

HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT SRINAGAR

LPA No. 221/2025 in
WP(C) No. 743/2025

Reserved on: 26.09.2025
Pronounced on: 23.03.2026
Uploaded on: 23.03.2026

**Gaganpreet Singh Wazir, Age 38 years,
S/o S. Devinder Singh Wazir,
R/o H.No. 461, Poly Hill,
Bathindi, Jammu (J&K).**

.... Petitioner/Petitioners(s)

Through:- Mr. Amit Gupta, Sr. Advocate with
Mr. Aswad Attar, Advocate

V/s

- 1. Food Corporation of India,
Through its Chairman and
Managing Director,
Barakhamba Lane, Head Quarter
New Delhi.**
- 2. Executive Director (North),
Food Corporation of India,
Zonal Office (North), Noida.**
- 3. Chief General Manager
(Personnel),
Food Corporation of India,
Zonal Office (North),
Noida, Uttar Pradesh.**
- 4. General Manager,
Food Corporation of India,
Regional Office, Jammu.**
- 5. Manager (E-I),
Food Corporation of India,
Zonal Office (North), Noida.**
- 6. Manager (Admin),
Relieving Officer,
Food Corporation of India,
Divisional Office, Srinagar.**

.....Respondent(s)

Through:- Mr. Jahangir Iqbal Ganai, Sr. Adv with
Mr. Sheikh Umar Farooq, Advocate

**CORAM: HON'BLE MRS. JUSTICE SINDHU SHARMA, JUDGE
HON'BLE MR. JUSTICE SHAHZAD AZEEM, JUDGE**

JUDGMENT

Per: Sindhu Sharma-J

1. This intra-court appeal is directed against judgment dated 04.09.2025 passed by the learned Single Judge in WP(C) No. 743/2025, titled **‘Gaganpreet Singh Wazir vs. Food Corporation of India and others’**.
2. The appellant, a Category-II officer working as Manager (Depot.) in the Food Corporation of India (FCI), has assailed his transfer from Jammu and Kashmir to Uttar Pradesh, vide Order Nos. ZO (N)-27.0026/1/2023-E-1-ZO NORTH dated 25.03.2025 and DO SRI-18.0011.0/5/2023-PERS-DO SRINAGAR dated 26.03.2025.
3. The appellant was appointed as Manager through direct recruitment on 15.05.2015 and has since been serving at various postings within the J&K region. Prior to the impugned transfer, the appellant was posted at the Food Storage Depot (FSD) Kupwara from March 2023. Earlier, he served at FSD Chatha, Jammu, and thereafter at the Divisional Office, Srinagar. FSD Kupwara is recognized as a difficult and hard station by the respondents.
4. The contention of the appellant is that in 2022, while serving at FSD Chatha, he lodged a complaint against another officer, Ajay Pal Singh (Manager G), alleging manipulation of stock at the depot premises, which caused losses to the public exchequer. Following the complaint, the appellant was transferred to a difficult and hard station, namely FSD Kupwara, on the directions of the then General Manager, Mr. Harvinder Singh Dhaliwal, allegedly on account of malice. The appellant was thereafter transferred to the Punjab Region; however, Mr. Harvinder Singh Dhaliwal, in connivance with other respondents and acting out of malice, got the said transfer cancelled, while others were allowed to move to their new places of posting.

5. In February 2025, the appellant was asked to provide his preferences for transfer. According to the applicable transfer policy of FCI, a Category-II officer can serve at a regional or zonal office for up to ten years at a stretch, after which such officers are required to be transferred to another region or zone.
6. The appellant submitted three preferences for posting, wherein Punjab was indicated as his first preference, Haryana as his second preference, and Delhi as his third preference, in accordance with the transfer policy. The contention of the appellant is that the respondents, without considering the preferences submitted by the appellant, transferred him to Uttar Pradesh vide Order Nos. ZO(N)-27.0026/1/2023-E-1-ZO NORTH dated 25.03.2025 and DO SRI-18.0011.0/5/2023-PERS-DO SRINAGAR dated 26.03.2025.
7. This order of transfer was challenged by the appellant on the ground that it was issued in violation of the transfer policy and guidelines regulating service conditions, which have affected his rights. It is submitted that the transfer was carried out in a manner intended to victimize him, since Mr. H.S. Dhaliwal, against whom the appellant had previously filed complaints, was already posted in Uttar Pradesh as General Manager. It is further submitted that there was no operational exigency to bypass his preferred regions and transfer him to Uttar Pradesh, particularly when vacancies were available in the regions opted by him. The appellant, it is submitted, has been punished for being a whistleblower exposing alleged illegal activities of the respondents and, being an honest officer, should not be made to suffer. It is also submitted that even his earlier transfer to Kupwara was not in

consonance with the transfer policy, as he was deliberately posted to a place not opted by him. The appellant has now been transferred to Uttar Pradesh, where Mr. Harvinder Singh Dhaliwal is posted, and he is required to report directly to him.

8. The respondents, in their reply, have stated that the transfer was made in the interest of administration. The transfer and relieving orders were issued on administrative grounds in accordance with the rules and Regulation 17 of FCI (Staff Regulations, 1971). It was also submitted that transfers are routine administrative exercises based on functional requirements and operational exigencies, and that an employee cannot claim a right to a particular posting, transfer being an incidence of service. The appellant has been transferred on the basis of organizational needs and in the interest of administration, as such, he could not be transferred as per his preference.
9. During the pendency of the writ petition challenging the transfer, disciplinary proceedings were initiated against the appellant, and the same were assailed in writ petition bearing WP(C) No. 1425/2025 was filed by the appellant challenging these disciplinary proceedings, which is pending adjudication.
10. The learned counsel for the appellant submits that the records pertaining to the transfer were produced before the writ court. The record indicated that the transfer of the appellant from FSD Kupwara was linked to the complaint filed against him in 2022. It was also reflected that alternate postings, including Haryana and Delhi, had been proposed but still the appellant was transferred to Uttar Pradesh, only on account of malice with any lawful exercise.

11. The appellant submitted that the Writ Court, while passing the judgment dated 04.09.2025 dismissing the writ petition, did not appreciate the plea raised by him in the right perspective. The appellant contends that the learned writ court failed to examine the vacancy position at the preferred postings and did not consider the allegations of malice resulting in transfer of the appellant, and ignored the outcome of the disciplinary proceedings that were relied upon by the appellant.
12. Learned counsel for the appellant submits that the transfer and relieving orders issued were punitive in nature, being consequential to a complaint lodged against the appellant, and are therefore contrary to law and in violation of FCI's transfer policy.
13. The learned Writ Court did not find any merit in the petition and dismissed the same vide judgment dated 04.09.2025 by holding that the transfer of the appellant was made on administrative grounds. The appellant is aggrieved by the impugned judgment dated 04.09.2025 on the ground that the learned Writ Court, while considering the petition, did not even ascertain the genuineness and veracity of the allegations made by the appellant, as such, the impugned judgment is unsustainable in law. It is submitted that the learned Writ Court has also erred in law by not appreciating that the transfer is punitive in nature, as it owes its genesis to the complaint filed by the appellant, and an employee cannot be transferred as a measure of punishment.
14. The learned Writ Court has also not gone into the aspect of ascertaining whether any vacancy exists at the preferred places of transfer and posting of the appellant, i.e., Delhi, Punjab, and Haryana. The appellant has been transferred to Uttar Pradesh on administrative grounds,

without any justification and the learned Writ Court has also failed to consider that the orders have been issued in violation of the transfer policy.

15. Heard learned counsel for the parties and perused the available record.
16. The scope of judicial review to interfere in administrative transfers is extremely limited. It is well settled, that it is entirely for the competent authority to decide when and where a public servant is to be transferred. Transfer is not only an incidence but an essential condition of service and cannot be said to adversely affect the service condition of an employee. No employee can claim a vested right to remain posted at a particular place, and interference in administrative decisions cannot be done by the court, as it lacks the expertise to decide how an employee is to be utilised for carrying out the job assigned to a particular post or place of posting.
17. The argument raised by the appellant before the learned Writ Court and this Court is that the transfer order has been passed in violation of the transfer policy guidelines for the employees of the Corporation, and ignoring the preference of the appellant, he has been posted to Uttar Pradesh against his preference. It is also stated that the order of transfer has not been passed in the interest of administration but arbitrarily, just to punish the appellant for being a whistleblower. This apart, Mr. Amit Gupta, learned Senior Advocate, has laid much stress on the ground that the transfer has been made on account of malice, arising out of exercise of powers without any lawful exercise.
18. Reliance in this regard is placed on the judgments of the Hon'ble Apex Court in '**Somesh Tiwari vs. Union of India and others**', (2009) 2

SCC 592; ‘**Ms. X vs. Registrar General, High Court of Madhya Pradesh and another**’, (2022) 14 SCC 187; and a judgment of the Calcutta High Court delivered in case titled ‘**Pankaj Kumar Sarkar vs. Food Corporation of India**’, (2005) 2 SLR 208.

19. We are unable to agree with these contentions for the reasons that as per transfer policy, it specifically provides that an employee is liable to serve anywhere in India in the service of the corporation. It is the prerogative of the employer to post the employee at a place where the employer thinks the person is best suited. Who is to be transferred and where is the prerogative of the employer, and the courts cannot interfere in that.
20. In ‘**Union of India v. S.L. Abbas**’, (1993) 4 SCC 357, it has been clearly observed that a transfer is an inherent incident of service, and courts or tribunals should not interfere with a transfer order unless it is motivated by mala fides or a violation of a statutory provision. The Court further clarified that administrative guidelines for transfers, which lack statutory force, do not confer a legally enforceable right on an employee and do not provide grounds for challenging a transfer order. The relevant para reads as under: -

“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.....”

21. As far as the contention of the appellant that the transfer order suffers from bias and *mala fides* is concerned, the same cannot be accepted for

the reason that the appellant has made bald allegations of malice without substantiating the same by any cogent material.

22. There is no specific averment in the petition disclosing any particular instance of malice or bias. Malice implies the presence of an improper or wrongful motive, i.e., an intent to use a legal power for a purpose other than that for which it is legally intended. Malice in law means an act done wrongfully and wilfully, without reasonable or probable cause, and does not necessarily require proof of ill-will or spite, but rather an act done for an unauthorized purpose. There must be specific pleadings in this regard. Mere use of expressions such as “*malice*” is not sufficient, it is necessary to plead full particulars, including the material facts and the specific person against whom such allegations are made, so as to afford an opportunity to rebut the same. In the absence of such pleadings, no finding of *mala fides* can be recorded.
23. It is settled by the Hon’ble Apex Court that there has to be very strong and convincing evidence to establish allegations of mala fides, and vague allegations without supporting material are of no avail to the appellant. Reliance in this regard is placed on ‘**N. K. Singh v. Union of India**’, (1994) 6 SCC 98 and ‘**Ratnagiri Gas & Power Pvt. Ltd. vs. RDS Projects Ltd. and others**’, (2013) 12 SCC 786.
24. It is also submitted that all the allegations of *mala fides* have been levelled against Mr. Harvinder Singh Dhaliwal, who, though impleaded as a party to the *lis*, has, in any case, already been transferred from Uttar Pradesh. This apart, it is well settled that no right can be claimed solely on the basis of transfer guidelines, as they do not carry any statutory force. Administrative instructions and guidelines regarding

transfers cannot take away the jurisdiction of the power of an employer to transfer, and transfers, even if made in violation of these guidelines, are not necessarily bad in law.

25. In '**State of U.P. v. Gobardhan Lal**', (2004) 11 SCC 402, while dealing with a matter of transfer, the Hon'ble Supreme Court observed that allegations of mala fides must inspire confidence in the Court and ought not to be entertained merely on the making of such allegations or on conjectures and surmises. Except for strong and convincing reasons, no interference should ordinarily be made with an order of transfer.
26. The burden of proving mala fides is on the person levelling such allegations, and the burden is heavy, admitting of no legal ambiguity. Mere assertion or bald statements are not enough to discharge the heavy burden that the law imposes on a person levelling allegations of mala fides. It must be supported by requisite material.
27. Insofar as allegations of *mala fides* are concerned, there are no pleadings to support the allegations of malice in law. The Supreme Court in '**Mohd. Masood Ahmad v. State of U.P. and others**', (2007) 8 SCC 150, has held as under: -

“In our opinion, even if the allegation of the appellant is correct that he was transferred on the recommendation of an MLA, that by itself would not vitiate the transfer order. After all, it is the duty of the representatives of the people to the legislature to express the grievances of the people and if there is any complaint against an official the State Government is certainly within its jurisdiction to transfer such an employee.”

28. It was next argued that the learned Writ Court did not consider the judgments produced by the appellant. Perusal of the judgments reveals that the learned Single Judge has considered all the judgments referred

to and, after considering them, had come to the conclusion that the transfer has been made for administrative reasons and there is no malice in law.

29. The only ground on which the appellant has now assailed the transfer is that he should have been posted to the place of his choice, i.e., Punjab or Haryana, where there are a number of vacancies. Instead, he has been posted to Uttar Pradesh due to mala fide reasons. Since the allegation of malice do not inspire confidence, therefore, this too is without any reason. It is only for the employer to consider whether employee can be transferred to the place of preference and that suitability is only the domain of the employer.

30. In **‘Union of India and Others v. Janardhan Debanath and Another’**, Civil Appeal Nos. 1010–1011 of 2004, it has been held as under:

“The allegations made against the respondents are of serious nature, and the conduct attributed is certainly unbecoming. Whether there was any misbehaviour is a question which can be gone into in a departmental proceeding. For the purposes of effecting a transfer, the question of holding an enquiry to find out whether there was misbehaviour or conduct unbecoming of an employee is unnecessary and what is needed is the prima facie satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by learned counsel for the respondents, of holding an elaborate enquiry is to be insisted upon the very purpose of transferring an employee in public interest or exigencies of administration to enforce decorum and ensure probity would get frustrated. The question whether respondents could be transferred to a different division is a matter for the employer to consider depending upon the administrative necessities and the extent of solution for the

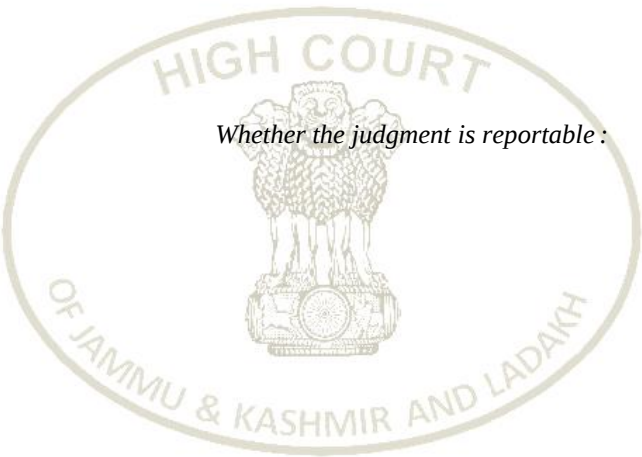
problems faced by the administration. It is not for this Court to direct one way or the other. The judgment of the High Court is clearly indefensible and is set aside. The writ petitions filed before the High Court deserve to be dismissed which we direct. The appeals are allowed with no order as to costs.”

31. In view of the fact that the transfer of the appellant is purely on administrative grounds, and the only grievance of the appellant is with regard to the choice of posting, we do not find any infirmity in the order passed by the learned Single Judge warranting interference in this petition.

(Shahzad Azeem)
Judge

(Sindhu Sharma)
Judge

JAMMU:
23.03.2026
Vishal Khajuria



Whether the judgment is reportable : Yes/No