



**118 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-29614-2025

Date of Decision: 01.10.2025

Sawinder Singh

...Petitioner

Vs.

State of Punjab and Anr.

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

Present : Mr. Gursimran Singh Bawa, Advocate
for the petitioner.

Mr. Surya Kumar, AAG, Punjab.

N.S.Shekhawat J.

1. The petitioner has filed the present writ petition under Article 226/227 of the Constitution of India with a prayer to issue a Writ in the nature of Certiorari for quashing the impugned order dated 15.09.2025 (Annexure P-1), whereby, the petitioner has been ordered to be transferred from Central Jail, Amritsar to Central Jail Kapurthala.

2. Learned counsel for the petitioner contends that the petitioner had initially joined as a Sepoy in the respondent department and was ordered to be posted at District Jail, Ferozepur. Thereafter, he has been transferred to various places in the State of Punjab. Learned counsel submits that the petitioner is due to retire from the job on 14.08.2029 i.e within a period of four years and vide the impugned order dated 15.09.2025 (Annexure P-1), he has been wrongly transferred from Central Jail Amritsar to Central Jail Kapurthala, which is more than 70 kilometers from the residence of the petitioner i.e Amritsar City. He further contends that in fact the general transfers in the State of Punjab are



banned and no transfer can be made without the prior approval of the Chief Minister. Even, the petitioner has been transferred in the violation of the transfer policy issued by Department of Personnel, Government of Punjab dated 23.04.2018 (Annexure P-2). Still further, by referring to Medical record (Annexures P-3 & P-4), learned counsel submits that Jatinder Singh son of the petitioner is suffering from Posterior Cortex Epilepsy and Hepatitis C Virus. Consequently, the petitioner should not have been transferred to a far of place and the impugned order is legally unsustainable.

3. On advance notice, Mr. Surya Kumar, AAG, Punjab has appeared on behalf of official respondents and submitted that the respondent department has transferred about 120 employees in the Department of Prisons, State of Punjab, by issuing the transfer order (Annexure P-1). Even, the transfers have been made purely on administrative grounds and there is no mala fide on the part of the respondents. Even, no such argument has been made by learned counsel for the petitioner that any higher officer was inimical towards the petitioner.

4. I have heard learned counsel for the parties and with their able assistance; I have perused the record carefully.

5. The Hon'ble Supreme Court has held in the matter of "*State of U.P and others Vs.Ashok Kumar Saxena and another (1998) 3 SCC* categorically observed that transfer of an employee is within the prerogative power of an employer and normally the High Court should not interfere by exercising its jurisdiction under Article 226 of the Constitution of India unless it is shown clearly as mala fide or infraction of any professed norms and held as



follows:-

*“.....The parameters of the powers of a Court under Article 226 vis-a-vis an order of transfer for are well settled. In **N.K. SINGH VERSUS UNION OF INDIA 7 ORS. (1994) 6 S.C.C. 98**, this Court held that interference by judicial review is justified only in cases of mala fides or infraction of any professed norms or principles and where career prospects remain unaffected and no detriment is caused to the concerned Government employee, challenge to the transfer must be eschewed. Reiterating the said proposition in *Sri Abani Kanta Ray Versus State of Orissa & Ors. J.T. 1995 (7) S.C. 467* the Court added that transfer being an incidence or service, is not to be interfered with by the Courts unless it is shown clearly arbitrary.....*

6. Similarly, in **Somesh Tiwari Vs. Union of India and others (2009) 2 SCC 592** , the Hon’ble Supreme Court again observed that an order of transfer is an administrative order, which is ordinarily an incident of service and the same should not be lightly interfered with. The relevant observations of the Hon’ble Supreme Court are reproduced as follows:-

“.....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....”

7. In the present case also, it is apparent that vide the impugned order dated 15.09.2025 (Annexure P-1), apart from the petitioner other 119 employees of Department of Prisons, Punjab have also been transferred by the respondents. Even, the transfers have been made purely on administrative grounds. Even, the petitioner has been transferred only to a nearby place and there is no nothing on record to suggest that even there was violation of transfer policy, while effecting the transfer in the instant case. Even otherwise, the transfer policy only contains the guiding principles, which should be normally followed by State while passing the transfer orders and are not binding on the employer.

8. Thus, finding no merits, the present writ petition is accordingly ordered to be dismissed.

01.10.2025

hitesh

**(N.S.SHEKHAWAT)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No