

Rajesh Kumar Kapila Vs. State of HP and ors.

CMP No. 1741 of 2026 in CWP No. 1260 of 2026

Reserved on: 16.1.2026

23.1.2026 Present: Mr Prantap Sharma, Advocate, for the petitioner.

Mr Lokender Kutlehria, Additional Advocate General, for the respondents, State.

CMP No. 1741 of 2026

The applicant/petitioner was promoted as Assistant Engineer (Civil), Group-A (Gazetted) on a regular basis vide notification dated 12.12.2025 and was posted at HPPWD Sub Division Sujanpur. The petitioner assumed the charge of office of Assistant Engineer at Sujanpur in the afternoon on 17.12.2025. He was transferred from Sujanpur Sub Division to 8th Circle, Hamirpur, against a vacant post on 12.01.2026 in violation of the transfer policy. The petitioner is attaining the age of superannuation on 30.06.2027, and he is entitled to a concession in the transfer as per the transfer policy. Hence, an interim direction for the stay of notification dated 12.01.2026 (Annexure P-3) has been sought.

2. I have heard Mr Prantap Sharma, learned counsel for the petitioner and Mr Lokender Kutlehria, learned Additional Advocate General for the respondents/State.

3. Mr. Prantap Sharma, learned counsel for the petitioner, submitted that the petitioner was transferred within one month of his posting, which is arbitrary and without justification. Therefore, he prayed that an ad interim direction be issued in favour of the petitioner.

4. Mr. Lokender Kutlehria, learned Additional Advocate General for the respondents/State, submitted that the petitioner was transferred within a radius of 30 kilometers, which is not a transfer. Therefore, he prayed that the present petition be dismissed.

5. I have given considerable thought to the submissions made at the bar and have gone through the records carefully.

6. The Hon'ble Supreme Court dealt with the scope of judicial review of transfer in *Pubi Lombi v. State of Arunachal Pradesh*, (2024) 12 SCC 292, and held as under:

“15. In view of the foregoing enunciation of law by judicial decisions of this Court, it is clear that in the absence of:

- (i) pleadings regarding mala fides,
- (ii) non-joining the person against whom allegations are made,
- (iii) violation of any statutory provision,
- (iv) the allegation of the transfer being detrimental to the employee who is holding a transferable 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 the jurisdiction under Article 226 of the Constitution of India.”

7. The record shows that the petitioner was transferred/posted at HPPWD Sub Division Sujapur vide order dated 12.12.2025 after his promotion. He assumed the charge in the afternoon on 12.12.2025 as per the certificate of transfer and assumption of charge (Annexure-P2). He was transferred from HPPWD Sub Division Sujapur to HPPWD 8th Circle Hamirpur on 12.01.2026, within one month of his initial transfer. The submission that the petitioner was not transferred is contrary to the order dated 12.1.2026 (Annexure P-3), in which the word transfer was specifically mentioned. Reliance was placed upon the instructions dated 31.07.2023 about the admissibility of joining time and TA to contract employees, which, *prima facie*, do not apply to the present case because the petitioner is a regular employee.

8. The transfer of the petitioner within one month of his previous transfer is, *prima facie*, arbitrary; hence, the operation of the notification dated 12.01.2026, qua the petitioner, is ordered to be stayed till the next date of hearing, and the petitioner is permitted to continue his duties as Assistant Engineer in the office of HPPWD Sujapur.

9. Reply, on behalf of the non-applicants/ respondents, if any, be filed within three weeks, and the matter be listed along with the main matter.

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List the matter before the appropriate Bench having a roster after the winter vacation.

(Rakesh Kainthla)
Vacation Judge

23rd January, 2026
(Chander S. Sharma)