



IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

S.No. 134+262

Date of decision : 19.08.2026

1.

CWP-23188-2026 (O&M)

Jyoti

... Petitioner

Versus

State of Haryana and others

... Respondents

2.

CWP-25824-2026 (O&M)

Subhash Chander and others

... Petitioners

Versus

State of Haryana and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI
HON'BLE MR. JUSTICE AMARINDER SINGH GREWAL**

Present: Mr. Sunil K. Nehra, Sr. Advocate, with
Mr. Anuj Chauhan, Advocate,
for the petitioner in CWP-23188-2026.

Mr. Ashok Bhardwaj, Advocate,
for the petitioner in CWP-25824-2026.

Mr. Sanjeev Kaushik, Addl. AG, Haryana.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petitions, Model Online Transfer Policy dated 25.06.2026 issued by Government of Haryana is under challenge on the ground that the same is causing discrimination and hence, the same is liable to be set aside.

2. It has been argued by the learned Senior counsel for the petitioner that the grant of 10 marks to a particular section of employees who are covered under special factor, 'couple case' and whose spouses are posted either in Delhi, Haryana or Chandigarh is unjust and arbitrary, as such policy

does not cover those employees whose spouses are posted in the other states i.e. State of Punjab, U.P. or Rajasthan, though all the three States also touches the border of the State of Haryana.

3. Learned Senior counsel for the petitioner further submits that though the benefit of marks have been given in case any of the family members of an employee is having disease of debilitating nature but under such clause, parents have not been included which is causing prejudice and under the clause 3(i) 'blocked posts' have been defined which posts also are not to be considered for the transfer and therefore, such clause as given under the policy may kindly be set aside.

4. Notice of motion was being served upon to the learned State counsel and learned State counsel has filed a reply in the same wherein it has been mentioned that qua the couple cases, whose spouses are posted in Haryana, Chandigarh or Delhi, the benefit of 10 marks have been given as there are offices of Government of Haryana in such States/UT but in the States like UP, Rajasthan or Punjab, benefit has not been extended, as in these States, there are no offices of Government of Haryana.

5. Learned counsel for the respondents further submits that the parents have not been brought under the definition of family while granting the benefit under the Transfer Policy because a large number of employees have parents who are already of old age, hence, it was decided by the State not to give said benefit to anyone except the immediate family of the employee, which includes spouse, son and daughter.

6. Learned State counsel submits that it has been argued that the blocked posts are liable to be misused but mere an allegation that a clause of policy can be misused without there being any factual position that it has

been misused, the policy cannot be set aside. It has been further argued that the transfer policy is not justiciable and once the transfer policy is only a guideline to issue transfer and when each and every employee is liable to serve at any station in the State, such guidelines cannot be challenged on the ground of discrimination.

7. Learned counsel for the petitioner further contends that even qua the benefit of couple case, benefit is being given to the male employees, same is unjust and violative of Article 15 of the Constitution of India.

8. We have heard the learned Senior counsel as well as the counsel for the State and have gone through the record with their able assistance.

9. It may be noticed that the transfer policy is only a guideline framed by the State in order to facilitate the transfer of the employees from one place of posting to another.

10. As per the judgment rendered by the Hon'ble Supreme Court of India in **S.K.Nausad Rahaman and others v. Union of India and others**, Civil Appeal No.1243 of 2022 decided on **10.03.2022**, it was observed as under : -

“24 First and foremost, transfer in an All India Service is an incident of service. Whether, and if so where, an employee should be posted are matters which are governed by the exigencies of service. An employee has no fundamental right or, for that matter, a vested right to claim a transfer or posting of their choice.

25 Second, executive instructions and administrative directions concerning transfers and postings do not confer an indefeasible

right to claim a transfer or posting. Individual convenience of persons who are employed in the service is subject to the overarching needs of the administration.

26 Third, policies which stipulate that the posting of spouses should be preferably, and to the extent practicable, at the same station are subject to the requirement of the administration. In this context, Justice JS Verma (as the learned Chief Justice then was) speaking for a three-judge Bench of this Court in *Bank of India v. Jagjit Singh Mehta* held :

“5. There can be no doubt that ordinarily and as far as practicable the husband and wife who are both employed should be posted at the same station even if their employers be different. The desirability of such a course is obvious. However, this does not mean that their place of posting should invariably be one of their choice, even though their preference may be taken into account while making the decision in accordance with the administrative needs. In the case of all-India services, the hardship resulting from the two being posted at different stations may be unavoidable at times particularly when they belong to different services and one of them cannot be transferred to the place of the other's posting. While choosing the career and a particular service, the couple have to bear in mind this factor and be prepared to face such a hardship if the administrative needs and transfer policy do not permit the posting of both at one place without sacrifice of the requirements of the administration and needs of other employees. In such a case the couple have to make their choice at the threshold between career prospects and family life. After giving preference to the career prospects by accepting such a

promotion or any appointment in an all-India service with the incident of transfer to any place in India, subordinating the need of the couple living together at one station, they cannot as of right claim to be relieved of the ordinary incidents of all-India service and avoid transfer to a different place on the ground that the spouses thereby would be posted at different places. [...] No doubt the guidelines require the two spouses to be posted at one place as far as practicable, but that does not enable any spouse to claim such a posting as of right if the departmental authorities do not consider it feasible. The only thing required is that the departmental authorities should consider this aspect along with the exigencies of administration and enable the two spouses to live together at one station if it is possible without any detriment to the administrative needs and the claim of other employees.”

11. Also the law on the issue is well settled by the Division Bench of this Court in **Union of India v. Ashok Kumar and another** : 2008 (1) SCT 704, that transfer is an incidence of service and no employee has a right to claim posting at a particular station and the transfer policy is mere guidelines and is not legally enforceable under Article 226 of the Constitution of India. It has been held as under :-

"7. xx xx xx xx xx Apart from the said fact, the question which is required to be examined is whether such posting and transfer policy confers any enforceable right in favour of respondent No.1 so as to challenge his transfer purportedly made on administrative ground before the Tribunal. Guidelines have been framed by the authorities to regulate their internal working and with a view to deal with different situations evenly. Such guidelines are not statutory in nature. Any departure from the said guidelines by itself does not give right to an employee to successfully challenge his transfer. The transfer can be challenged on limited grounds i.e., when the same is

not within the cadre or the authority is not competent to order transfer or it is in violation of the statutory rules or actuated by mala fide. The transfer is normal incidence of service and an employee has no right to resist his transfer on the basis of alleged violation of the guidelines. The issue is not res integra. In Bank of India v. Jagjit Singh Mehta, 1992(1) SCT 161 : AIR 1992 SC 519, Hon'ble Supreme Court was seized of the guidelines for posting husband and wife at one station even if their employers be different. The Court found that the only thing required in terms of the guidelines is that the departmental authorities should consider this aspect along with the exigencies of administration. Thus, no right is conferred on an employee to remain at the same place even if administrative exigency and transfer policy do not permit it.

8. In Union of India v. S.L. Abbas, 1995 (4) SCT 455 : AIR 1993 SC 2444, Hon'ble

Supreme Court held to the following effect :-

"Who should be transferred where, is a matter for the appropriate authority to decide. Unless the order of transfer of 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. Similarly, if a person makes any representation with respect to his transfer the appropriate authority must consider the same having regard to the exigencies of administration. The guidelines say that as far as possible, husband and wife must be posted at the same place. The said guidelines, however, do not confer upon the Government employee a legally enforceable right".

9. In State of U.P. v. Gobardhan Lal, 2004 (2) SCT 368 : AIR 2004 SC 2165, Hon'ble Supreme Court held that no government servant can contend that once appointed or posted in a particular place or position, he should continue in such place or position as long as he desires. 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 contra, in the law governing or conditions of service. The administrative guidelines for regulating transfers or containing transfer policies at best may afford an opportunity to the officer or servant concerned to approach their higher authorities for redress but cannot have the consequence of depriving of denying the competent authority to transfer a particular officer/servant to any place in public interest and as is found necessitated by exigencies of service. The order of transfer made even in transgression of administrative guidelines cannot also be interfered with, as they do not confer any legally enforceable right unless shown to be vitiated by mala fides or is made in violation of any statutory provisions.

10. In *National Hydroelectric Power Corporation Limited v. Shri. Bhagwan*, 2002 (1) SCT 236 : AIR 2001 SC 3309, Hon'ble Supreme Court held that unless an order of transfer is shown to be an outcome of mala fide exercise of power or stated to be in violation of statutory provisions prohibiting any such transfer, the Courts or the Tribunals 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 management, as against such orders passed in the interest of administrative exigencies of the service concerned.

11. In *S.L. Abbas's case* (supra), Hon'ble Supreme Court has held that the jurisdiction of the Central Administrative Tribunal is akin to the jurisdiction of the High Court under Article 226 of the Constitution of India in service matters. The constraints and norms which the High Court observes while exercising the said jurisdiction apply equally to the Tribunal created under Article 323A of the Constitution. The Central Administrative Tribunal is not an Appellate Authority sitting in judgment over the orders of transfer. It cannot substitute its own judgment for that of the authority competent to transfer.

12. A Full Bench of this Court in Jagir Singh Kanungo v. The State of Punjab through the Secretary Vigilance, Punjab, Chandigarh, 1993 (2) SCT 128 : 1993 (1) Punjab Law Reporter 376, has the occasion to interpret the guidelines issued by the State of Punjab for conclusion of the inquiry proceedings in a time bound manner. It was held that if the enquiry proceedings are not completed within the aforesaid period, no right accrues to the employee to approach the Court of law for enforcement of those guidelines. It was held to the following effect :-

"If the State Government have issued certain guidelines for the guidance of the various departments or the disciplinary authorities to impress upon them the necessity of finalising the departmental proceedings expeditiously or even within a fixed period, it does not mean that after the expiry of that period, a right in law accrues to the employee to approach the Court of law for the enforcement of those guide-lines... "

Keeping in view the aforesaid parameters and the scope of the jurisdiction of the Tribunal in an application under section 19 of the Act, we are of the opinion that the order passed by the Tribunal setting aside the order of transfer is illegal exercise of the jurisdiction by the Tribunal. The guidelines are not statutory and do not confer any legally enforceable right on the basis of which an employee can challenge his transfer. No doubt, normally the guidelines are to be adhered to by the administrative authorities but their non-adherence will entitle an employee to bring such facts to the notice of the superior authorities but does not confer any right to seek quashing of the transfer either in an application under section 19 of the Act or under Article 226 of the Constitution of India. Under section 19 of the Act or under Article 226 of the Constitution, transfer order can be interfered with if it is shown to be vitiated by mala fide or in violation of the statutory provisions or having been passed by an authority not competent to pass such an order. Since none of the three conditions are satisfied

in the case set up by respondent No.1, the order passed by the Tribunal cannot be sustained in law. "

6. To the same effect is the Division Bench judgment of this Court in Mool Chand Tewatia v. Union of India and others : 2016 (2) SCT 427, wherein it has been held that the transfer in an incidence of service and the Courts are not to interfere unless the Courts finds that the transfer is due to mala fide or against the service rules.

7. The Hon'ble Supreme Court in Sri. Pubi Lombi v. The State of Arunachal Pradesh and others, 2024 SCC Online SC 279, has examined the scope of judicial review in the transfer matters and has held that the same is not permissible in exercising the jurisdiction under Article 226 of the Constitution of India. In the said judgment, it has been held as under: -

"10. 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. "

8. Earlier vide order dated 06.01.2026, petitioner was transferred from Balbir School of Eminence, Faridkot, to Government Senior Secondary School (Boys), Ferozepur. Aggrieved against the said transfer order, petitioner filed CWP No.501 of 2026 - Dr.Kirandeep Kaur v. State of Punjab and another, alleging therein that she had been transferred at a distance of around 45 kms in another district and the said transfer was unjust and arbitrary. Vide order dated

27.01.2026, while issuing notice of motion, operation of the order dated 06.01.2026 was stayed. However, vide order dated 12.03.2026, passed by Secretary, Government of Punjab, Department of School Education, Punjab (respondent No.1), transfer order dated 06.01.2026 of the petitioner was cancelled and she was adjusted at Government Senior Secondary School, Arayianwala, District Faridkot, which is at a distance of 6 kms only. Once the grievance of the petitioner has already been redressed by the respondents-authorities, she cannot claim as a matter of right posting at a station of her preference or seek to impose her own terms in this regard. This Court finds that the petitioner's grievance rests entirely on personal convenience. In the absence of any evidence showing that the transfer order is vitiated by mala fides or a personal vendetta; issued by an authority incompetent to do so; or in blatant violation of statutory rules, the Court cannot sit as an appellate authority over administrative decisions. Individual interest must always yield to the collective administrative exigency. If every employee is allowed to dictate his/her place of posting, the entire administrative machinery would grind to a halt.”

12. Hence any challenge even to the transfer policy that the same violates Article 14 or 16 of the Constitution of India cannot be accepted.

13. Further, it has been argued on behalf of the petitioners that 10 marks have been extended under transfer policy for considering the couple case where spouses are posted in Delhi, Haryana and U.T. Chandigarh, whereas such benefit is not granted to the employees whose spouses are posted in Punjab, Rajasthan or U.P. though they are the boundary States of the State of Haryana. It may be noticed that the respondents have already clarified the intention behind the same that there are offices of Government of Haryana in Delhi and Chandigarh and in such States, spouses could be posted whereas the employees whose spouses are posted in U.P., Rajasthan

or in Punjab, there are no such offices of State of Haryana, thus there would be no postings. There is a reasonable nexus with the objective sought to be achieved and it cannot be said that grant of such marks in such cases is arbitrary or discriminating.

14. In regard to the argument raised that “blocked posts” which have been defined under the policy, same may be misused. It may be noticed that the possibility of misuse cannot be a ground for holding a provision of a policy constitutionally fragile. Mere possibility of abuse of a provision of law, does not per se invalidate it.

15. As of now, the policy is yet to be implemented. Hence the question of misuse is only an apprehension and not a fact. Hence, the said argument cannot be taken into operation to set aside the policy.

16. The final argument which has been raised qua grant of benefit of 10 marks to the male employees while considering the couple case and the same must only be extended to in view of Article 15 of the Constitution of India. It may be noticed that such argument raised is unsustainable in law. It cannot be said that a benefit can be denied or granted on the basis of gender of an employee concerned. Hence, every employee is to be considered for grant of benefit irrespective of the gender concerning such employee. Thus, it cannot be said that the grant of 10 marks to male employees whose spouses are posted at other Stations is unjust or arbitrary.

17. The order is dictated in open Court. No further argument is raised

18. Keeping in view the facts and circumstances discussed above, both the petitions are dismissed.

19. Pending application(s), if any, shall stand disposed of.

20. A photocopy of this order be placed on the file of the connected cases.

(HARSIMRAN SINGH SETHI)
JUDGE

August 19, 2026
Paritosh Kumar

(AMARINDER SINGH GREWAL)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No