



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

118

CWP-10100-2025 (O&M)

Date of decision: 22.04.2025

Vinod Kumar

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present :- Mr. Vijay Dahiya, Advocate and
Ms. Neelam Chaudhary, Advocate for the petitioner(s).

Ms. Tanisha Peshawaria, DAG Haryana.

VINOD S. BHARDWAJ, J. (Oral)

1. The challenge in the instant writ petition is to the order dated 29.01.2025, passed by respondent No.2, i.e., the Transport Commissioner, Haryana, whereby the claim of the petitioner for seeking his transfer was rejected.

2. Learned counsel contends that the petitioner has been working as a Driver in the State Transport Department, Haryana, and was posted with the General Manager, Haryana Roadways, Sonapat. Vide order dated 07.03.2019, the petitioner was transferred from the office of the General Manager, Haryana Roadways, Sonapat, to the office of the Secretary, Regional Transport Authority, Rewari, vice one Mr. Sneh Kumar. The said transfer order was challenged by Sh. Sneh Kumar in CWP-6855-2019, wherein the High Court was pleased to stay the transfer vide its order dated 13.03.2019, after noticing the contention of the counsel for the petitioner, to the effect that options for merger had then been sought by the State Government from amongst the employees for working either in the



Commercial Wing, Transport Department, Haryana, or the Regulatory Wing i.e. D.T.O./R.T.A. Office, Haryana, by 06.04.2018. It was also understood that if no option was given by an employee, it would be assumed that they would be satisfied with their current posting. The petitioner therein (Sh. Sneh Kumar) claimed that he was working in the office of the RTA and had never exercised an option for merger in the Commercial Wing, yet, he was ordered to be transferred from the office of the Regional Transport Authority, Rewari, to the office of the General Manager, Haryana Roadways, Sonapat, on administrative grounds.

3. Learned counsel appearing on behalf of the petitioner contends that the above writ petition was eventually withdrawn by Sh. Sneh Kumar by moving CM No.11044 of 2023, which was allowed to be withdrawn vide order dated 17.07.2023. He contends that upon the withdrawal of the said petition by Sh. Sneh Kumar, the department automatically became bound to implement the order of transfer dated 07.03.2019. However, as the needful was not done, the petitioner approached this Court through CWP-20137-2024 titled 'Vinod Kumar Vs. State of Haryana and others'. The said writ petition was disposed of by this Court vide order dated 21.08.2024, with a direction to the respondents to decide the representation dated 01.08.2023 submitted by the petitioner for seeking enforcement of the order of transfer. In compliance thereof, the representation dated 01.08.2023 submitted by the petitioner was dismissed vide order dated 29.01.2025, and the claim of the petitioner for transfer to the office of the Secretary, Regional Transport Authority, Rewari, stands rejected. Hence, the instant writ petition has been



filed.

4. Learned counsel appearing on behalf of the petitioner contends that the respondents had passed the order of transfer, on their own volition, but the said order could not be implemented due to the interim stay granted by this Court vide order dated 13.03.2019 in CWP-6855-2019, preferred by Sh. Sneh Kumar. Once the main writ petition stands withdrawn on 17.07.2023, the transfer order becomes effective, and the petitioner is entitled to be transferred to the office of the Secretary, Regional Transport Authority, Rewari. He argues that the rejection of the petitioner's claim is incorrect. Additionally, he contends that the reasons provided by the respondents are contradicted by their own order of transfer and, therefore, cannot be accepted.

5. The State counsel was directed to seek instructions in the matter. He has placed on record the communication received by the office of the Advocate General, Haryana, from the Transport Commissioner, Haryana, bearing memo No. 15117/AT-5/Asstt. Secy. dated 22.04.2025. In the said communication, the factual aspects are not disputed, however, it is added that during the pendency of CWP-6855-2019, preferred by Sh. Sneh Kumar, the petitioner herein filed one CM No. 635 in CWP-6855-2019 for seeking directions to the officials to transfer him to another place, as due to the pendency of the writ petition, the respondent No. 4 therein and (the petitioner herein) has not been posted. The said application of the petitioner was disposed of vide order dated 20.01.2023, on the statement made by the Additional AG Haryana that the transfer of respondent No. 4 (the petitioner



herein) to another place would be taken up at the time when general transfers are done by the respondent-State. Thus, the petitioner himself sought his transfer to another place instead of requesting a posting at the said place. The claim of the petitioner has, therefore, been properly considered by the respondent-authorities. Furthermore, the respondent-authorities, in their instructions, have also averred that the Transport Department, Haryana operates in two wings: the Regulatory Wing (i.e., the office of the Transport Commissioner, Haryana, which supervises all District Transport offices-cum-Secretaries, Regional Transport Authorities, in the State) and the Commercial Wing (i.e., the office of the Director General, State Transport and Haryana Roadways). It is specifically averred that the cadre of officials working in both wings is separate, and the employees in the wings cannot be transferred interchangeably. It is also stated that separate sets of rules govern the service conditions of employees working in the different wings. While the Commercial Wing runs public transport through buses, no such operations are undertaken by the Regulatory Wing. It is contended that the petitioner, being a holder of a Heavy Vehicle Driving License, has been working with Haryana Roadways and is, therefore, not eligible to be transferred to the office of the Transport Commissioner i.e. the Regulatory Wing.

6. I have heard the learned counsel appearing on behalf of the respective parties and have gone through the documents appended with the instant petition and communication received from the respondent-Department, with their able assistance.



7. The sole contention of the petitioner in the present case is that the transfer order dated 07.03.2019, transferring the petitioner to the office of the Secretary, Regional Transport Authority, Rewari, should be implemented since the writ petition No. CWP-6855-2019, wherein an order was passed on 13.03.2019 staying the transfer order, has already been withdrawn, hence, there is no impediment to the petitioner being posted pursuant to the original order of transfer.

8. Learned counsel for the petitioner does not dispute the averments regarding employees working in the Regulatory Wing and the Commercial Wing being governed by different regulations. It is also not disputed that the law does not permit inter-departmental transfers amongst employees, except may be passed by way of deputation. The respondents, having made a conscious decision not to implement the order dated 07.03.2019, which they acknowledge as being contrary to law, this Court will not direct the respondents to implement an order that violates statutory provisions. The petitioner's claim that the respondents, having passed the transfer order earlier, cannot now adopt a contrary stance is misconceived. An order of transfer that was passed in violation of law does not create an estoppel against the respondent-State from submitting the correct facts and declining to implement the order, which contradicts statutory rules. Moreover, the earlier transfer order was passed by the Transport Commissioner, Haryana, and the current set of instructions has been provided by the Transport Commissioner, Haryana himself. Therefore, the authority that initially issued the transfer order has chosen not to implement



it, and by necessary inference, it must be assumed that the original order of transfer has been withdrawn by the respondent-authorities, even if a formal order in this regard has not been issued. Besides, the petitioner himself moved an application for seeking his transfer to some other place wherein State got its statement recorded that he shall be transferred to other place during general transfer, which was accepted by the Court as well as the petitioner. He is thus estopped from seeking implementation of the original order of transfer.

9. The position in law is even otherwise well-settled that an employee does not have a right to claim transfer to a place of his choice. Such orders are passed by the competent authority, i.e., the employer, in terms of administrative exigencies and the applicable statutory rules.

10. The petitioner has not been able to demonstrate the conferring of any statutory right in his favor to claim a transfer to a separate wing of the Transport Department, especially in violation of the statutory rules governing the service conditions of drivers.

11. Consequently, I find myself unable to agree with the contentions raised by the petitioner or to validate an order that has been acknowledged by the respondents to have been passed ignoring the statutory provisions.

12. The writ petition is accordingly **dismissed**.

(VINOD S. BHARDWAJ)
JUDGE

22.04.2025

Mangal Singh

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