

IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

RESERVED ON: 01.09.2026

DELIVERED ON: 09.09.2026

PRESENT:

THE HON'BLE MR. JUSTICE REETOBROTO KUMAR MITRA

WPA 17939 OF 2026

MANAS MANDAL

- VERSUS -

UNION OF INDIA AND ORS.

Appearance:

Mr. Soumya Majumder, Ld. Sr. Advocate

Mr. Victor Chatterjee, Ld. Advocate.

Mr. Pramitava Nath, Ld. Advocate.

Ms. Shreya Bhattacharjee, Ld. Advocate.

..... for the Applicant/Petitioner

Mr. Dhiraj Trivedi, Ld. ASG.

Mr. Swapan Kumar Nandi, Ld. Advocate.

Ms. Banani Bhattacharya, Ld. Advocate.

... for the Union of India

Mr. Kishore Dutta, Ld. Sr. Adv.

Mr. Mainak Ganguly, Ld. Advocate.

... for the Kolkata Port Trust

Reetobroto Kumar Mitra, J.:

1. This writ petition has been carried to this Court challenging the transfer of the petitioner effected by the order dated July 13, 2026.
2. The facts are fairly clear and admitted.
3. The petitioner had been appointed to the post of Chief Engineer on September 12, 2012 by the Haldia Dock Complex (HDC) under Kolkata Port Trust.
4. The petitioner was working as the Chief Mechanical Engineer at Mumbai Port.
5. Sometime in 2022, the petitioner underwent a major cardiac surgery and requested for a home posting in Kolkata. However, such request of the petitioner was declined. It was only on March 16, 2024 that

the petitioner was transferred to the HDC. The order of release was issued on March 17, 2024. The petitioner thereafter joined the HDC as a General Manager (Engineering) on March 23, 2024.

6. The authority by its notification dated July 29, 2024 introduced a new transfer policy for heads of the departments (HOD) level officers in the major port trusts.
7. The petitioner has been transferred on July 13, 2026 to Cochin on the basis of the new transfer policy. It is this transfer against which the petitioner had made a demand for justice on July 17, 2026.
8. This demand for justice has been ignored without any response.
9. The petitioner came to learn of an advertisement on July 20, 2026 for the post which he was relieving (GM) Engineering, in HDC, is being filled up by way of an advertisement for absorption through composite method.
10. It is in this factual conspectus that the petitioner challenges the transfer order of July 13, 2026.

11. Mr. Soumya Majumder, learned senior advocate appearing for the petitioner has raised four issues as to why the impugned order of transfer is bad in law, and cannot be sustained and should be set aside:-

- i. This order of transfer is contrary to the new policy which has been evolved by the authorities themselves. Clause 7 thereof deals specifically with the transfer policy and indeed clause 7.2 thereof, according to him specifies that the minimum period of retention in a post is five years, before which no incumbent can be transferred. Hence this transfer of the petitioner from the present post, which he has held for a period slightly in excess of two years and four months, is contrary to the transfer policy of the authority and hence liable to be struck down.
- ii. The regular and frequent transfer of the petitioner cannot be justified by any act of commission or omission of the authority nor is the transfer relatable to the quality of the work rendered by the petitioner to which there is, apparently, no complaint.

- iii. The petitioner being of rather fragile health, particularly after his surgery in 2022, requires constant and continuous medical checkup and attention which can only be available in his home State, West Bengal. Thus, the transfer from the HDC to Cochin is not only against the established policy but also somewhat vindictive in nature and hence mala fide.
- iv. It is not that the post of the petitioner which he holds in HDC at present is being filled up by a person of equal competence or higher expertise, but is being advertised for being filled up by absorption through composite method.
- v. He has placed reliance on the following judgements:
 - a. Rajneesh Khajuria vs. Wochardt Limit and Anr. reported in (2020) 3 SCC 86;
 - b. Ex-Armymen's Protection Services vs. Union of India and Ors. reported in (2014) 5 SCC 409;

c. N.K. Singh vs. Union of India and Ors.
reported in (1994) 6 SCC 98; and

d. State of West Bengal and Ors. vs. Chira
Ranjan Shit reported in 1982 (1) CLJ 38.

12. Mr. Dhiraj Trivedi, learned Additional Solicitor General appearing for the Union of India has made the following submission to sustain the order of transfer:-

a. The transfer policy stipulates three heads of transfer. First rotational transfer, second, a transfer on administrative grounds, and third, transfer on request. In the present case, the petitioner is not concerned with clause 7.2a which is rotational transfer or 7.2c which is transfer on request. The petitioner is squarely covered by clause 7.2b which is transfer on administrative ground.

b. The petitioner has misconstrued the provision of transfer as contained in the said policy as it is only in the case of rotational transfer that the period of five years has been mandated. In so far as the petitioner's case is concerned,

the transfer is on administrative ground as will appear from the order of July 13, 2026, for which there is no such mandated period of five years. Administrative exigencies allow the employer to transfer an incumbent to another post even before the completion of five years. Thus, the petitioner cannot claim that there has been a violation of the transfer policy applicable to him.

- c. There is also no discriminatory action against the petitioner.
- d. Thus, the petitioner's transfer which is an internal administrative action cannot be faulted and set aside.
- e. He has placed reliance on the following judgements:
 - i. Pubi Lombi vs. State of Arunachal Pradesh and Ors. reported in (2024) 12 SCC 292;
 - ii. Union of India and Ors. vs. S.L. Abbas reported in (1993) 4 SCC 357; and

iii. State of Punjab and Ors. vs. Joginder Singh
Dhatt reported in 1993 SCC OnLine SC 1.

13. Mr. Kishore Datta, learned senior advocate appearing for the Kolkata Port Trust, submits that he is merely the releasing authority and the office order dated July 2, 2026, has been issued by his client on the basis of the transfer order issued by the learned authority on July 13, 2026. He has also placed reliance on Clauses 7.2a and 7.2b to establish that the parameters for the transfer of a person under Clauses 7.2a and 7.2b are quite different and distinct from each other. The parameters of one cannot be applied to the other. In fact, since the petitioner has been transferred under Clause 7.2b on an administrative ground, the stipulation of completion of a 5-year tenure in a post does not apply to the petitioner.
14. I have heard learned advocates appearing for the parties and perused the documents on record and the decisions relied upon by them.
15. It is not in dispute that the petitioner has indeed been transferred first from Kolkata to Mumbai in a span of 7 years and then from Mumbai to Kolkata in the span of 4 years and presently from Kolkata to Cochin within a period of 2 years and 4 months.

16. However, since the earlier transfers are not in issue nor have they been challenged or doubted, the deliberation is restricted to the last transfer which has been effected from Kolkata to Cochin.
17. The only grounds on which a transfer order can be challenged or may be interfered with by a Court is if the said transfer order is in violation of any mandatory statutory rule or on the ground of mala fide. The principal ground of challenge of this transfer, by the petitioner, is violation of the transfer policy of the authority.
18. Though the petitioner has argued the case of institutional malice or mala fide, there is no pleading to such effect, and a mere allegation of mala fide without any substantial proof of the same cannot be considered as a ground on which the transfer can be interfered with. This has also been clearly laid down by the Hon'ble Supreme Court of India in the decision relied upon in Pubi Lombi (supra).
19. The decisions of the Hon'ble Supreme Court relied upon by the petitioner in the cases of Ex-Armymen's Protection Services (supra) and Rajneesh Khajuria (supra) were not in service matters and do not apply to the facts of the instant case. In fact, in Rajneesh Khajuria (supra), while relying upon the decision in Prabodh Sagar vs. Punjab

SEB reported in 2000 (5) SCC 630, where it was held that “Mere use of the expression “mala fide” would not by itself make the petition entertainable. Mala fide is not to be construed as a meaningless jargon as it has its proper connotation. Malice or mala fide has to be appreciated from the record of the case in the facts of each case.” Clearly, in this particular case, there is nothing on record and nothing could be produced by the petitioner to establish that there was any malice or mala fide on behalf of the authority in effecting the transfer of the petitioner from HDC to Cochin.

20. The decision rendered by a Division Bench of this Hon’ble Court in Chira Ranjan Shit (supra) has been greatly altered by the subsequent decisions of the Hon’ble Supreme Court of India, both in 1993 and in 2024. In any event, even in the case of Chira Ranjan Shit (supra), the Court, in spite of all the surrounding circumstances and documents, held that the respondent was unable to establish mala fide on the part of the authority in passing the impugned order of transfer. Thus, the question of mala fide was answered against the writ petitioner/respondent.
21. Thus, it leaves the petitioner with the only other ground of challenge: violation of the established policy of transfer of the institution. In this

case, the transfers under the three heads as aforesaid have their separate parameters.

22. To ascertain whether the transfer of the petitioner is in violation of the transfer policy of the respondent, it would be worthwhile to relate clause 7.2a and 7.2b of the transfer policy.
23. Clause 7.2a defines a rotational transfer and the circumstances in which such rotational transfer can be effected.
24. Clause 7.2b relates to transfer on administrative ground.
25. Clause 7.2c relates to transfer on request.
26. Thus, in terms of the transfer policy as applicable, there are three heads of transfer. The first is a rotational transfer, second is a transfer on administrative ground and third is a transfer on request. Each ground of transfer has its own yardstick. The yardsticks are separate and are applicable for that particular ground alone. The yardstick of one ground cannot be applied to another.

27. The petitioner has been transferred on administrative ground as has been clearly spelt out in the impugned order of transfer dated July 13, 2026.
28. The petitioner's grievance that he cannot be transferred till completion of a period of 5 years is an issue which is squarely covered in case of rotational transfer. It is, however, doubtful whether this period of 5 years is a clear mandate on the employer, thereby disabling the employer from transferring an incumbent before he completes 5 years in a particular post in a major port or not.
29. However, this matter does not relate to rotational transfer. It is clearly a case of transfer on administrative ground. This is covered by clause 7.2b.
30. This clause in no uncertain terms and with sufficient clarity stipulates that the employer may transfer any officer of the level of the petitioner (HOD level) from one major port to another even before completion of 5 years' tenure in a particular post, if the transfer is on administrative ground. The question of the petitioner's transfer being ineffective on the ground that the same has been effected in

violation of the 5-year retention period to a post of an incumbent is wholly inapplicable to the petitioner's case, as the petitioner has been transferred under Clause 7.2b. Clause 7.2b is a transfer on administrative grounds and does not postulate a 5-year tenure in a particular post. In fact, the clause is clear and unequivocal that a transfer from one major port to another can be made even before the completion of a 5-year tenure in a particular post. Thus, to apply the mandate of Clause 7.2a, which is applicable for rotational transfers, to the provision of Clause 7.2b, which is a transfer on administrative grounds, would create an anomalous situation and would result in every other person who is being transferred seeking application of the same parameters of rotational transfer to the other modes of transfer as specified. This is clearly impermissible and would be against the very essence of the transfer policy which has been adopted by the concerned respondent.

31. The transfer on administrative ground is made for an administrative requirement on the basis of rules and operational pressure. The constraint of a requirement provides the ground and/or exigent circumstances whereby a transfer is effected. It is this requirement or constraint which demands a specific administrative step to be taken to meet the impending circumstances, that the transfer on

administrative ground is effected. The petitioner's transfer is not a rotational transfer which mandates that such a transfer cannot be made unless an incumbent has completed a period of five years in that post from which the transfer is to be made. The ground of administrative transfer does not mandate any such specified timeline. This is obvious and inbuilt in the ground. An exigency which has arisen on administrative ground would not be clothed with a remedy if any yardstick were to be applied to the effected transfer. To meet these exigencies which have arisen on administrative ground, a transfer is to be effected immediately. Hence, there is no such applicable yardstick to a transfer effected under clause 7.2b of the transfer policy. The petitioner's transfer on administrative ground, therefore, cannot be faulted or be held against the transfer policy in vogue in so far as the petitioner is concerned.

32. The ground on which the petitioner's transfer has been effected is found under Clause 7.2b, which is a transfer on administrative grounds. The authority is under no obligation to disclose the particulars of the administrative grounds on which the transfer has been effected. The submission made by the petitioner that the order of transfer does not disclose any exigency which can be attributed to an administrative ground for transfer is of no assistance to the

petitioner. The transfer has been effected on an administrative ground, which has been clearly spelt out in the transfer order, and any further elucidation as to what the administrative exigency is, which warrants the transfer, need not be disclosed. There is no such provision in the transfer policy which mandates the authority to disclose what the exigency is.

33. The only ground urged in this writ petition is the ground of violation of the transfer policy, as discussed hereinbefore, the transfer policy entails, under Clause 7.2b of the Transfer Policy, that a person with less than 5 years can be transferred if such transfer is effected on the ground of administrative exigency or public interest. The Office order of transfer 19/2026 dated July 13, 2026, specifies that the transfer of persons, which includes the petitioner, is being made on administrative grounds.
34. Clause 7.2b specifies that such transfer on administrative ground can be done/effected even before an incumbent has completed a period of 5 years in that particular post from which he is being transferred. Thus, to challenge such an order of transfer on the ground that the petitioner has not completed 5 years and therefore cannot be transferred is completely misconstruing the relevant transfer rules.

The petitioner is not on a rotational transfer and the mandated period of 5 years does not in any manner cover the petitioner's case.

35. The Hon'ble Supreme Court of India in the case of N.K. Singh (supra) has clearly held that "challenge in court of a transfer when the career prospects remain unaffected and there is no detriment to the government servant must be eschewed and interference by the court should be rare".
36. The decision of the Hon'ble Supreme Court of India in S.L. Abbas (supra) reiterates the age-old proposition that judicial interference should not be made in judicial review against the order of transfer unless the order is mala fide or made in violation of statutory provisions, since transfer is an incident of government service. The Hon'ble Supreme Court has again reiterated this ratio in Pubi Lombi (supra) that in the absence of pleadings regarding mala fide, judicial interference is not warranted. The scope of judicial review is not permissible by the Courts in exercising jurisdiction under Article 226 of the Constitution of India in the absence of pleadings regarding mala fides and an allegation that the transfer is detrimental to an employee holding a transferable post.

37. The petitioner cannot seek to challenge a decision taken by the employer to transfer, strictly adhering to the transfer policy.
38. As held by the Hon'ble Supreme Court in *Shilpi Bose and Others v. State of Bihar and Others*, reported in 1991 Supp (2) SCC 659, "There is no vested right in a government employee to remain posted at one place or the other, he is liable to be transferred from one place to other."
39. The petitioner has also not made out a case of mala fide, which is the only other available ground for the petitioner. The petitioner has made a request that he be considered sympathetically in view of his medical condition. It is not as if the petitioner is being transferred to a place where medical facilities are not available. In any event, the petitioner has undergone treatment in 2022 and has been serving since then, not just in Mumbai but also in HDC. Thus, medical ground alone cannot be a disabling factor for the authorities to transfer the petitioner or an enabling factor for the petitioner to seek a stay of a transfer order which is otherwise permissible and in conformity with the transfer rules and policy applicable to him.

40. In view of the discussion aforesaid, I do not find any ground to come to a finding that the petitioner cannot be transferred before completion of a period of 5 years in a particular post or, more importantly, that the transfer has been effected in violation or breach of any provision contained in the transfer policy.
41. The case of the petitioner is squarely within the parameters set forth in clause 7.2b of the Transfer Policy, on account whereof the petitioner's transfer order of July 13, 2026 cannot be faulted and has to be sustained.
42. In view of the aforestated, the writ petition is dismissed. Interim order subsisting is vacated.
43. There shall, however, be no order as to costs.
44. Urgent Photostat certified copy of this judgment, if applied for, shall be granted to the parties as expeditiously as possible, upon compliance of all formalities.

(Reetobroto Kumar Mitra, J.)