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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Decided on 21.05.2025.

+ W.P.(C) 6895/2025 & CM APPL. 31213/2025, CM APPL. 31214/2025

MUNISH GROVER

.....Petitioner

Through: Mr. Thomas Oommen, Advocate
with petitioner in person.

versus

CONTAINER CORPORATION OF INDIA LTD.
AND ORS.

.....Respondents

Through: Mr. Rishi K. Awasthi and Mr.
Piyush Vatsa, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J (ORAL)

1. The petitioner has filed this writ petition challenging a transfer order dated 19.02.2025, by which he has been transferred from Fresh and Healthy Enterprises Limited ["FHEL"], Rai District, which is a subsidiary of Container Corporation of India Ltd. ["CONCOR"], to CONCOR's office at Pipava Port/Area-II.

2. The petitioner earlier challenged the very same transfer order by way of W.P.(C) 6131/2025, which was disposed of on 08.05.2025 with the following order:

"1. By way of this petition under Article 226 of the Constitution, the petitioner assails a transfer order dated 19.02.2025, by which he has been posted from FHEL/Rai/Sonipat to Pipava Port/Area-II.



2. The limited relief pressed in this petition is that the respondents should decide the petitioner's representation dated 22.04.2025.

3. Learned counsel for the petitioner states that the petitioner is not just agreeable, but desirous, of a transfer from his present posting in Sonipat and has sought transfer to certain stations of his choice. It is accepted that no employee can dictate the destination to which they are to be transferred; however, the relief sought is only for consideration of the petitioner's request.

4. Within the aforesaid scope, Mr. Rishi K. Awasthi, learned counsel for Container Corporation of India Ltd., states that the petitioner's request will be considered, and an appropriate order will be communicated to him within one week from today.

5. The petition, alongwith the pending applications, is accordingly disposed of in terms of the above."

3. The petitioner's representation dated 22.04.2025 has since been disposed of, by an order dated 14.05.2025.

4. The various grounds raised by the petitioner in the said representation, have been dealt with in the said order. The petitioner's contention was that although he was transferred to the Office of FHEL at Rai District, he joined FHEL at National Small Industries Corporation ["NSIC"], New Delhi, and sought regularisation of his posting there, but this was declined. He also made allegations, by a communication dated 30.08.2024, addressed to the Chairman and Managing Director of CONCOR, with regard to non-maintenance of protocol, decorum of office, hierarchy, creation of indiscipline and insubordination by a workman in the Rai terminal. He further sought audit of alleged discrepancy in the said terminal, and specifically on the "*proper sitting arrangements of the employees designation wise, etc*". It was his contention that he has been transferred as a result of these complaints, while his request to transfer him to other stations remains pending. All the aforesaid contentions have been dealt with in the order dated



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14.05.2025, stating that his initial joining at FHEL, NSIC, New Delhi, was in order to acquaint him with the legal matters pertaining to FHEL. The petitioner's contention, with regard to protocol, office decorum, seating arrangement hierarchy etc, were also considered not to be relevant as his work profile was independent of the day to day of the working of the terminal. As far as his request for transfer to a different station is concerned, it is stated that organisational requirements must prevail in respect of posting, and that he has been posted for more than 10 years in his home state and neighbouring states.

5. In the present writ petition, the petitioner has not challenged the communication dated 14.05.2025, but has assailed the original transfer order dated 19.02.2025 once again, as also a relieving order dated 13.05.2025.

6. I have heard Mr. Thomas Oommen, learned counsel for the petitioner, and Mr. Rishi K. Awasthi, learned counsel for the respondents.

7. As far as the transfer is concerned, it is not disputed that the petitioner's appointment in CONCOR was to a transferable post. His initial appointment order dated 03.07.1998 specifically provided that he may be posted at any of the offices/units of CONCOR in India. This aspect is not under challenge; as noted in the order dated 08.05.2025, the petitioner himself sought a transfer from his present posting.

8. In a transferable job, it is well settled that transfer is an incidence of service, and interference of the Writ Court is permitted only in very limited circumstances, such as *mala-fides* and breach of any statutory rules or transfer policy. Reference in this connection be made to the



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judgements in *Shilpi Bose (Mrs.) v. State of Bihar*¹ and *Rajendra Roy v. Union of India*².

9. It is asserted by Mr. Oommen that the transfer, in the present case, falls within those limited circumstances.

10. As far as the allegations of *mala-fides* are concerned, Mr. Oommen submits that the petitioner is, in fact, a whistleblower, and entitled to protection under CONCOR's Whistle Blower Policy. He has drawn my attention to the petitioner's communication dated 30.08.2024, addressed to the Chairman and Managing Director of CONCOR, which has also been referred to in the aforesaid representation dated 22.04.2025.

11. On a consideration of the said representation, however, I am of the view that it is in the nature of ventilating personal grievances, with regard to the petitioner's work allocation and conditions, rather than a whistleblower complaint. The communication dated 30.08.2024 is entitled "*Non maintenance of Protocol, Decorum of Office, Hierarchy, Creation of Indiscipline and Insubordination by Workman of N4 Grade.*". The communication also deals principally with these issues. The petitioner has first placed on record his contentions, with regard to his past service in CONCOR, and then reiterated his submissions, with regard to posting at FHEL, NSIC, New Delhi. The principal grievance of the petitioner relates to his status and service conditions *vis-a-vis* those of another employee, stated to be below him in hierarchy [Grade N-4], but designated as Terminal In-Charge. He has stated that he should have been so designated, and also sought reassignment of seating in the office. It is

¹ 1991 Supp (2) SCC 659, paragraph 4.

² (1993) 1 SCC 148, paragraph 7.



his contention that the said employee has indulged in insubordination in this regard.

12. The petitioner has alleged that such circumstances tantamount to torture and harassment, and has gone so far as to suggest that if he suffers from a heart attack, stroke, heart failure, brain haemorrhage, paralysis or meets with an accident, that would be because of the workman in question, and the Executive Director – cum – CEO of FHEL.

13. The reading of the representation in full shows that the petitioner's grievances were, in fact, personal in nature, relating to his status and work allocated to him *vis-a-vis* the work of the other employees in question. This does not constitute a whistleblower complaint.

14. As far as the transfer policy is concerned, paragraphs 1 to 4 thereof provides as follows:

*"1. As per extant instruction issued by Central Vigilance Commission (CVC)/ Railway Board from time to time, **a list of sensitive posts in various departments/organisations should be identified and the officials posted on such sensitive posts should be rotated periodically to avoid developing vested interests.***

*2. The matter has been examined by the Competent Authority and in supercession of all existing orders in this regard, it has been decided that **employees holding sensitive posts, who frequently come into contact with Public/Contractors/Vendors, are required to be transferred at least every four years, if not earlier.** However, it is stated that when an employee can not normally be transferred from sensitive post to a non-sensitive posts for reasons like the Unit being very small etc., a change in a seat which will result in change in the nature of job being performed by the employee, will meet the requirement of periodical transfer.*

3. While transferring employees over a period of four years in a sensitive post, the suitability of the employee to the post where he is proposed to be shifted may be kept in mind.

4. The rotational/periodical transfer should be assessed/reviewed yearly in the month of January/February every year and the employees who have completed four years on sensitive post as on 31st of



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December of the preceding year may be considered for rotation/transfer, to be effected in and around the month of April.”³

15. Mr. Oommen submits that the petitioner’s post falls within the category of “*sensitive posts*” in FHEL, and the petitioner could not have been transferred prior to completion of four years.

16. Even assuming that the petitioner’s post falls within the definition of a sensitive post, which Mr. Awasthi is unable to confirm, I do not find any merit in this contention. The policy does not prevent a transfer prior to the period of four years. The purpose of the policy is to require transfer of persons in sensitive posts upon completion of a *maximum* of four years, not to prevent earlier transfer.

17. In view of the aforesaid, I am of the view that the petitioner has failed to make out a case of *mala-fides* or breach of the transfer policy.

18. The petition, alongwith pending applications, is therefore dismissed.

PRATEEK JALAN, J

MAY 21, 2025
SS/Kb/

³ Emphasis supplied.