

2026:PHHC:007734



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

201

CWP-28076-2025 (O&M)
Date of Decision: 16.01.2026

INDERPAL

....PETITIONER(S)

VERSUS

STATE OF HARYANA AND OTHERS

....RESPONDENT(S)

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Sunil K. Nehra, Sr. Advocate with
Mr. Karan Ranjha, Advocate for the petitioner
(through hybrid mode)

Mr. Rahul Dev Singh, Addl. A.G., Haryana.

SANDEEP MOUDGIL, J. (ORAL)

CM-17345-CWP-2025

The instant application has been filed under Section 151 CPC for placing on record replication to the written statement filed by respondents No.1 to 3 along with Annexure P-6.

For the reasons stated in the application, the same is allowed and replication to the written statement filed by respondents No.1 to 3 along with Annexure P-6 is taken on record.

CM stands disposed of.

Main Case

The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari

for quashing the impugned transfer order dated 28.08.2025 (Annexure P-3) and impugned transfer order dated 15.09.2025 (Annexure P-4) being issued in violation of Online Transfer Policy dated 14.05.2020 (Annexure P-1) with further direction to the respondents to allow the petitioner to complete his tenure of posting at Provincial Sub Division No.1, Ambala under Provincial Division No.II, Ambala as per the Online Transfer Policy.

Facts

The petitioner was appointed as Junior Engineer in the respondent Department in the year 2007. The respondent Department issued an online transfer policy dated 14.05.2020, which provides that the normal tenure of an employee at any office or place of posting shall be five years. In accordance with this policy, the petitioner was transferred to Provincial Division No. II, Ambala, vide order dated 07.03.2023. Subsequently, the petitioner was transferred to Kurukshetra prior to completing the minimum tenure, vide order dated 28.08.2025. Further, vide order dated 15.09.2025, the petitioner was transferred again and posted at Palwal, which occurred 18 days after the previous transfer. The petitioner states that no disciplinary proceedings or other proceedings are pending against him. The petitioner seeks production of the complete file relating to these transfer orders to ascertain the basis and authority under which these transfers were effected.

Contention**On behalf of the petitioner**

It is submitted that the petitioner was appointed as Junior Engineer in the respondent Department in 2007 and, as per the online transfer policy dated 14.05.2020 (Annexure P-1), the normal tenure of an employee at any office or place of posting is five years. It is submitted that the petitioner

was initially transferred to Provincial Division No. II, Ambala, vide order dated 07.03.2023 (Annexure P-2) in accordance with the policy. However, the petitioner was subsequently transferred to Kurukshetra vide order dated 28.08.2025 (Annexure P-3), prior to completing the minimum tenure of five years at the previous posting. It is submitted that the petitioner was again transferred to Palwal vide order dated 15.09.2025 (Annexure P-4), only 18 days after the previous transfer, which is contrary to the transfer policy and amounts to frequent transfers without any justification. It is submitted that no disciplinary proceedings or other adverse proceedings are pending against the petitioner, and there is no basis recorded in the transfer orders for curtailing the minimum tenure. It is submitted that the repeated transfers appear arbitrary and may be intended to inconvenience or prejudice the petitioner, and therefore violate the principles of fairness and administrative propriety.

On behalf of the State

Learned State counsel submits that the writ petition is not maintainable as transfer is an incidence of service and does not confer any vested right upon the petitioner to remain posted at a particular place. It is well settled by a catena of judgments of the Hon'ble Supreme Court and High Courts that the scope of judicial interference in transfer matters is extremely limited and can be exercised only in cases of violation of statutory rules, lack of competence, or proven mala fides, none of which are made out in the present case.

It is submitted that the Online Transfer Policy dated 14.05.2020 itself provides for relaxation of its provisions. As per Clause 13 of the policy, the Administrative Secretary, with the prior approval of the Chief Minister, is competent to transfer any employee in relaxation of the guidelines after

recording reasons. Further, Clause 14 vests the Administrative Secretary with exclusive authority to interpret the policy, and Clause 16 specifies the competent authorities empowered to effect transfers.

Learned State counsel submits that the petitioner was initially transferred to Provincial Division-II, Ambala, on 07.03.2023 through the online transfer policy and was thereafter assigned additional charge at Panchkula due to administrative requirements. Subsequently, owing to administrative exigencies and Government directions requiring the shifting of certain Junior Engineers, including Sh. Inder Pal, the additional charge was withdrawn and the petitioner was transferred from Ambala to Kurukshetra vide order dated 28.08.2025.

It is further submitted that the subsequent transfer of the petitioner vide order dated 15.09.2025 was also effected on administrative grounds pursuant to Government directions and in exercise of powers conferred under the transfer policy. The transfers were made by the competent authority and in public interest, and no mala fide intention can be attributed merely on the basis of frequency of transfers.

Learned State counsel, therefore, submits that the impugned transfer orders do not suffer from any illegality or arbitrariness and the present writ petition deserves to be dismissed.

Analysis

I have heard learned counsel for the parties and carefully perused the record.

The primary issue that arises is whether the impugned transfer order dated 28.08.2025 (Annexure P-3) and impugned transfer order dated

15.09.2025 (Annexure P-4) has been issued in accordance with the Online Transfer Policy dated 14.05.2020 (Annexure P-1), which, having been framed under the proviso to Article 309 of the Constitution of India.

At the outset, it is not in dispute that the petitioner was appointed as Junior Engineer in the respondent Department in the year 2007 and that his service conditions are governed by the Online Transfer Policy dated 14.05.2020. Clause relating to tenure under the said policy clearly stipulates that the *normal tenure of an employee at a particular place of posting is five years*. The policy, therefore, creates a legitimate expectation in favour of an employee that, barring exceptional circumstances, he would not be disturbed before completion of the minimum tenure.

From the record, it emerges that the petitioner was transferred to Provincial Division No. II, Ambala, vide order dated 07.03.2023 (Annexure P-2) through the online transfer process. While posted there, the petitioner had not even completed half of the prescribed minimum tenure of five years when he was transferred to Kurukshetra vide order dated 28.08.2025 (Annexure P-3). More significantly, within a short span of merely 18 days thereafter, the petitioner was again transferred to Palwal vide order dated 15.09.2025 (Annexure P-4).

Such frequent transfers, particularly within a matter of days, prima facie run contrary to the very object and spirit of the transfer policy, which seeks to ensure stability in service and to prevent unnecessary administrative disruption and hardship to employees.

The State has sought to justify the impugned transfers by placing reliance on Clauses 13, 14 and 16 of the policy, contending that the

Administrative Secretary is empowered to relax the policy guidelines in administrative exigencies. There can be no quarrel with the settled proposition that transfer is an incidence of service and that courts ordinarily exercise limited judicial review in such matters. However, it is equally well settled that *where a transfer policy exists, the same cannot be departed from arbitrarily or mechanically*, and any relaxation must strictly conform to the conditions prescribed therein.

Clause 13 of the policy specifically mandates that relaxation of the guidelines can be made only after recording reasons and with the prior approval of the Hon'ble Chief Minister. In the present case, neither the transfer order dated 28.08.2025 nor the subsequent order dated 15.09.2025 discloses any recorded reasons justifying curtailment of the petitioner's minimum tenure. The orders are conspicuously silent as to any exceptional circumstances warranting such deviation from the policy. There is also no material placed on record to demonstrate that the mandatory requirement of prior approval of the Hon'ble Chief Minister was obtained for relaxing the tenure condition.

The plea of "administrative exigencies" taken by the State remains vague and unsupported by any contemporaneous record. Mere reference to administrative grounds or Government directions, without disclosure of reasons in the transfer orders themselves, cannot be treated as sufficient compliance with Clause 13 of the policy. The power to relax a policy is not an uncanalised or unfettered power; it has to be exercised in a transparent, reasoned and non-arbitrary manner.

Furthermore, the fact that the petitioner was subjected to two successive transfers within a span of 18 days, without any intervening change in circumstances attributable to him, reinforces the petitioner's contention that the transfers are arbitrary and violative of the principles of fairness and administrative propriety. Admittedly, no disciplinary proceedings or adverse material are pending against the petitioner, nor is there any allegation of misconduct which could justify such repeated dislocation.

While the Court is conscious that frequency of transfer by itself may not always establish mala fides, in the present case, the frequency assumes relevance when examined in conjunction with the express stipulation of minimum tenure under the policy and the complete absence of recorded reasons for its relaxation. The impugned orders, therefore, fail the test of reasonableness and are not in consonance with the binding transfer policy framed by the State itself.

While it is well-settled that transfer is an incidence of service, it must be effected in accordance with law and policy and cannot be arbitrary or mala fide. The above principle was cited with approval by the Supreme Court in the case of ***“Union of India vs. S.L. Abbas (1993) 4 SCC 357”*** wherein it was held that transfer is an incident of service:

“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.

The department cannot act on its own whims and fancies; administrative discretion must be exercised within the framework of law, with transparency and fairness in action. The compliance with policy conditions

needs to be strictly observed. Authority does not mean arbitrariness, and power is not a license to disregard statutory safeguards. In the present case, the respondents have failed to show any compelling administrative necessity or compliance with mandatory procedural safeguards.

5. Conclusion

In view of the above discussion, this Court is of the considered opinion that the impugned transfer orders dated 28.08.2025 (Annexure P-3) and 15.09.2025 (Annexure P-4) suffer from arbitrariness and are in clear contravention of the Online Transfer Policy dated 14.05.2020 (Annexure P-1). The same cannot be sustained in the eyes of law.

Accordingly, the writ petition deserves to be allowed, and the impugned transfer orders are liable to be set aside, with liberty to the respondents to pass a fresh order strictly in accordance with the transfer policy and after due compliance with the requirements stipulated therein.

Pending application(s), if any, also stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

16.01.2026
anuradha

<i>Whether speaking/reasoned</i>	<i>:Yes/No</i>
<i>Whether reportable</i>	<i>:Yes/No</i>