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

Date of decision: 05th AUGUST, 2025

IN THE MATTER OF:

+ **LPA 497/2025**

MUNISH GROVER

.....Appellant

Through: Mr. Thomas Oommen, Advocate.

versus

CONTAINER CORPORATION INDIA LTD AND ORS

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT (ORAL)

SUBRAMONIUM PRASAD, J.

CM APPL. 47553/2025 (Exemption)

Allowed, subject to all just exceptions.

LPA 497/2025, CM APPL. 47552/2025, CM APPL. 47554/2025

1. The challenge in the present appeal is to the Judgment dated 21.05.2025 passed by the learned Single Judge in W.P.(C) 6895/2025, dismissing the writ petition filed by the Appellant herein.

2. Shorn of unnecessary details, facts leading to the filing of the present appeal are as under:

- a) The Appellant was appointed to the post of Sr. Assistant (Commercial and Operation) (N-3 Level) in the Respondent/Container Corporation of India Ltd. (*hereinafter referred to as "CONCOR"*) in the year 1998. The Appellant, thereafter, got multiple promotions, the details of



which reads as under:

- i. On 01.01.2002, the Appellant was promoted to Asst. Executive (N-4 level).
 - ii. On 1309.2006, the Appellant was promoted to Junior Executive (N-5 level).
 - iii. On 01.07.2011, the Appellant was promoted to Executive (N -6 level).
 - iv. On 01.01.2016, the Appellant was promoted to Sr. Executive (N-7 level).
 - v. On 01.07.2022, the Appellant was promoted to Asst. Officer (S-1 level).
- b) It is the case of the Appellant that he made a complaint vide a representation dated 30.08.2024 addressed to the CMD, CONCOR (Respondent No.1 herein) stating that he is facing issues of non-maintenance of protocol, decorum of office, hierarchy, creation of indiscipline and insubordination by Workman of N-4 Grade at Fresh and Healthy Enterprises Limited (FHEL), Rai District, Sonipat, Haryana. This complaint was followed by several reminders sent by the Appellant.
- c) Vide an Office Order bearing No.05/2025 dated 19.02.2025 issued by CONCOR, the Appellant was transferred from FHEL, Rai District to Pipava Port/Area-II. The said Transfer Order was followed by a Communication dated 13.05.2025 issued by FHEL, Rai District relieving the Appellant from FHEL, Rai District and advising him to report at Pipava Port/Area-II.
- d) It is pertinent to note that the Appellant had given a representation on 22.04.2025 to the Director Domestic/Functional Director, CONCOR



(Competent Authority) against his transfer which was followed by an appeal to CMD (Appellate Authority) on 23.04.2025. The Appellant, thereafter, filed a writ petition being W.P.(C) 6131/2025 before this Court which was disposed of by the learned Single Judge vide Order dated 08.05.2025 by observing as under:

"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."

e) The case of the Appellant was considered and the representation of the Appellant was rejected by CONCOR vide a Communication dated 14.05.2025. The relevant portion of the said Communication reads as under:

"2. The work allocated to you was dealing with all Legal Cases of FHEL and your reporting was not to Terminal Incharge. Your request for transfer of functions assigned to a Terminal Incharge was grossly inappropriate. The issues regarding Protocol/Office decorum/Hierarchy etc. are not relevant, as your work profile was independent of day-to-day working of a terminal.



3. The Transfer & Postings of employee are done as per the organizational requirement and it may be appreciated that Transfer is not a Punishment. An employee cannot choose his place of posting as per his convenience rather transfers and posting are dealt as per organizational requirement."

- f) The Appellant, thereafter, again approached this Court by filing a writ petition being W.P.(C) 6895/2025. The Office Order bearing No.05/2025 dated 19.02.2025 issued by CONCOR transferring the Appellant from FHEL, Rai District to Pipava Port/Area-II and the Communication dated 13.05.2025 issued by FHEL, Rai District relieving the Appellant were the subject matter of challenge in the said writ petition before the learned Single Judge.
- g) The contention of the Appellant was rejected by the learned Single Judge vide the Impugned Judgment dated 21.05.2025 by observing that the Appellant's appointment in CONCOR is a transferable post and his initial appointment order specifically provides that he may be posted at any of the offices/units of CONCOR in India. The learned Single Judge held 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. The learned Single Judge placed reliance upon the Judgements passed by the Apex Court in Shilpi Bose (Mrs.) vs. State of Bihar, **1991 Supp (2) SCC 659** and Rajendra Roy vs. Union of India, **(1993) 1 SCC 148**. The learned Single Judge also rejected the contention of the Appellant alleging mala-fides on the part of CONCOR.



- h) It is this Judgment dated 21.05.2025 passed by the learned Single Judge which is under challenge in the present appeal.
3. Learned Counsel appearing for the Appellant states that the transfer of the Appellant is mala-fide and is also opposed to the transfer policy of CONCOR and as such, prays for the setting aside of the Impugned Judgment..
4. This Court has perused the relevant portion of the transfer policy which has been extracted by the learned Single Judge in the Impugned Judgment. In fact, the contention of the Appellant that since he was working at a "sensitive post" in FHEL, the Appellant could not have been transferred prior to completion of four years, has been rejected by the learned Single Judge stating that there is no prohibition on the part of the Management which prevents the CONCOR from transferring an employee prior to the period of four years.
5. This Court has also perused the complaint of the Appellant given vide a representation dated 30.08.2024 to the CMD, CONCOR. As rightly pointed by the learned Single Judge, the grievances of the Appellant in the complaint are primarily personal in nature and there is nothing on record to show that the transfer of the Appellant is punitive in nature.
6. Another important document is the initial order of appointment of the Appellant dated 03.07.1998 vide which the Appellant was appointed wherein it is explicitly stated as under:

“xxx xxx xxx

Place of Posting

You will be posted at CONCOR/Northern Region, but you are liable to be posted at any of the offices/units of CONCOR in India.



You are also liable to be transferred from one department of the Corporation to another and in that case, you will be governed by the working hours and other service conditions, applicable to that department to which you will be attached.

xxx

xxx

xxx”

7. The above is of utmost relevance since, it is well settled that transfer is an incidence of service and is made to meet administrative exigencies to ensure smooth functioning of the administration and need not be interfered by the Courts unless the transfer has been made in a vindictive manner. Transfers, unless they involves any adverse impact or visit the persons concerned with any penal consequences, are not required to be subjected to the same type of scrutiny, approach and assessment as in the case of dismissal, discharge, reversion or termination and utmost latitude should be left with the department concerned in matters of transfer. It is apposite to recall the judgment of the Apex Court in State of U.P. vs. Gobardhan Lal, (2004) 11 SCC 402 wherein the following has been observed:

"7. It is too late in the day for any government servant to contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contra, in the law governing or conditions of service. Unless the order of transfer is shown to be an outcome of a mala fide exercise of power or violative of any statutory provision (an Act or rule) or passed by an authority not competent to do so, an order of transfer cannot lightly be interfered with as a matter of course or routine for any or every type of



grievance sought to be made. Even administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving or denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service as long as the official status is not affected adversely and there is no infraction of any career prospects such as seniority, scale of pay and secured emoluments. This Court has often reiterated that the order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable rights, unless, as noticed supra, shown to be vitiated by mala fides or is made in violation of any statutory provision.

8. A challenge to an order of transfer should normally be eschewed and should not be countenanced by the courts or tribunals as though they are Appellate Authorities over such orders, which could assess the niceties of the administrative needs and requirements of the situation concerned. This is for the reason that courts or tribunals cannot substitute their own decisions in the matter of transfer for that of competent authorities of the State and even allegations of mala fides when made must be such as to inspire confidence in the court or are based on concrete materials and ought not to be entertained on the mere making of it or on consideration borne out of conjectures or surmises and except for strong and convincing reasons, no interference could ordinarily be made with an order of transfer."

8. There is no quarrel that the initial order of appointment of the Appellant shows that the Appellant is liable to be posted at any of the



offices/units of CONCOR in India. Having once accepted the said offer of appointment, the Appellant cannot, thus, be allowed to choose the location/job of his choice. Further, a perusal of the Communication dated 14.05.2025 rejecting the representation of the Appellant reveals that his transfer is of a general nature and certainly not punitive in nature.

9. In view of the above, this Court is not inclined to interfere with the Impugned Judgment passed by the learned Single Judge.

10. Resultantly, the appeal is dismissed, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

SAURABH BANERJEE, J

AUGUST 05, 2025

S. Zakir