contends that no administrative exigency or public interest has been demonstrated by the respondents to justify the premature transfer. The transfer has been made merely for extraneous reasons, amounting to arbitrary exercise of power and violation of Articles 14 and 16 of the Constitution of India.

On behalf of respondent/State

Learned State counsel submits that the impugned transfer order dated 28.08.2025 has been issued on administrative grounds and with the prior approval of the Hon'ble Chief Minister, Haryana as required under Clause 11 (Power to Relax) of the Online Transfer Policy dated 25.11.2021. It is contended that the transfer is not mutual in nature, and no consent of the petitioner was required since no request for mutual transfer was ever received.

It is further clarified that Sh. Ajay Kumar Dhaka, SDE, is substantively posted at Head Office, Panchkula, and his HRMS data was only mapped to PHESD No. 5, Sirsa for salary generation purposes due to non-availability of a sanctioned post at the Head Office. The petitioner's transfer, therefore, cannot be treated as mutual.

Learned State counsel argues that under the policy, transfers can be made at any time in public interest or on administrative grounds, and hence the petitioner's incomplete tenure does not invalidate the order. It is emphasized that the transfer is a normal incidence of service, issued without mala fides or arbitrariness, and in conformity with the statutory policy.

Heard.

4. Analysis

I have heard learned counsel for the parties and carefully perused the record.

The primary issue that arises is whether the impugned transfer order dated 28.08.2025 has been issued in accordance with the Online Transfer Policy dated 25.11.2021, which, having been framed under the proviso to Article 309 of the Constitution of India.

The petitioner was posted as Sub Divisional Engineer (Current Duty Charge) at PHESD, Guhla Cheeka, District Kaithal, vide order dated 04.10.2023, and has completed only one year and eleven months at his present place of posting. As per Clause 3(c) of the transfer policy, the prescribed tenure in a Sub Division is five years, and transfers prior to completion of the prescribed tenure are permissible only under Clause 11, which requires the Administrative Secretary to record reasons in writing and obtain the prior approval of the Hon'ble Chief Minister.

The respondents claim that the transfer was made on administrative grounds and that the approval of the Hon'ble Chief Minister was obtained. However, no material has been placed on record to show that any specific reasons were recorded justifying the relaxation of tenure, as mandated by Clause 11 of the policy. Mere reference to "administrative grounds" without

supporting reasoning does not satisfy the statutory requirement of recorded justification.

The transfer order describes the posting as “mutual,” though it is now admitted by the respondents that no request for mutual transfer was ever made and that the transaction involved only HRMS data adjustment for salary purposes. This clearly demonstrates non-application of mind and procedural irregularity in the issuance of the impugned order.

Moreover, the petitioner has not completed the minimum prescribed tenure and therefore could not have been included in the transfer drive. The transfer within less than two years of posting, without cogent justification or exigency, defeats the very object of tenure-based stability envisaged under the policy and amounts to arbitrary exercise of power.

While it is well-settled that transfer is an incidence of service, it must be effected in accordance with law and policy and cannot be arbitrary or mala fide. The above principle was cited with approval by the Supreme Court in the case of **“Union of India vs. S.L. Abbas (1993) 4 SCC 357”** wherein it was held that transfer is an incident of service:

“7. Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer is vitiated by mala fides or is made in violation of any statutory provisions, the court cannot interfere with it. While ordering the transfer, there is no doubt, the authority must keep in mind the guidelines issued by the Government on the subject.

The department cannot act on its own whims and fancies; administrative discretion must be exercised within the framework of law, with transparency and fairness in action. The compliance with policy conditions needs to be strictly observed. Authority does not mean arbitrariness, and power is not a license to disregard statutory safeguards. In the present case,

the respondents have failed to show any compelling administrative necessity or compliance with mandatory procedural safeguards.

5. *Conclusion*

In view of the above, it is evident that the impugned transfer order dated 28.08.2025(Annexure P-3) has been passed in violation of the statutory Online Transfer Policy(Annexure P-2), without proper justification, and in disregard of the prescribed tenure. The order dated 28.08.2025 (Annexure P-3), therefore, cannot be sustained in law and is hereby quashed.

Accordingly, the writ petition is allowed in the aforesaid terms.

28.10.2025
anuradha

(SANDEEP MOUDGIL)
JUDGE

<i>Whether speaking/reasoned</i>	<i>:Yes/No</i>
<i>Whether reportable</i>	<i>:Yes/No</i>