
(2025) 08 AHC CK 0617
In the Allahabad High Court
Case No : Writ Petition A No. 4063 Of 2025

Mrs. Megha Sanjeev Kumar	Vs	APPELLANT
Punjab And Sind Bank And Another		RESPONDENT

Date of Decision : 14-08-2025

Acts Referred:

Code of Civil Procedure, 1908 — Section 15
Uttar Pradesh Intermediate Education Act, 1921 — Section 2(b), 4, 7A, 7A(a), 7(4), 16A

Citation : (2025) 08 AHC CK 0617

Hon'ble Judges : Irshad Ali, J

Bench : Single Bench

Advocate : Anurag Kumar Singh, Sharad Pathak, Priya Singh, Ran Vijay Singh

Final Decision : Dismissed

Judgement

Ajay Bhanot,J.

1. Heard Sri Ravindra Narayan Singh, learned counsel for the petitioner and Sri Sundeep Agarwal, learned counsel for the respondents.
2. By the impugned order dated 10.01.2025 the petitioner has been transferred from Prayagraj branch to Bisani Pratapgarh.
3. The petitioner has assailed the impugned transfer order on the footing that it is actuated by mala fide and is penal in nature. Further as per the petitioner the transfer has been made on the basis of complaints which in itself is contrary to law.
4. The grounds on which the transfer order has been assailed shall be examined in the succeeding paragraphs.
5. A bare perusal of the transfer order and the attending circumstances discloses that a transfer order is not punitive in any manner. The petitioner has not been demoted to a lower post nor her salary has been lowered. The seniority of the

petitioner does not get affected in any adverse manner.

6. The petitioner was posted at Prayagraj for a very long period of time between 2007-2025, except for a brief interlude from 19.11.2022 to 10.06.2024 when she was posted at Raipur. It is noteworthy that the husband of the petitioner is in the Railways and was posted at Raipur. Moreover district Pratapgarh is a neighbouring city of Prayagraj and the two cities are well connected.

7. Transfers can be challenged only on limited grounds namely, infraction of statutory provision or mala fides. No violation of statutory provision has been pleaded or established before this Court.

8. Allegations of mala fides can be enquired into only if they are specifically pleaded with material particulars. Moreover, the individual against whom such allegations are made has to be arrayed as co-respondent. In the instant case both the essential ingredients to prove mala fides are absent in the writ petition.

9. In fact the pleadings related to mala fides are bald, vague and self serving. Mere differences of opinion or compatibility issues may not be sufficient to attribute mala fides to the action of the superior authority in the facts and circumstances of a case. Mala fides are not established from the pleadings. The official against whom mala fides are alleged is arrayed as a party. The ground that the transfer order is vitiated by mala fides is accordingly rejected.

10. The petitioner also claims reliance on certain provisions of the transfer policy. The transfer policy does not confer any enforceable rights upon the petitioner. Further the power of an employer to transfer an employee is not derived from the transfer policy. Absence of provisions to transfer on administrative grounds in the transfer policy does not denude the authority of the employer to make transfers on said grounds.

11. Transfer is an incident of service. No employee has a vested right to be transferred to any place of their choice. Transfer policy has to subserve the larger interests of the institution.

12. The question of the validity of the transfer in view of the the pending complaints against the petitioner will now be examined.

13. The petitioner has stated in her writ petition that she was transferred on complaints. A fact finding enquiry was made in regard to the said complaints. The transfer order could not have been made without affording an opportunity of hearing to the petitioner.

14. The counter affidavit clearly establishes the nexus between the aforesaid complaints against the petitioner and the transfer order. The counter affidavit records frequent and unauthorised absence of the petitioner from duty. The petitioner also took leave without prior sanction and was in the habit of taking frequent leaves before and after weekend holidays. According to the respondents the petitioner indulged in acts of insubordination against superior officers. The

conduct of the petitioner hampered the business of the bank. An enquiry was got conducted into complaints against the petitioner. One of the superior officers of the petitioner also filed an application before the competent authorities that he apprehended a false complaint of sexual harassment by the petitioner since he had taken to her task for her deficient performance. The fact finding inquiry returned adverse findings against the petitioner.

15. The complaints in the record disclose that the petitioner had some compatibility issues with other officials of the bank and her performance was deficient. These started impacting the functioning of the branch.

16. The issue of transfers based on complaints arose for consideration before the Supreme Court in *Union of India Vs Janardhan Debnath and Anr* 2004 (4) SCC 245. The Supreme Court in *Janardhan Debnath* (supra) while examining the scope of challenge to transfer order and the permissibility of transferring an employee on footing of complaints held as under:-

"4. The Union of India took the stand that the transfer was done in public interest and on account of exigencies of administration. It was pointed out that the respondents not only misbehaved with the Director (Postal Services), a senior lady officer, she was confined and dragged from one room to another and this was done with a view to force her to withdraw the charge sheet against the Deputy Post Master. She was abused in filthy language and was physically manhandled. This conduct was certainly unbecoming of an employee and with a view to enforce discipline and to avoid recurrence of such unfortunate incident, they were transferred. There was no violation of either Rule 37 of the Manual or FR 15. The High Court accepted the prayers made in the writ petitions and held that transfer was impermissible in terms of Rule 37 and was in violation of FR 15. It was as a measure of penalty and the seniority and the promotional prospects were likely to be affected.

9. A bare reading of Rule 37 shows that officials of the Department are liable to be transferred to any part of India unless it is expressly ordered otherwise for any particular class or classes of officials. Transfers were not to be ordered except when advisable in the interests of public service. The transfers can be made subject to conditions laid down in FR 15 and 22. The appellant has indicated as to why and under what circumstances the transfers were thought proper in the interests of public service. The High Court while exercising jurisdiction under Articles 226 and 227 of the Constitution of India, 1950 (in short the 'Constitution') had gone into the question as to whether the transfer was in the interest of public service. That would essentially require factual adjudication and invariably depend upon peculiar facts and circumstances of the case concerned. No government servant or employee of a public undertaking has any legal right to be posted forever at any one particular place or place of his choice since transfer of a particular employee appointed to the class or category of transferable posts from one place to other is not only an incident, but a condition of service, necessary too in public interest and efficiency in the public

administration. Unless an order of transfer is shown to be an outcome of mala fide exercise or stated to be in violation of statutory provisions prohibiting any such transfer, the courts or the tribunals normally cannot interfere with such orders as a matter of routine, as though they were the appellate authorities substituting their own decision for that of the employer/management, as against such orders passed in the interest of administrative exigencies of the service concerned. This position was highlighted by this Court in *National Hydroelectric Power Corporation Ltd. v. Shri Bhagwan and Anr.*,

12. That brings us to the other question as to whether the use of the expression 'undesirable' warranted an enquiry before the transfer. Strong reliance was placed by learned counsel for the respondents on a decision of this Court in *Jagdish Mitter v. The Union of India* (1964)ILLJ418SC to contend that whenever there is a use of the word 'undesirable' it casts a stigma and it cannot be done without holding a regular enquiry. The submission is clearly without substance. The said case relates to use of the expression 'undesirable' in an order affecting the continuance in service by way of discharge. The decision has therefore no application to the facts of the present case. The manner, nature and extent of exercise to be undertaken by Courts/Tribunals in a case to adjudge whether it casts a stigma or constitutes one by way of punishment would also very much depend upon the consequences flowing from the order and as to whether it adversely affected any service conditions - status, service prospects financially and same yardstick, norms or standards cannot be applied to all category of cases. Transfers unless they involve any such adverse impact or visits the persons concerned with any penal consequences, are not required to be subjected to same type of scrutiny, approach and assessment as in the case of dismissal, discharge, reversion or termination and utmost latitude should be left with the department concerned to enforce discipline, decency and decorum in public service which are indisputably essential to maintain quality of public service and meet untoward administrative exigencies to ensure smooth functioning of the administration.

13. Additionally, it was pointed out by learned counsel for the Union of India that as indicated in the special leave petition itself there was no question of any loss of seniority or promotional prospects. These are the aspects which can be gone into in an appropriate proceeding, if at all there is any adverse order in the matter of seniority or promotion. It was also submitted that transfer was within the same circle i.e. the North Eastern Circle and, therefore, the question of any seniority getting affected by the transfer prima facie does not arise.

14. The allegations made against the respondents are of serious nature, and the conduct attributed is certainly unbecoming. Whether there was any misbehavior 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 misbehavior 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 requirements, 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 with no order as costs."

17. Similarly the Supreme Court in *Rajendra Singh Vs State of U.P.* 2009 (15) SCC 178 held as under:-

"3. The transfer order dated July 31, 2007 came to be challenged by the Writ Petitioner before the High Court of Allahabad, Bench Lucknow. While challenging the legality of the transfer order, Writ Petitioner set up the grounds that he joined as Sub-Registrar, Ghaziabad, Sadar-IV only a month back; that the transfer order has been issued on the complaint of one Radhey Lal, Sanyojak Dalit Morcha Sangharsh Samiti, Lucknow and that the order of transfer was arbitrary, stigmatic and suffers from non-application of mind.

8. A Government Servant has no vested right to remain posted at a place of his choice nor can he insist that he must be posted at one place or the other. He is liable to be transferred in the administrative exigencies from one place to the other. Transfer of an employee is not only an incident inherent in the terms of appointment but also implicit as an essential condition of service in the absence of any specific indication to the contrary. No Government can function if the Government Servant insists that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires.

9. The courts are always reluctant in interfering with the transfer of an employee unless such transfer is vitiated by violation of some statutory provisions or suffers from mala fides. In the case of *Shilpi Bose (Mrs.) and Ors. v. State of Bihar and Ors.* AIR 1991 SC 532, this Court held:

4. In our opinion, the courts should not interfere with a transfer order which is made in public interest and for administrative reasons unless the transfer orders are made in violation of any mandatory statutory rule or on the ground of mala fide. A government servant holding a transferable post has no vested right to remain posted at one place or the other, he is liable to be transferred from one place to the other. Transfer orders issued by the competent authority do not violate any of his legal rights. Even if a transfer order is passed in violation of executive instructions or orders, the courts ordinarily should not interfere with the order instead affected party should approach the higher authorities in the

department. If the courts continue to interfere with day-to-day transfer orders issued by the government and its subordinate authorities, there will be complete chaos in the administration which would not be conducive to public interest. The High Court overlooked these aspects in interfering with the transfer orders.

10. In *N.K. Singh v. Union of India and Ors.* (1994) 6 SCC 1998, this Court reiterated that the scope of judicial review in matters of transfer of a Government Servant to an equivalent post without adverse consequence on the service or career prospects is very limited being confined only to the grounds of mala fides or violation of any specific provision.

12. As regards Respondent No. 5, the High Court considered the matter thus:

...in our view, it is evident that the respondent No. 5 also can not be said to be an Officer having a better conduct and integrity in comparison to the petitioner justifying his posting at Ghaziabad and in this regard, it appears that I.G. (Stamps) did not give correct information to the Principal Secretary. However, it can not be held that the respondent No. 1 in passing order dated 31st July, 2007 has acted maliciously or for extraneous reasons amounting to malafide. Once the basic ground of challenge to the impugned order of transfer that the same is malicious in law falls, we do not find any reason to interfere with the impugned order of transfer, transferring the petitioner from Ghaziabad to Hapur. It is not the case of petitioner that his transfer is contrary to rules or has been issued by an authority who is not competent. It is well settled that an order of transfer is amenable for judicial review on limited grounds namely it is contrary to rules or has been passed by an incompetent authority or is a result of malafide. In view of admission on the part of the respondent No. 1 in his Counter Affidavit that the respondent No. 5 has been found guilty of serious misconduct for causing loss to the Government revenue by acting without jurisdiction and colluding evasion of stamp duty, in our view transfer of the respondent No. 5 to Ghaziabad can not be sustained in view of further admission on the part of the respondent No. 1 that the interest of department requires posting of an honest and efficient person at Ghaziabad.

13. It is difficult to fathom why the High Court went into the comparative conduct and integrity of the petitioner and Respondent No. 5 while dealing with a transfer matter. The High Court should have appreciated the true extent of scrutiny into a matter of transfer and the limited scope of judicial review. Respondent No. 5 being a Sub-Registrar, it is for the State Government or for that matter Inspector General of Registration to decide about his place of posting. As to at what place Respondent No. 5 should be posted is an exclusive prerogative of the State Government and in exercise of that prerogative, Respondent No. 5 was transferred from Hapur-II to Ghaziabad-IV keeping in view administrative exigencies.

14. We are pained to observe that the High Court seriously erred in deciding as to whether Respondent No. 5 was a competent person to be posted at Ghaziabad-

IV as Sub- Registrar. The exercise undertaken by the High Court did not fall within its domain and was rather uncalled for. We are unable to approve the direction issued to the State Government and Inspector General of Registration to transfer a competent officer at Ghaziabad-IV as Sub-Registrar after holding that Respondent No. 5 cannot be said to be an officer having a better conduct and integrity in comparison to the petitioner justifying his posting at Ghaziabad-IV. The High Court entered into an arena which did not belong to it and thereby committed serious error of law."

18. While examining the validity of the transfer of an employee on the basis of an adverse report of the Supreme Court in Registrar General High Court Vs R. Perachi 2011 (12) SCC 137 laid down the law as under:-

"21. We have considered the submissions of both the counsel. As far as the action of transfer against the first Respondent was concerned, the same was on the basis of the report of the Registrar (Vigilance). Besides, the District Judge had also opined that retention of the Appellant in his district was undesirable from the point of view of administration. Thus, it involved inter-district transfer. The Respondent No. 1 had not disputed the power of the High Court to transfer him outside the district, nor did the division bench interfere therein on that ground. This is apart from the fact that transfer is an incident of service, and one cannot make a grievance if a transfer is made on the administrative grounds, and without attaching any stigma which was so done in the present case.

22. In the context of transfer of a govt. servant we may refer to the dicta of this Court in N.K. Singh v. Union of India reported in AIR 1995 SC 423 where this Court observed in para 22 as follows:

22... Transfer of a government servant in a transferable service is a necessary incident of the service career. Assessment of the quality of men is to be made by the superiors taking into account several factors including suitability of the person for a particular post and exigencies of administration. Several imponderables requiring formation of a subjective opinion in that sphere may be involved, at times. The only realistic approach is to leave it to the wisdom of the hierarchical superiors to make the decision. Unless the decision is vitiated by mala fides or infraction of any professed norm of principle governing the transfer, which alone can be scrutinized judicially, there are no judicially manageable standards for scrutinizing 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.

23. In State of Madhya Pradesh v. S.S. Kourav reported in AIR 1995 SC 1056, the Administrative Tribunal had interfered with the transfer order of the Respondent and directed him to be posted at a particular place. It is relevant to note that while setting aside the order of the tribunal this Court observed in para 4 of its judgment as follows:

4....The Courts or Tribunals are not appellate forums to decide on transfers of officers on administrative grounds. The wheels of administration should be allowed to run smoothly and the Courts or Tribunals are not expected to interdict the working of the administrative system by transferring the officers to proper places. It is for the administration to take appropriate decision and such decisions shall stand unless they are vitiated either by mala fides or by extraneous consideration without any factual background foundation. In this case we have seen that on the administrative grounds the transfer orders came to be issued. Therefore, we cannot go into the expediency of posting an officer at a particular place.

24. We may mention that this Court has reiterated the legal position recently in *Airports Authority of India v. Rajeev Ratan Pandey* reported in 2009 (8) SCC 337 that:

"10..... In a matter of transfer of a govt. employee, the scope of judicial review is limited and the High Court would not interfere with an order of transfer lightly, be it at interim stage or final hearing. This is so because the courts do not substitute their own decision in the matter of transfer."

31. As seen above, the transfer was purely on the administrative ground in view of the pending complaint and departmental enquiry against first respondent. When a complaint against the integrity of an employee is being investigated, very often he is transferred outside the concerned unit. That is desirable from the point of view of the administration as well as that of the employee. The complaint with respect to the first respondent was that he was dominating the administration of the District Judiciary, and the District Judge had reported that his retention in the district was undesirable, and also that departmental enquiries were pending against him and other employees, with respect to their integrity. In the circumstances the decision of the then Chief Justice to transfer him outside that district could not be faulted."

19. A Division Bench of this Court in *Dr. Anil Kumar Pradhan Vs State of U.P.* 2010 SCC Online ALL 1152 also affirmed the order of transfer which was made on the basis of a complaint by holding:-

"3. Mr. Manish Kumar, learned Counsel for the petitioner submits that after being selected through U.P. Public Service Commission, the petitioner was appointed on the post of Medical Officer on 14.2.1988 and while working as such, he was promoted on the post of Senior Consultant at S.S.P.G. District Hospital, Varanasi in the month of September, 2009. He submits that pursuant to the oral complaint being moved by unknown person, opposite party No. 6-Hon'ble Minister, Medical and Health, U.P. Civil Secretariate, Lucknow, summoned the petitioner, to which the petitioner tendered his explanation, wherein it has been stated that the patient was not operated prior to one month as his hemoglobin was below 5% and as soon as his hemoglobin was above 10%, he had operated the patient. He submits that there is no complaint ever made against the petitioner in his 22

years of service. Further, the impugned transfer order has not been passed either in public interest or in administrative exigency and as such, the petitioner has been transferred merely on the dictate of the Hon'ble Minister. He also submits that it is the policy decision of the Government that no one will be transferred during financial year 2010-11.

16. One more important aspect of the matter is that the government servant does not have right not to comply with the transfer order without there being any interference or otherwise protection given by the Court or by the superior authority and to keep on filing petition after petition challenging the order in the High Court. Government servant can not claim that he should be posted at a particular place for a particular period. The transfer is an incidence of service. The posting of government servant by issuing transfer order is a natural requirement in service law. The transfer is effected keeping in mind the exigency of service, and in public interest or for administrative reasons. It is the sole discretion of the appointing authority to post the government servant at any place where he/she is more required. Of course, if transfer order has been passed in violation of any statutory Provision or Rule or is a result of mala fide or bias of the authorities, then that can be subjected to scrutiny by the Court but unless the order so suffers, the High Court will, normally, not interfere in the transfer order.

17. In the instant case, there is admittedly a complaint against the petitioner. The petitioner fully knows about that complaint as is evident from the stand taken in the writ petition itself. The plea of the petitioner that he cannot be transferred on such a complaint deserves to be rejected outright. It may be mentioned that instead of initiating disciplinary proceedings against the petitioner on the ground of a charge of negligence in performing his duties, he has only been required to be transferred."

20. A learned Single Judge of this Court while examining the issue of transfer made on a complaint in (Writ-A No. 13262 of 2023 Shiv Kumar Vs State of U.P. and 3 others) laid down the following proposition of law:-

"9. From perusal of the aforesaid judgment in the case of Anil Kumar Mishra (supra), it clearly emerges that this Court after considering various judgments of Hon'ble the Apex Court as well as the Division Bench of this Court has held that unless the transfer order is vitiated by mala fides or infraction of any professed norm of principles governing the transfer, which alone can be scrutinized judicially, there are no judicially manageable standards for scrutinizing all transfers and the Courts lack the necessary expertise for personnel management of all government departments. When a complaint against the integrity of an employee is investigated, very often he is transferred outside the concerned unit which would be desirable from the point of view of the administration as well as that of the employee. A Government Servant has no vested right to remain posted at a place of his choice nor can he insist that he be posted at one place or the other. If there is a complaint against the employee, the plea that the

employee cannot be transferred on such complaint deserves to be rejected outrightly inasmuch as on initiation of disciplinary proceedings against the employee he can always be transferred."

21. In the context of transfer it will be apposite to extract the holding of the Supreme Court rendered in N.K. Singh Vs Union of India AIR 1995 SC 423:-

"22..... Transfer of a government servant in a transferable service is a necessary incident of the service career. Assessment of the quality of men is to be made by the superiors taking into account several factors including suitability of the person for a particular post and exigencies of administration. Several imponderables requiring formation of a subjective opinion in that sphere may be involved, at times. The only realistic approach is to leave it to the wisdom of the hierarchical superiors to make the decision. Unless the decision is vitiated by mala fides or infraction of any professed norm of principle governing the transfer, which alone can be scrutinized judicially, there are no judicially manageable standards for scrutinizing 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."

22. The judgments discussed in the preceding paragraphs squarely apply to the facts of the case. Admittedly the functioning of the bank started getting adversely affected on account of the petitioner's conduct, frayed relations with officials and other negative reports of her performance. The Court is not examining the merits or correctness of the complaints or adverse material against the petitioner. Suffice to say that the discretion to take disciplinary action for acts of misconduct against an employee or to transfer such employee on complaints lies with the employer. The employer may also adopt both the said options simultaneously in the facts of a case. No hard and fast rule can be laid down which will fetter discretion of the employer. Each case will have to be judged on its peculiar facts and circumstances and it is for the employer to take a decision after considering all relevant factors. In the facts of this case it was open to the respondent bank to transfer the petitioner to another branch and provide her an opportunity to perform better in a new environment. The impugned order of transfer cannot be faulted with. The transfer order does not preclude the bank to examine the veracity of the complaints against petitioner in an enquiry, or to take departmental action as per law.

23. Needless to add this Court had not gone into the veracity of the complaints against the petitioner or the allegations made by her against her superior authorities. The findings of this Court are confined to the legality of the transfer order. This judgment is without prejudice to the rights of the petitioner to defend herself against the complaints, and in the same breath the order does not fetter the right of the employer to take out appropriate proceedings against the petitioner as per law.

24. Transfer order does not warrant any interference.

25. In the wake of the preceding narrative the writ petition is liable to be dismissed and is dismissed.