



2025:DHC:7703-DB



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

+ W.P.(C) 13427/2025, CM APPLs. 55113/2025, 55114/2025 & 55115/2025

SH RAHUL SOLANKI

.....Petitioner

Through: Mr. Manish Sangwan, Adv.
along with Mr. Anshul Kumar, Mr. Manish
Mishra and Ms. Tanya Gupta, Advs. with
Petitioner in person

versus

CENTRAL RESERVE POLICE FORCE (CRPF) & ORS.

.....Respondents

Through: Mr. Rohan Jaitley, CGSC, Mr.
Dev Pratap Shahi Adv, Mr. Varun Pratap
Singh Adv, Mr. Yogya Bhatia Adv, Comdt.
Law Saurav, 2-I/C Avinash, AC Law Ajay
Pal(CRPF)

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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02.09.2025

C. HARI SHANKAR, J.

1. The petitioner assails order dated 17 July 2025 whereby he has been transferred from Group Centre, Noida to 87th Battalion, located at Manipur.

2. The writ petition candidly states that the petitioner has no inherent objection to being posted at Manipur. However, it is sought to be contended that the order of transfer is vitiated by malice and is in



the nature of retaliation against the petitioner who is an internal whistleblower.

3. There can be no doubt about the fact that, if an order of transfer is by way of retaliation against an employee, the order would be vitiated. However, it would be for the concerned employee in that case to make out a clear case in that regard.

4. This position is manifest even from the judgment in *Somesh Tiwari v Union of India*¹, on which Mr. Manish Sangwan, learned Counsel for the petitioner places reliance.

5. We may reproduce para 16 of the said decision which was specifically cited by Mr. Sangwan, thus:

“16. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds - one malice in fact and the second malice in law. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal.

6. The Supreme Court has clearly held in para 16 that, where malafides on the part of the authority *are proved* in issuing the transfer

¹ (2009) 2 SCC 592



order, the Court would be justified in interfering with the transfer order.

7. In the present case, we are constrained to observe that, much less any proof of *mala fides* in issuing of the impugned transfer order, there is nothing to indicate any link between the alleged whistle-blowing activities of the petitioner and the transfer.

8. Mr. Sangwan has addressed us at length on the various whistle-blowing activities in which the petitioner has engaged himself. We do not deem it necessary to enter into all these allegations, in the absence of anything to connect the impugned transfer order therewith. Mr. Sangwan also sought to contend that owing to the whistle-blowing activities of the petitioner, he was repeatedly targeted, *inter alia* by issuing, to him, a baseless chargesheet and denying him transport allowance, among other things.

9. No challenge, in the present case, has been laid to any such act of the respondents.

10. The challenge in the present writ petition is specifically to the order of transfer. We reiterate that, in the absence of any connection being made out, even *prima facie*, between the transfer order and the alleged whistle-blowing activities and consequent victimization of the petitioner, the said submissions are completely tangential to the issue in controversy.



11. Qua his above submissions, Mr. Sangwan sought to rely on para 16 of **Somesh Tiwari**, reproduced *supra*. A reading of the said paragraph clearly indicates that the said case cannot in any way be compared with the facts before us.

12. In fact, in the said case, the Supreme Court has clearly held that it is open to the respondents to transfer an employee in administrative exigencies. In the present case, the impugned order of transfer specifically states that the transfer is for administrative reasons.

13. The Supreme Court was concerned, in **Somesh Tiwari**, with a case in which the transfer was punitive, on the basis of allegations against the appellant in that case, contained in an anonymous complaint. The Supreme Court clearly held that, while it was open to the respondents to transfer an employee in administrative exigencies, it was “another thing to say that the order of transfer is passed by way of or in lieu of punishment.” It is clarified, in the same paragraph, that where the order of transfer is passed in lieu of punishment, the transfer order is liable to be set aside being wholly illegal.

14. In the present case, it is not even the petitioner’s argument that the order of transfer is by way of punishment, save and except to state that it is retaliatory in nature.

15. Mr. Sangwan has not been able to draw our attention to a scintilla of material as would even enable us to arrive even at a *prima facie* conclusion that the transfer order is vitiated by *mala fides* or was by way of retaliation against the alleged whistle-blowing activities of



the petitioner.

16. Accepting Mr. Sangwan's submissions, in such circumstances, would amount to holding that, by leveling allegations against the officials of the department or engaging in whistle-blowing activities, whether rightly or wrongly, an employee insulates himself forever from transfer. This, quite obviously, can never be the position in law.

17. Transfer is an incidence of service. The situations in which an order of transfer can be legally challenged are well settled in law. We may reproduce the relevant paragraphs from *Pubi Lombi v State of Arunachal Pradesh*²:

"9. In the case of *Union of India v S.L. Abbas*³, it is clearly observed by this Court that *the scope of judicial review is only available when there is a clear violation of statutory provision or the transfer is persuaded by malafide, non-observation of executive instructions* does not confer a legally enforceable right to an employee holding a transferable post. The relevant paragraph 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.....*"

10. Further, following the footsteps of *S.L. Abbas* (supra) this Court in the case of *Union of India v N.P. Thomas*⁴, held that the interference by the Court in an order of transfer on the instance of an employee holding a transferrable post without any violation of statutory provision is not permissible.

11. This Court further curtailed the scope of judicial review in the case of *N.K. Singh v Union of India*⁵, holding that the person

² 2024 SCC OnLine SC 279

³ (1993) 4 SCC 357

⁴ 1993 Supp (1) SCC 704

⁵ (1994) 6 SCC 98



challenging the transfer ought to prove on facts that such transfer is prejudicial to public interest. It was further reiterated that *interference is only justified in a case of malafide or infraction of any professed norm or principle. Moreover, in the cases where the career prospects of a person challenging transfer remain unaffected and no detriment is caused, interference to the transfer must be eschewed. It is further held that the evidence requires to prove such transfer is prejudicial and in absence thereof interference is not warranted.* The law reiterated by this Court is reproduced, in following words: —

“9. Transfer of a public servant from a significant post can be prejudicial to public interest only if the transfer was avoidable and the successor is not suitable for the post. *Suitability is a matter for objective assessment by the hierarchical superiors in administration. To introduce and rely on the element of prejudice to public interest as a vitiating factor of the transfer of a public servant, it must be first pleaded and proved that the replacement was by a person not suitable for the important post and the transfer was avoidable. Unless this is pleaded and proved at the threshold, no further inquiry into this aspect is necessary and its absence is sufficient to exclude this factor from consideration as a vitiating element in the impugned transfer.* Accordingly, this aspect requires consideration at the outset.

“23.*Unless the decision is vitiated by mala fides or infraction of any professed norm or principle governing the transfer, which alone can be scrutinised judicially, there are no judicially manageable standards for scrutinising all transfers and the courts lack the necessary expertise for personnel management of all government departments. This must be left, in public interest, to the departmental heads subject to the limited judicial scrutiny indicated.*”

“24. ...*Challenge in courts of a transfer when the career prospects remain unaffected and there is no detriment to the government servant must be eschewed and interference by courts should be rare, only when a judicially manageable and permissible ground is made out. This litigation was ill-advised.*”

12. The issue involved in the present case is somewhat similar in the case of **Mohd. Masood Ahmad v State of U.P.**⁶, wherein this Court in paragraph 8 has observed as thus:—

⁶ (2007) 8 SCC 150



“8. 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 in 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.....”

13. It is not tangential to mention that this Court in the case of *State of Punjab v Joginder Singh Dhatt*⁷, observed as thus:—

“3.....It is entirely for the employer to decide when, where and at what point of time a public servant is transferred from his present posting.....”

14. It is also imperative to refer the judgment of this Court in the case of *Ratnagiri Gas and Power Private Limited v RDS Projects Limited*⁸, where it reiterated one of the pertinent principles of administrative law is that when allegations of malafide are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer. The relevant excerpt is reproduced as thus:

“27. There is yet another aspect which cannot be ignored. As and when allegations of mala fides are made, the persons against whom the same are levelled need to be impleaded as parties to the proceedings to enable them to answer the charge. In the absence of the person concerned as a party in his/her individual capacity it will neither be fair nor proper to record a finding that malice in fact had vitiated the action taken by the authority concerned.....”

15. In view of the foregoing enunciation of law by judicial decisions of this Court, it is clear *that in absence of (i) pleadings regarding malafide, (ii) non-joining the person against whom allegation are made, (iii) violation of any statutory provision (iv) the allegation of the transfer being detrimental to the employee who is holding a transferrable post, judicial interference is not warranted. In the sequel of the said settled norms, the scope of judicial review is not permissible by the Courts in exercising of the jurisdiction under Article 226 of the Constitution of India.*”

(Emphasis supplied)

18. It cannot be that, by merely leveling allegations against the

⁷ AIR 1993 SC 2486

⁸ (2013) 1 SCC 524



officials of the department or claiming to be an internal whistleblower, an employee can forever immunize himself against transfer. Of course, if the employee is able to satisfy the Court that there is a link between his whistle-blowing activities and the transfer order, the Court would be justified in interfering. In the present case, there is none.

19. Mr. Sangwan, however, advances an alternate argument, predicated on Standing Order 04/2022 dated 27 September 2022. Mr. Sangwan initially sought to refer us to Clause 5(A) of the said standing order, but did not press the argument further on its being pointed out to him that the said clause dealt with the summer chain transfer, and the transfer of the petitioner is not a summer chain transfer. He, thereafter, pointed out, on the basis of Clause 8(a) (ii) that the normal tenure of the petitioner at the present place of posting is three years.

20. Mr. Rohan Jaitley, learned CGSC for the Union of India, has pointed out that the petitioner was posted in his present posting at Group Centre, Noida, on 9 July 2022 and has been transferred only on 17 July 2025 which is beyond the period of three years stipulated in Clause 8(a)(ii) of the Standing Order 04/2022. As such, the petitioner has been transferred only after he has completed his normal tenure at the present place of posting.

21. We, therefore, do not find any substance in this writ petition as would invite us even to issue notice.



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22. It is well settled that Courts should be chary in interfering in matters of transfer. Interference with transfer orders at the drop of a hat completely dislocates the administrative functions of the department. Especially when we are dealing with paramilitary forces, a much greater latitude is required to be accorded to the authorities concerned to decide on the posting of various persons.

23. It is only, therefore, where the posting is clearly in violation or in breach of administrative rules or statutory instructions that, ordinarily, a court would interfere.

24. In the present case, the transfer order is entirely in accordance with the tenure of the petitioner at Noida. He has been allowed to complete his tenure of three years before he has been transferred. No case of *mala fides*, even *prima facie*, is made out.

25. We, therefore, are not inclined to issue notice in this writ petition.

26. The writ petition is dismissed in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

SEPTEMBER 2, 2025

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