

Sharwan Singh Vs. State of HP and ors.

CMP No. 1749 of 2026 in CWP No. 1268 of 2026

Reserved on: 16.1.2026

23.1.2026 Present: Mr Avinash Jaryal, Advocate, for the petitioner.
Mr B.N. Sharma, Additional Advocate General,
for respondents No.1 to 3, State.

CMP No. 1749 of 2026

The petitioner claims that he was promoted as Kanungo on 6.11.2018 and was posted at Dulehar, Tehsil Sihunta, District Chamba, HP. He was transferred to Tehsil Chamba in December 2021. He has been transferred from the present place of posting on 14.1.2026 without assigning any reason. He had joined the present place of posting vide order dated 7.3.2024. The petitioner has not completed the normal tenure at the present place of posting and was transferred after two years. The petitioner was serving 85 kilometres away from his home station and was transferred about 55 kilometres to accommodate respondent No.4 in violation of the transfer policy. The petitioner was transferred by relaxing the ban on transfer on extraneous consideration, which is a violation of Article 14 of the Constitution of India. Hence, the petition.

2. I have heard Mr Avinash Jaryal, learned counsel for the petitioner and Mr B.N. Sharma, learned

Additional Advocate General, for the respondents No.1 to 3-State.

3. Mr Avinash Jaryal, learned counsel for the petitioner, submitted that the petitioner was transferred after two years before the completion of normal tenure to adjust respondent No.4 in violation of the transfer policy. Therefore, he prayed that the present petition be allowed and the order of transfer be stayed.

4. Mr B.N. Sharma, learned Additional Advocate General, for respondents No.1 to 3/State submitted that the petitioner was transferred in public interest and there is no violation of the transfer policy. Hence, he prayed that the present petition be dismissed.

5. 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.”

6. The petitioner is challenging his transfer on the ground of the violation of the transfer policy, which is not a statutory provision but the executive instructions as held in *Union of India v. S.L. Abbas*, (1993) 4 SCC 357, whose violation is not sufficient to invalidate the transfer, as held by the Hon’ble Supreme Court in *Pubi Lombi* (supra). Thus, the order of the transfer cannot be stayed because of the violation of the transfer policy.

7. The petitioner claimed that his transfer was effected to adjust respondent No.4, who is being adjusted in his home Tehsil, contrary to the transfer policy. However, the petitioner has not impleaded the person passing the transfer order against whom he has alleged *mala fide*, as required in *Ratna Giri Gas and Power Pvt. Ltd. Vs. RDS Projects 2013 (1) SCC 524*. Therefore, the plea of *mala fide* cannot be adjudicated in the absence of the necessary parties.

8. Thus, *prima facie*, no case is made out for the grant of any stay order.

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 matters before the appropriate Bench
having a roster after the winter vacation.

(Rakesh Kainthla)
Vacation Judge

23rd January, 2026
(Chander S. Sharma)