



2025:DHC:4800



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Decided on: 30.05.2025***+ W.P.(C) 5547/2025 and CM APPL. 25278/2025 (*for stay*)

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.....Petitioner

Through: Mr. Ratneswar Das and Mr. Shiv
Chetry, Advocates.

versus

INDIAN OIL CORPORATION LIMITED (REFINERIES
DIVISION)

....Respondent

Through: Mr. V.N. Koura and Mr. S. Sirish
Kumar, Advocates.**CORAM:****HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. By way of this petition under Article 226 of the Constitution of India, the petitioner assails an order dated 13.03.2025, by which he has been transferred from the post of Chief Manager (Refinery-Coord) at Paradip RC to the same post, i.e., Chief Manager (Refinery-Coordination), at Barauni Terminal of the respondent.
2. The petitioner has been in the service of the respondent since the year 1999. He was posted in his present posting at Paradip, Odisha, on 28.03.2022.
3. In terms of the Transfer Policy-2024 of the respondent ["Transfer Policy"], an employee is entitled to request a transfer, and indicate certain optional locations for transfer. The petitioner made such a request on 01.12.2024, seeking transfer to Guwahati Terminal, Noonmati in Assam or to Doimukh Depot in the State of Arunachal



Pradesh. He referred to several health-related issues in support of his request.

4. By the impugned Office Order dated 13.03.2025, however, he was not transferred to these locations, but to Barauni in the State of Bihar.

5. The petitioner first approached this Court against the transfer order in W.P.(C) 4593/2025. The writ petition was disposed of on 15.04.2025, with the direction that the petitioner's representation be considered and an order be passed within three weeks thereafter. It was also directed that "*status quo be maintained as to the petitioner's posting until the petitioner's representation is decided, and for a period of 10 days thereafter*".

6. The petitioner made a representation dated 16.04.2025, pursuant to the aforesaid order. By the second impugned order, dated 17.04.2025, the petitioner's representation has been rejected.

7. The petitioner has, therefore, approached this Court by way of the present petition.

8. I have heard Mr. Ratneswar Das, learned counsel for the petitioner, and Mr. V.N. Koura, learned counsel for the respondent.

9. Three principal grounds are urged in support of this writ petition:

(a) That the impugned transfer is premature, as the petitioner has not been posted at Paradip for a period of "*3 completed calendar years*", as provided in Clause 3.1 of the respondent's Transfer Policy;

(b) That the posting of the petitioner at Barauni, declining his request for transfer to Assam or Arunachal Pradesh, is contrary to the Transfer Policy, which prioritises joint posting of



working couples in the same city/cluster of cities. Mr. Das also relies upon an Office Memorandum of the Department of Personnel and Training [“DoPT”] dated 24.11.2022. He submits that the petitioner’s spouse is a doctor working in the service of the State of Arunachal Pradesh.

(c) The third contention is of *mala fides*. In this regard, it is submitted that an officer at the same level, who has been posted in Paradip for a longer period than the petitioner, has been retained there, and that the petitioner has been subjected to numerous transfers during his period of service.

10. The principles relating to exercise of judicial review in respect of transfer orders, are well settled. Transfer is an incidence of service¹. No employee can claim transfer to a particular posting or location as a matter of right. The matter is fundamentally one of administrative exigency. A transfer order is susceptible to interference by the writ Court only in very limited circumstances, which pertain to breach of any statutory rules or transfer policy, or to *mala fides*. Reference in this connection may be made to the judgments of the Supreme Court in *Shilpi Bose (Mrs.) v. State of Bihar*² and *Union of India v. S.L. Abbas*³.

11. As far as the allegation of breach of the respondent’s Transfer Policy is considered, Mr. Das has cited Clauses 3.1 and 7.1 of the Transfer Policy, which provide as follows:

“3 Continuous stay at a location

3.1 The minimum tenure at a location/cluster of cities shall be 3

¹ S.K. Naushad Rahaman v. Union of India, (2022) 12 SCC 1, (paragraphs 24, 25) [hereinafter, “S.K. Naushad Rahaman”].

² (1991) Supp (2) SCC 659, (paragraph 4).

³ (1993) 4 SCC 357, (paragraph 7) [hereinafter, “S.L. Abbas”].



completed calendar years.

xxx

xxx

xxx

7 Working Couples

7.1 It should be endeavored to post both husband and wife at the same city/ cluster of cities to the extent possible.”

12. Turning first to the question of the length of the petitioner’s tenure at Paradip RC, the contention of Mr. Das, which Mr. Koura does not dispute, is that in the respondent’s practice, “3 *completed calendar years*” are reckoned from January 1 of the year following the employee’s posting. Having been posted to Paradip on 28.03.2022, Mr. Das is right, on this basis, that the petitioner would ordinarily have continued in his present posting at least until 31.12.2025.

13. However, Mr. Koura seeks to justify this transfer by reference to Clause 11.1 of the Transfer Policy, which provides as follows:

“11 Exceptions

13.1 Any exception to the above shall be with approval of the Competent Authority for reasons to be recorded in writing.”

14. In the order of this Court dated 30.04.2025, it was specifically directed that compliance with conditions of Clause 11 would have to be demonstrated on affidavit, if the transfer was sought to be justified on that basis.

15. The respondent’s counter affidavit dated 15.05.2025 deals with this aspect, in the following terms:

“13. Shortly thereafter, on 13/12/2024, approval in principle was granted to merge two offices of the Marketing Division at Paradip, including the office in which the Petitioner was posted.

14. I say in this behalf that the Marketing Division of the Respondent Corporation, to which the Petitioner belongs, was operating from 2 (two) locations at Paradip, namely, Paradip Terminal and Paradip RC. In view of the organizational requirements for more economic and optimal functioning, and in



*the business interest of the Corporation, it was decided to merge the 2 (two) locations at Paradip into a single Marketing Complex at Paradip with effect from 01/04/2025, and to close the office at Paradip RC when the Petitioner was posted. Prior to the merger, the two locations had a combined manpower strength of 35 Officers. Post-merger only 27 Officers were required at the merged Marketing Complex, resulting in an excess manpower of 8 Officers who had to be transferred to other locations. There were two Officers in Grade-E, to which the Petitioner belonged, one of them had to be transferred out of Paradip. Of the two officers, the Petitioner had joined the location on 28.03.2022 while the other officer had joined Paradip on 28.03.2024. In this context, it was decided, in exercise of powers under Clause 11.1 of the Transfer Policy, to transfer the Petitioner from Paradip. In view of the Petitioner's health condition, it was decided to transfer the Petitioner to Barauni Terminal, where the Respondent Corporation operates a full-fledged Hospital which could cater to the medical requirements of the Petitioner. A copy of the approval of the Competent Authority (Director Marketing) approving the pre-mature transfer of the Petitioner and the reasons therefor is annexed hereto and marked as **Annexure R-4 (Colly.)** together with the relevant extract of Annexure-II to the said approval.*

15. It is submitted that contrary to the allegations in the Petition, the Petitioner's transfer to Barauni was for the administrative reasons stated above under the powers rested under Sec. 11.1 of the Transfer Policy and not by way of a decision on the Petitioner's representation dated 01/12/2024, which was not considered for the reasons stated above.”

16. The respondent has also placed on record a document dated 12.03.2025, by which transfers in the Marketing Division were placed for approval of the Director (Marketing) of the respondent. The approval of the Director (Marketing) is also available on the record. The document contains a specific noting with regard to the petitioner's case, stating that an exception has been invoked as the petitioner has not had a tenure of three calendar years in his posting. The justification provided was, “Organizational Requirement-Rationalization of Manpower at



Paradip RC". The document, thus, aligns with the averments in the counter affidavit.

17. The ground for the premature transfer of the petitioner thus relates to the merger of two offices of the respondent at Paradip, resulting in excess manpower at the location. It is also stated that the petitioner had served at Paradip for longer than the other officer in the same grade, and was therefore transferred, rather than the other officer. These are clearly administrative policy decisions, over which the Court exercises very limited judicial review.

18. After the completion of pleadings, however, on 28.05.2025, Mr. Das submitted that, in fact, there were three officers in Grade-E in the Marketing Complex in Paradip RC after the merger, rather than two, as stated in the respondent's counter affidavit. He submitted that one of the three officers had joined the Marketing Complex on 12.10.2020, long before the petitioner, but has been retained. Although the absence of any averment in this regard in the rejoinder affidavit makes adjudication on this point unnecessary, Mr. Koura has filed an additional affidavit on 29.05.2025, in which it is stated as follows:

"3. I say that, prior to the merger of Paradip RC and Paradip Terminal, there were two (2) officers in Grade E at Paradip RC (namely the Petitioner and Shri Indeevar Abhiram Yadav) and one officer in Grade E at Paradip Terminal (namely Shri Sunaram Hembram). It was decided that, after the merger of the said two locations, a total of two Grade E officers would be maintained at the merged location. It was also decided to retain, post-merger, one officer in Grade E from each of the locations (Paradip Terminal and Paradip RC) to ensure sufficient experienced manpower for each of the pre-merged functions for smooth functioning of the merged location. Therefore, one officer in Grade E from Paradip RC and one officer in Grade E from Paradip



Terminal i.e Shri Sunaram Hembram, were to be retained at the Merged Paradip Location.

4. I say that, therefore, the choice for transfer of one Grade E officer was between the Petitioner and Shri Indeevar Abhiram Yadav.

5. I say that the statement in paragraph 14 of the Counter Affidavit that, post-merger, there were two officers in Grade 'E' was with reference to the two officers at Paradip RC, of whom one had to be transferred, and not with regard to both locations at Paradip (Paradip Terminal and Paradip RC). The reasons for transferring the Petitioner from amongst these two officers (the Petitioner and Shri Yadav) has been stated in the Counter Affidavit and are not being repeated herein."

19. In these facts and circumstances, I am of the view that the petitioner's contention with regard to violation of Clause 3.1 cannot be sustained. The Transfer Policy itself provides for exceptions, conditional upon approval of the Competent Authority. The Competent Authority has approved the petitioner's transfer, on grounds which have been explained in detail in the counter affidavit and supplementary affidavit. The retention of one of the two officers who were serving in each of the merged entities in the same grade, while transferring the second officer who was posted at Paradip RC, is also an administrative decision, which cannot be second-guessed by the Court in judicial review. Of the two officers in the same grade who were working in Paradip RC, the petitioner was the one with a longer tenure. In these circumstances, his transfer, as opposed to the other similarly placed officer, is also administratively justifiable, and not vitiated by arbitrariness.

20. Turning now to Clause 7.1, the Transfer Policy provides for the respondent's endeavour to post the husband and wife to the same city/cluster of cities, to the extent possible. In the counter affidavit, it has



been stated that out of 26 years of service, the petitioner had already been “*posted for 14 years in Assam and in Arunachal Pradesh, out of which he had been posted for eight years in Arunachal Pradesh*”. Factually, this position is undisputed. It is further stated that there were no vacancies commensurate with the petitioner’s position at his preferred location.

21. Additionally, the respondent has placed on record certain disciplinary proceedings, which were taken against the petitioner during his previous postings in the States of Arunachal Pradesh and Assam. He was subjected to the minor penalty of censure by an order dated 22.10.2013, reduction of basic pay by one stage with cumulative effect, by order dated 12.09.2019, and another penalty of censure by order dated 25.03.2021. All these instances took place during the petitioner’s postings in Assam and Arunachal Pradesh. The respondent has considered this also to be a relevant factor.

22. This decision is also, in my view, incapable of interference under Article 226 of the Constitution. The fact that the respondent has no vacancy in the places to which the petitioner seeks transfer is reason enough to decline his request. Further history of disciplinary proceedings during his postings in the said region is also a relevant consideration.

23. In the rejoinder, the petitioner has cited examples of other officers against whom disciplinary proceedings were taken, and contended that those officers were posted back to the locations in question. Even assuming, for the present, that this is accurate, it does not, in my view, lead to the conclusion that the respondent is bound to post the petitioner



back in the same location. Once again, these are managerial decisions, which can only be challenged on limited grounds. *Mala fides* require a very high degree of proof, as laid down by the Supreme Court in *E.P. Royappa v. State of Tamil Nadu*⁴ and *Indian Railway Construction Co. Ltd. v. Ajay Kumar*⁵. In *E.P. Royappa*, the Supreme Court held that the allegations of *mala fides* are often more easily made than proved, and the very seriousness of such allegations demands proof of a high order of credibility. The petitioner has not, in my view, been able to meet the high threshold required for a challenge to a transfer order on grounds of *mala fides*.

24. Mr. Das also relies upon the Office Memorandum dated 24.11.2022, which deals with the framing of a transfer policy for posting of spouses at the same station. It contains different provisions depending upon the classification of the entities in which each of the spouses is serving, e.g., when spouses both work in the All India Services, when one belongs to the All India Services, and the other to the central services, when both belong to the same central service, etc. The provision relied upon by Mr. Das is Clause 2 (vii), which provides as follows:

“2. (vii) Where one spouse is employed under the Central Govt. and the other spouse is employed under the state Govt.:—
The spouse employed under the Central Govt. may apply to the competent authority and the competent authority may post the said officer to the station or if there is no post in that station to the State where the other spouse is posted.”

25. The provisions made for each of these categories separately show

⁴ *E.P. Royappa v. State of Tamil Nadu*, (1974) 4 SCC 3, [“*E.P. Royappa*”] (paragraph 92, 93).

⁵ *Indian Railway Construction Co. Ltd. v. Ajay Kumar*, (2003) 4 SCC 579, (paragraphs 22,23).



that “Central Service” and “Public Sector Undertaking [“PSU”]” have been considered differently. There is no specific provision which expressly covers the case of the petitioner and his spouse, who work in a central PSU and a State Government, respectively.

26. Be that as it may, even assuming that this policy covers the present case, I do not find any support for the contention that such joint posting is mandatory. Several judgments of the Supreme Court hold that joint posting of spouses is always subject to administrative exigencies, and does not give an enforceable right to a government/public employee. Mr. Koura has, for this purpose, relied upon the following observations in *Bank of India v. Jagjit Singh Mehta*⁶: The said judgment has been followed in *S.L. Abbas*, which holds as follows:

“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. Similarly if a person makes any representation with respect to his transfer, the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guideline, however, does not confer upon the Government employee a legally enforceable right.”^{7,8}

The same view has been followed more recently, in *S.K. Naushad Rahaman* also⁹.

27. In view of the above, I do not find any ground for interference with the impugned transfer order under Article 226 of the Constitution,

⁶ (1992) 1 SCC 306.

⁷ Paragraph 7.

⁸ Emphasis Supplied



either on the ground that it is premature, or that it is in violation of a policy for joint posting of spouses. The respondent's decision not to accept the petitioner's requested transfer locations has also been justified adequately. The petitioner has failed to make out a case of violation of statutory Rules/ Transfer Policy, or *mala fides*, which are required for interference with a transfer order in the writ jurisdiction of this Court.

28. The petition, alongwith the pending application, is therefore dismissed.

29. This judgment will, however, not preclude the petitioner from seeking a transfer to a location of his choice in future, if it falls within the Transfer Policy.

PRATEEK JALAN, J

MAY 30, 2025

UK/JM/

⁹ Paragraphs 26 and 27.