

12.05.2026
Item No.12
Ct. No. 1
PG

WP.CT. 75 of 2026

Amit Athaley

Vs.

Union of India & Ors.

Mr. Bharat Bhusan

Mr. Atindra Nath Misra

Mr. Tamal MondaFor the writ petitioner

Mr. Goutam Malik.....For the respondent

No.7/EPFO

DICTATED BY SUJOY PAUL, CJ.:

1. We have heard Sri Bharat Bhusan, learned counsel for petitioner and Mr. Goutam Malik, learned counsel for respondent no. 7/the Regional Provident Fund Commissioner-I.

2. Heard on admission.

3. This petition filed under Article 226/227 of the Constitution takes exception to the order dated 12.02.2026 passed in O.A. No. 350/620/2025 by Central Administrative Tribunal, Kolkata Bench, Kolkata (for short '**Tribunal**'), whereby petitioner's challenge to transfer order dated 27.03.2025, whereby he was

transferred from Kolkata to Mumbai has been rejected.

4. The main ground of attack to the transfer order is that the writ petitioner was holding the post of Regional Provident Fund Commissioner-II and transfer of such post is governed by an executive instruction/transfer policy pursuant to which petitioner was entitled to give his option/place of choice. Accordingly, petitioner gave option of Siliguri/ Kolkata/ Howrah/ Solhapur and Ujjain. The petitioner has not been posted to a place of his choice and he was transferred beyond the zone despite having vacancy in the said places of choice whereas other persons holding the same post, who were eligible to get a posting of their choice, have been accommodated. Thus, there was an act of arbitrariness on the part of the department in implementing their own policy for transfer.

5. Learned counsel for petitioner submits that when the arbitrariness is so manifest, the Tribunal ought to have interfered with the transfer order.
6. Learned counsel for the respondent/Employees Provident Fund Organization supports the impugned order.
7. We have heard the learned counsel for the petitioner at length. On a specific query from the Bench, learned counsel for the petitioner in his usual fairness informed that the transfer policy is only an executive instruction and it does not have any statutory force.
8. The petitioner is a Group-A officer. In view of judgment of Supreme Court in **Union of India v. S.L. Abbas** reported in **(1993) 4 SCC 357** and other judgments considered by Tribunal in paragraph 7 of impugned order, it is trite that transfer order can be interfered with (1) if it violates any

statutory provision (not guidelines/scheme), (2) changes service condition of the officer to his detriment and (3) proved to be *mala fide*, (4) passed by an incompetent authority. Another view is possible in the matter of transfer, is not a ground for interference. Employer is best suited to decide where service of an officer is required.

9. Transfer is an incident of service. In the instant case, none of the ingredients on which interference can be made are present and therefore, plausible view taken by the Tribunal cannot be interfered with.

10. Resultantly, admission is declined.

Petition is **dismissed**.

(SUJOY PAUL, CJ.)

(PARTHA SARATHI SEN, J.)