

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3401-2026 (O&M)

Rakesh Deepak Bhati @ Rakesh Deepak ... Petitioner

VS.

State of Haryana & Ors. ... Respondents

1.	Judgment reserved on	13.03.2026
2.	Judgment pronounced on	01.05.2026
3.	Judgment uploaded on	06.05.2026
4.	Whether operative or full judgment	Full
5.	Delay in pronouncement of full judgment and reasons, if any	NA

CORAM: HON’BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunil K. Nehra, Sr.Advocate with
Mr. Karan Ranjha, Advocate and
Mr. Viren Nehra, Advocate for the petitioner(s)

Ms. Tanushree Gupta, Sr.DAG Haryana

Mr. Prateek Gupta, Advocate for respondent No.11
(CWP-4118-2026)
Mr. Deepak Singh Saini, Advocate and
Ms. Vamika Johar, Advocate for respondent No.12
(CWP-4118-2026)

Sandeep Moudgil, J.

By this order, I shall dispose of CWP Nos.3401, 4118 & 5072 of 2026 as common issues are involved. For the purpose of order, CWP-3401-2026 is treated as the lead case.

Prayer

(1). The jurisdiction of this Court has been invoked under Article 226 of the Constitution of India, *inter alia*, for issuing a writ of certiorari quashing the impugned communication dated 29.01.2026 (Annexure P8) issued by respondent No.1 vide which the private respondent has been allowed to join at his previous place of posting i.e. Executive Engineer, Jagadhari Provincial

Divn., District Yamuna Nagar in place of the petitioner where the petitioner had been posted vide order dated 09.01.2026/14.01.2026 (Annexure P5). He seeks a direction to the respondents to show if the post at Executive Engineer, Jagadhari Provincial Divn., District Yamuna Nagar is vacant on which regularly appointed Executive Engineers can submit their options in pursuance to Model Online Transfer Policy dated 23.05.2025 (Annexure P9).

Brief facts

(2). The petitioner is an Executive Engineer in the Public Works (B&R) Department, Haryana, who was earlier on deputation with NHAI and upon repatriation to his parent Department, was posted as Executive Engineer, Jagadhri Provincial Division, District Yamunanagar, by Government order dated 14.01.2026 (Annexure P-5/P-6). On 04.12.2025, the services of private respondent No.3 who is also an Executive Engineer, were placed under suspension from the post of Executive Engineer, Jagadhri Provincial Division, Yamunanagar, with his headquarters fixed at Head Office, Chandigarh.

(3). On 14.01.2026, the same date as the petitioner's posting order, this Court in CWP No. 37793 of 2025 stayed the suspension order dated 04.12.2025 and "subsequent proceedings including suspension order" till the next date of hearing, in compliance thereto, the Government issued memo dated 16.01.2026 (Annexure P-7) directed respondent No.3 to join the office of Engineer-in-Chief, PWD (B&R), Haryana, till further orders.

(4). Thereafter, vide memo dated 29.01.2026, the Additional Chief Secretary permitted respondent No.3 to join back at the same place of posting as existed prior to his suspension, i.e. Executive Engineer, Jagadhri Provincial

Division, Yamunanagar, and stated that the posting order of the petitioner would be issued later on.

(5). Meanwhile, the State had notified the Model Online Transfer Policy dated 23.05.2025, applicable to cadres with sanctioned strength of 50 or more, laying down concepts of cadre, eligible employee, minimum tenure, prescribed tenure, vacant post for transfer and notional category, wherein it was also stipulated that the policy applies to employees working on regular basis in the concerned cadre. The petitioner's posting order dated 14.01.2026 specifically stated that he would participate in the ongoing transfer drive under the "notional category" in terms of the said policy. Subsequently, rationalisation under the transfer policy commenced vide Annexure P-10 & P-11), and the post of Executive Engineer, Jagadhri Provincial Division, Yamunanagar was not shown as a vacant post for options by regularly appointed Executive Engineers.

Petitioner's contentions

(6). It is contention of learned counsel for the petitioner that he was validly posted as Executive Engineer, Jagadhri Provincial Division, Yamunanagar, vide order dated 14.01.2026, and had already joined at that station when the impugned memo dated 29.01.2026 was issued and that the interim stay order of suspension of respondent No.3 did not specifically direct for his posting at Jagadhri in particular which has been mis-interpreted and over-extended by the official respondents under the guise of interim order by restoring respondent no.3 to his previous posting and displacing the petitioner after barely 15 days of his joining.

(7). It is urged that the post of Executive Engineer, Provincial Division, Jagadhri, is a cadre post which, during the rationalisation process initiated on 22.01.2026, ought to have been treated as a vacant post to be filled only through the online transfer drive by regularly appointed Executive Engineers, and not by individual administrative orders.

Respondents' contentions

(8). Learned State counsel submits that the writ petition seeks quashing of memo dated 29.01.2026, which is only a consequential administrative order passed strictly in compliance with this Court's stay of the suspension order dated 04.12.2025 in CWP No. 37793 of 2025. She pointed out that by virtue of the interim order dated 14.01.2026, "operation of the impugned order dated 04.12.2025 and subsequent proceedings including suspension order" had been stayed, resulting in restoration of respondent no.3 to the position he held prior to suspension, namely Executive Engineer, Jagadhri Provincial Division, Yamunanagar.

(9). It is the argument raised on behalf of the State as well as by learned counsel for respondent No.3 that the petitioner's posting order dated 14.01.2026 was expressly provisional and subject to notional participation in the ongoing Model Online Transfer Policy drive and in terms of clause 8 of the policy, an employee entering a cadre by initial appointment, promotion, reinstatement after suspension or repatriation from deputation is to be posted in a unit/post of eligibility and availability, and thereafter falls under the "notional category" to compulsorily participate in the upcoming transfer drive and as such, the petitioner's posting at Jagadhri was only an interim arrangement that did not confer any vested or enforceable right to continue at that station,

particularly when a court directed restoration of respondent No.3 to his pre-suspension post had to be honoured. It is submitted that the current duty charge of the post of Executive Engineer held by respondent No.3 is merely an administrative arrangement and that, for rationalisation under the transfer policy, posts under current duty charge are being shown as vacant, which is fully in consonance with the policy.

(10). Heard learned counsel for the parties and the judgment was kept reserved on 13.03.2026.

Analysis

(11). On the material placed, two principal issues arise for consideration as to whether memo dated 29.01.2026, permitting respondent No.3 to rejoin at Jagadhri in place of the petitioner, is ultra vires the interlocutory order passed by this Court in CWP No. 37793 of 2025 and whether the petitioner can invoke the Model Online Transfer Policy dated 23.05.2025 to claim a right to continue at Jagadhri or to have that post treated as a “vacant” post exclusively for regularly appointed Executive Engineers in the ongoing transfer drive.

(12). The impugned memo is explicitly described as a consequential administrative action in compliance with the order passed by this Court staying operation of the suspension order of respondent No.3, and the earlier order shows that the operation of the suspension order and subsequent proceedings was stayed, which ordinarily implies restoration of the employee to the position held prior to suspension.

(13). As regards the first issue, once the suspension of respondent no.3 was stayed and the subsequent proceedings were also stayed, the legal effect was that respondent No.3 stood restored as if the suspension order were not in

operation, including to his pre-suspension posting at Jagadhri. In such a situation, if, in the interregnum, the Department had posted another officer (i.e. the petitioner) to that very station on an interim basis, the department was required to adjust that arrangement so as to restore the *status quo ante* in favour of respondent No.3. The memo dated 29.01.2026, therefore, cannot be said to overreach the order of this Court rather, it is a step taken to give full effect to it. The petitioner's allegation of "mis-interpretation" of the interim order is, thus, not borne out.

(14). On the second issue, the Model Online Transfer Policy, 2025 (in short the transfer policy), notified vide No. 15/27/2018-4HR-I dated 23.05.2025, is, by its very text, a general framework "for Government employees" meant to ensure transparent and objective transfers in cadres having a sanctioned strength of fifty or more, and it operates through defined concepts of "vacant post for transfer", "notional vacancy" and "notional category", among others.

(15). Clause 3(xiv) of the said transfer policy defines "vacant post for transfer" and sub-classifies it into four categories, namely: (a) an "actual vacancy", where "a post not occupied by any employee shall be called an actual vacancy"; (b) a "deemed vacancy", where "a post presently occupied by an employee for the prescribed tenure or by way of temporary transfer or by a contractual employee shall be called a deemed vacancy"; (c) a "voluntary vacancy", where "a post occupied by an employee, who has completed the minimum tenure at a unit and has exercised her/his option to participate in the general transfer drive under this policy shall be called a voluntary vacancy"; and (d) a "notional vacancy", where "a post occupied by an employee on initial

appointment, promotion, reinstatement after suspension or repatriation from deputation from another Department/Organization other authority, after the preceding online transfer drive shall be called a notional vacancy”.

(16). By the combined operation of clause 3(xiv) of the said transfer policy defining “notional vacancy” and the scheme for notional category employees, as further clarified by the Chief Secretary’s clarification dated 08.02.2026 (Annexure R-4), the post on which the petitioner is initially adjusted after such repatriation is treated as a “notional vacancy”, and the petitioner himself is placed in the “notional category” for purposes of the *next* transfer drive and not the ongoing one.

(17). In the present case, it is not in dispute that the State has fixed a qualifying date of 31.10.2025 for the first online transfer drive under the transfer policy and that the petitioner was repatriated from NHAI to his parent department only on 05.12.2025, i.e. after the said qualifying date and after the preceding drive cycle. These provisions thus make it clear that an employee who enters the cadre after the preceding online transfer drive on account of repatriation from deputation is treated as occupying a “notional vacancy”, and such an employee falls in the notional category and is required to participate in the next general transfer drive for the reason that his current posting being only an interim adjustment in a unit/post of eligibility and availability until that drive is held. The petitioner having been adjusted at Jagadhri by order dated 14.01.2026, which, in terms of clause 3(xiv)(d), is subject to rationalisation and liable to reshuffle in the forthcoming transfer drive, and, having regard both to the language of the policy and to the settled law that transfer policies are executive guidelines that do not confer any indefeasible or vested right to a

particular station, that posting cannot be elevated into a legally enforceable right to continue at Jagadhri.

(18). The petitioner’s further contention that the policy does not apply to officers on current duty charge does not advance his case. The respondents’ case is that posts under current duty charge are treated as vacant for rationalisation purposes, which is consistent with the policy objective to free such posts for proper cadre-based transfers. More importantly, respondent no.3 is not claiming Jagadhri via the transfer policy, but by virtue of restoration from suspension pursuant to this Court’s order. The question whether he is on regular or current duty charge at the higher post is an internal administrative matter that does not confer a better right on the petitioner, who himself is a provisional appointee on a notional category posting.

(19). Having said so, no mala fides, colourable exercise of power or violation of any mandatory statutory rule is specifically pleaded or prima facie established in the impugned memo. The action appears to be a direct consequence of judicial intervention in favour of respondent No.3, with parallel steps being taken to accommodate the petitioner at Head Office with temporary charge of another Executive Engineer post pending final rationalisation.

Conclusion

(20). In view of the above discussion, the petitioner’s challenge to memo dated 29.01.2026 is not sustainable and as such, the writ petition is dismissed.

(21). Pending applications, if any stand disposed of.

01.05.2026
V.Vishal

(Sandeep Moudgil)
Judge

1. Whether speaking/reasoned?	:	Yes/No
2. Whether reportable?	:	Yes/No