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WA-1819-2026

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE PRANAY VERMA

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HON'BLE SHRI JUSTICE JAI KUMAR PILLAI

ON THE 3<sup>rd</sup> OF JUNE, 2026

WRIT APPEAL No. 1819 of 2026

*SAURABH GARG*

*Versus*

*THE STATE OF MADHYA PRADESH AND OTHERS*

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Appearance:

Shri Arun Dudawat -Advocate for the petitioner through VC.

Shri Dharmendra Nayak -Advocate for the respondents.  
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ORDER

*Per. Justice Jai Kumar Pillai:*

1. The present intra-court writ appeal under Section 2(1) of the M.P. Uchcha Nyayalaya (Khand Nyayapeeth Ko Appeal) Adhinyam, 2005, arises out of a Writ Petition instituted under Article 226 of the Constitution of India.

2. The appellant assails the impugned order dated 15.05.2026 passed by the learned Single Judge in W.P. No. 21478/2025, whereby the writ petition challenging his transfer order dated 16.06.2025 (Annexure-P/1) was dismissed.



3. The primary relief sought by the appellant is the setting aside of the impugned order dated 15.05.2026 passed by the Writ Court, and the quashing of the underlying transfer order dated 16.06.2025, along with the award of costs for the present appeal.

#### Facts of the Case

4. The appellant is a Class II employee appointed after a due selection process on 07.03.2018. Vide order dated 05.10.2022, he was transferred from Janpad Panchayat Morena to Janpad Panchayat Morar, District Gwalior.

5. Respondent No. 4 was posted at Janpad Panchayat Bhesdevi, District Betul, and sought a transfer on his own expenses to Janpad Panchayat Morar, District Gwalior. This request was acceded to vide order dated 11.06.2025 (Annexure-P/2).

6. Subsequently, to accommodate respondent No. 4, the impugned order dated 16.06.2025 was passed, transferring the appellant on administrative grounds from Morar, District Gwalior, to Bhesdevi, District Betul.

7. The appellant challenged this transfer in W.P. No. 21478/2025. By an interim order dated 19.06.2025, the Court directed the parties to maintain the status quo, allowing the appellant to continue at Gwalior.



8. Ultimately, the Writ Court dismissed the petition vide order dated 15.05.2026, relying on the judgment in the case of Riyaz Mohammad vs. State of M.P., which has led to the filing of the present writ appeal.

#### Contentions of the Petitioner

9. Learned counsel for the appellant submits that the impugned transfer order dated 16.06.2025 is vitiated by mala fides, as it was passed solely to accommodate respondent No. 4, who is presently on study leave until September 2025.

10. It is contended that the learned Single Judge erred in relying upon the judgment of Riyaz Mohammad vs. State of M.P. instead of Rajesh Kumar Shakya vs. State of M.P. [2010(01) MPLJ 656], which allegedly holds higher precedential value.

11. The counsel fervently argues that the appellant's wife is working as a Social Security Officer in the adjoining district of Bhand. She is six months pregnant, facing gynecological complications, and has been prescribed total bed rest.

12. It is highlighted that the appellant has a three-year-old daughter, and transferring her to a place more than 600 Kms away violates Clause



23 of the transfer policy, which provides that husband and wife should normally be kept in one district.

13. The appellant further contends that under Clause 17 of the policy, an employee should normally be kept at a place for three years, and under Clause 36, transfers must be made by assessing vacant posts. It is argued that these clauses were bypassed while accommodating respondent No. 4.

#### Contentions of the Respondents

14. Per contra, learned counsel appearing for the respondent State and respondent No. 4 vehemently oppose the appeal, asserting that the transfer order was passed in the normal administrative course.

15. It is submitted that the appellant had been posted at Morar, District Gwalior, since October 2022, and has completed a substantial period at the present place of posting, conferring no vested right upon him to continue indefinitely.

16. The respondents contend that accommodating an employee at his own request does not amount to mala fides in law. The State is well within its rights to consider representations and effectuate transfers accordingly.



17. It is further argued that there is no statutory rule or policy provision mandating that an employee cannot be transferred while being on study leave.

18. Finally, the respondents submit that personal hardships and alleged infractions of transfer guidelines do not provide a legally sustainable ground for judicial interference under Article 226 of the Constitution.

#### Analysis and Conclusion

19. Heard learned counsel for the parties and carefully perused the record. The scope of judicial review in matters of transfer under Article 226 of the Constitution is highly circumscribed.

20. The principal issues to be adjudicated are whether the transfer order dated 16.06.2025 is vitiated by mala fides for accommodating respondent No. 4, and whether an employee can be transferred while on study leave.

21. Examining the first issue, this Court finds that the consideration of a request by respondent No. 4 for a transfer at his own expense does not constitute a mala fide exercise of power. The State, being a model employer, may consider the difficulty of an employee and post them at a particular place to overcome personal difficulty, which does not render the consequential transfer of another employee illegal.



22. Furthermore, it is a settled principle that the burden of proving mala fides lies heavily upon the person alleging it. In the present case, the appellant has merely made bald assertions of mala fides but has not impleaded any official or person by name in the petition to substantiate or prove the alleged mala fides. In the absence of such necessary impleadment and material proof, the ground of mala fides must fail.

23. Regarding the second contention, this Court unequivocally concludes that there is no law or policy stipulating that a person cannot be transferred while on study leave. Therefore, the transfer order cannot be faulted on this ground.

24. It must be noted that transfer is an incidence of service. It is solely for the employer to transfer an employee considering administrative exigencies. Until and unless the transfer is vitiated by proven mala fides or is made in violation of any statutory provisions, the Court cannot interfere.

25. The personal difficulties highlighted by the appellant, including his wife's health condition and the distance to the new posting, relate to administrative guidelines. A breach of policy guidelines does not grant a legally enforceable right to challenge a transfer; the appropriate remedy



lies in representation before the competent authority.

26. Further, taking into account the interim order dated 19.06.2025, the appellant has already spent a considerable period of time at his present place of posting since October 2022.

27. In view of the above analysis and the specific facts of the case, this Court is of the considered opinion that the impugned order passed by the learned Single Judge does not suffer from any legal infirmity.

28. Accordingly, the writ appeal, being bereft of merits, is hereby dismissed. The transfer order dated 16.06.2025 stands upheld. No order as to costs.

**(PRANAY VERMA)**  
**V. JUDGE**

**(JAI KUMAR PILLAI)**  
**V. JUDGE**

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