



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

CWP No.32625-2025
Date of Decision:06.11.2025

Rajesh Jasuja

...Petitioner

vs.

State of Punjab and others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Yogesh Kumar Aneja, Advocate
 for the petitioner.

Mr. Rohit Ahuja, DAG, Punjab.

N.S.Shekhawat J. (Oral)

1. The petitioner has filed the present petition under Article 226/227 of the Constitution of India with a prayer to issue a writ in the nature of certiorari for quashing the impugned order dated 29.09.2025 (Annexure P-7) passed by the official respondent qua the petitioner, whereby the petitioner has been transferred from Food Civil Supplies and Consumer Affairs Department, Circle Office, Sri Muktsar Sahib to District Gurdaspur, which is at a distance of 293 kms.

2. Learned counsel for the petitioner contends that the petitioner was initially appointed as a Clerk on compassionate ground in the respondent-department and keeping in view his sincerity and dedication, he was promoted as a Junior Auditor. Vide order dated 21.06.2022 (Annexure P-2), the petitioner was transferred from District Office, Circle Faridkot to Circle Gurdaspur on



administrative basis. In April 2023, the petitioner suffered heart problem and the doctor at Dayanand Medical College and Hospital, Ludiana conducted his echo, angiography and other tests and he was diagnosed as a patient of Hyperbaton, CAD-unstable Angina and seizure disorder (Annexure P-3). Since the petitioner belongs to Malout, he requested the respondents to transfer him from District Gurdaspur to District Fazilka as Fazilka is at a distance of 50 km from Malout. Consequently, keeping a view the ill health of the petitioner, he was transferred from Gurdaspur to Fazilka, vide transfer order dated 05.06.2023 (Annexure P-5). However, again vide order dated 15.09.2025 that is after a period of two years and three months, the petitioner was transferred from Fazilka to Sri Muktsar Sahib (Annexure P-6). Again, vide order dated 29.09.2025 (Annexure P-7), he has been transferred from Sri Muktsar Sahib to District Gurdaspur on administrative basis. Learned counsel further submits that the petitioner is suffering from Hyperbaton, CAD-unstable Angina and seizure disorder and it is very difficult for him to commute from Malout to Gurdaspur. Still further, the petitioner has been transferred within a period of 15 days, just to harass him and the said transfer was in violation of the transfer policy of the respondent-State.

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

4. The Hon'ble Supreme Court has held in the matter of "*State of U.P and others Vs.Ashok Kumar Saxena and another (1998) 3 SCC*" categorically observed that transfer of an employee is within the prerogative power of an employer and normally the High Court should not interfere by



exercising its jurisdiction under Article 226 of the Constitution of India unless it is shown clearly as mala fide or infraction of any professed norms and held as follows:-

*“.....The parameters of the powers of a Court under Article 226 vis-a-vis an order of transfer for are well settled. In **N.K. SINGH VERSUS UNION OF INDIA 7 ORS. (1994) 6 S.C.C. 98**, this Court held that interference by judicial review is justified only in cases of mala fides or infraction of any professed norms or principles and where career prospects remain unaffected and no detriment is caused to the concerned Government employee, challenge to the transfer must be eschewed. Reiterating the said proposition in *Sri Abani Kanta Ray Versus State of Orissa & Ors. J.T. 1995 (7) S.C. 467* the Court added that transfer being an incidence or service, is not to be interfered with by the Courts unless it is shown clearly arbitrary.....*

5. Similarly, in **Somesh Tiwari Vs. Union of India and others (2009) 2 SCC 592**, the Hon’ble Supreme Court again observed that an order of transfer is an administrative order, which is ordinarily an incident of service and the same should not be lightly interfered with. The relevant observations of the Hon’ble Supreme Court are reproduced as follows:-

“.....Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds - one malice in fact and the second malice in law. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of



transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal....”

6. Still further, the Hon’ble Supreme Court has held in the matter of **“Sri Pubi Lombi Vs. The State of Arunachal Pradesh and others”, 2025(1) Apex Court Judgments (SC) 67** as follows:-

“9. In the case of Union of India and others v. S.L. Abbas; (1993) 4 SCC 357, it is clearly observed by this Court that the scope of judicial review is only available when there is a clear violation of statutory provision or the transfer is persuaded by malafide, non-observation of executive instructions does not confer a legally enforceable right to an employee holding a transferable post. The relevant paragraph reads as under:

"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....."

9.1 Further, following the footsteps of S.L. Abbas (supra) this Court in the case of **Union of India and another v. N.P. Thomas; 1993 Supp (1) SCC 704** held that the interference by the Court in an order of transfer on the instance of an employee holding a



transferrable post without any violation of statutory provision is not permissible.

9.2 This Court further curtailed the scope of judicial review in the case of **N.K. Singh v. Union of India and others; (1994) 6 SCC 98** holding that the person challenging the transfer ought to prove on facts that such transfer is prejudicial to public interest. It was further reiterated that interference is only justified in a case of malafide or infraction of any professed norm or principle. Moreover, in the cases where the career prospects of a person challenging transfer remain unaffected and no detriment is caused, interference to the transfer must be eschewed. It is further held that the evidence requires to prove such transfer is prejudicial and in absence thereof interference is not warranted. The law reiterated by this Court is reproduced, in following words: -

"9. Transfer of a public servant from a significant post can be prejudicial to public interest only if the transfer was avoidable and the successor is not suitable for the post. Suitability is a matter for objective assessment by the hierarchical superiors in administration. To introduce and rely on the element of prejudice to public interest as a vitiating factor of the transfer of a public servant, it must be first pleaded and proved that the replacement was by a person not suitable for the important post and the transfer was avoidable. Unless this is pleaded and proved at the threshold, no further inquiry into this aspect is necessary and its absence is sufficient to exclude this factor from consideration as a vitiating element in the impugned transfer. Accordingly, this aspect requires consideration at the outset.

XXX XXX XXX



"23.Unless the decision is vitiated by mala fides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially, there are no judicially manageable standards for scrutinising all transfers and the courts lack the necessary expertise for personnel management of all government departments. This must be left, in public interest, to the departmental heads subject to the limited judicial scrutiny indicated."

"24. ...Challenge in courts of a transfer when the career prospects remain unaffected and there is no detriment to the government servant must be eschewed and interference by courts should be rare, only when a judicially manageable and permissible ground is made out. This litigation was ill advised."

9.3 The issue involved in the present case is somewhat similar in the case of **Mohd. Masood Ahmad v. State of U.P. and others; (2007) 8 SCC 150** wherein this Court in paragraph 8 has observed as thus: -

"8. In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people in the legislature to express the grievances of the people and if there is any complaint against an official the State Government is certainly within its jurisdiction to transfer such an employee....."



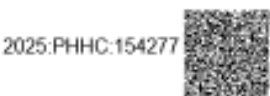
9.4 *It is not tangential to mention that this Court in the case of **State of Punjab v. Joginder Singh Dhatt; AIR 1993 SC 2486** observed as thus: -*

"3.....It is entirely for the employer to decide when, where and at what point of time a public servant is transferred from his present posting....."

9.5 *It is also imperative to refer the judgment of this Court in the case of **Ratnagiri Gas and Power Private Limited v. RDS Projects Limited and Ors.; (2013) 1 SCC 524** where it reiterated one of the pertinent principles of administrative law is that when allegations of malafide are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer. The relevant excerpt is reproduced as thus:*

"27. There is yet another aspect which cannot be ignored. As and when allegations of mala fides are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer the charge. In the absence of the person concerned as a party in his/her individual capacity it will neither be fair nor proper to record a finding that malice in fact had vitiated the action taken by the authority concerned....."

7. From the above referred discussion, it is clear that there are no allegations regarding *malafide* against any of the person, nor violation of any statutory provision has been alleged. Even the transfer policy has no statutory force and the petitioner has been transferred on administrative grounds. Simply because the petitioner is suffering from some minor health issues is no ground to exercise the jurisdiction of this Court under Article 226 of the Constitution of India.



- 8. Finding no merits, the present petition is ordered to be dismissed.
- 9. Dismissed accordingly.

06.11.2025
hemlata

(N.S.SHEKHAWAT)
JUDGE

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