



IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE MANINDER S. BHATTI

ON THE 18th OF NOVEMBER, 2025

WRIT PETITION No. 24940 of 2025

GURU DATT SHARMA

Versus

THE STATE OF MADHYA PRADESH AND OTHERS

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Appearance:

*Shri Sanjay Agrawal - Senior Advocate with Shri Nikhil Tiwari -
Advocate for the petitioner.*

Shri Pradeep Singh - Government Advocate for the respondent/State.

*Shri S.R. Tamrakar - Senior Advocate with Shri Ankit Chopra -
Advocate for the respondent No.2.*

Shri Brijesh Kumar Choubey - Advocate for the caveator.
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ORDER

This petition has been filed by the petitioner under Article 226 of the Constitution of India while praying for following reliefs:-

- "i. Issue a writ of certiorari or any other appropriate writ, order, or direction, quashing the impugned Transfer Order dated 27th June 2025 (ANNEXURE P-4), transferring the Petitioner (At Serial No 35) from Addl. SP, Seoni, to Police Headquarters, Bhopal.*
- ii. Issue a writ of mandamus or any other appropriate writ, order, or direction, directing the Respondents to allow the Petitioner to continue his services as Additional Superintendent of Police at Seoni, District Seoni, until his superannuation in 2026.*
- iii. Any other suitable relief deemed fit in the facts and circumstances of the case may also kindly be granted together*



with the cost of this petition."

2. The facts of the present case in a nutshell are that, the petitioner herein who was posted as Deputy Superintendent of Police on a substantive basis vide an order dated 31.07.2023 was posted as Additional Superintendent of Police. The petitioner vide impugned order dated 27.06.2025 contained in Annexure P/4 is being transferred from Seoni to Bhopal. The impugned order of transfer is under challenge in the present petition.

3. Learned senior counsel for the petitioner contends that the impugned order of transfer of the petitioner is unsustainable having been passed without recommendation of the Police Establishment Board which has been constituted in terms of the direction of the Apex Court in the case of ***Prakash Singh and Others vs. Union of India and others reported in (2006) 8 SCC 1.*** It is contended by the senior counsel that in terms of the direction of the Apex Court in the case of Prakash Singh (supra), the State has issued a Circular dated 14.02.2007. As per the said Circular, there exists Constitution of a Police Establishment Board which is empowered to take decision regarding transfer of an employee of the Police Department upto the rank of Deputy Superintendent of Police. As the petitioner's substantive post is Deputy Superintendent of Police, he could not have been transferred by the impugned order in absence of any decision of the Police Establishment Board. It is further contended by the senior counsel that the impugned order of transfer of the petitioner goes contrary to the law laid down by the Apex Court in the case of Prakash Singh (supra) as well as the Circular dated 14.02.2007. In the present case, there is violation of Clause 8 of the transfer



policy which is contained in Annexure P/6. As per the said Clause, the transfers in respect of the employees/officials of the Police Department are required to be made in terms of the Circular dated 14.02.2007. The said Clause -8 of the transfer policy of GAD dated 29.04.2025 is in tune with the judgment of the Apex Court in the case of Prakash Singh (supra). It is contended by the senior counsel that Clause-2 of the Circular dated 14.02.2007 which has been issued by the State pursuant to the directives of the Apex Court in the case of Prakash Singh (supra), has been violated in the present case. The petitioner came to Seoni vide an order dated 31.07.2023 and before completion of two years of tenure, the petitioner has been transferred vide the impugned order dated 27.06.2025 contained in Annexure P/4. Therefore, the impugned order is unsustainable.

4. Learned senior counsel for the petitioner further contends that the petitioner is to be superannuated on 30.09.2026 and therefore, he has to serve for a period of less than an year with the department. It is also contended by the senior counsel that it is a case where the stand of the private respondent as well as the State is dichotomous inasmuch as the State is making an effort to support the impugned order while alleging that the same is in tune with the Circular dated 14.02.2007 and on the other hand, it is being alleged that the petitioner cannot take recourse to the ground of competency of the Authority which has passed the order for want of approval by the Police Establishment Board. It is contended by the senior counsel that the respondents have filed their return and a perusal of the same shows that a pending disciplinary action, has been made a basis to transfer the present



petitioner and it has been unequivocally admitted by the State Government that as the disciplinary action against the present petitioner was pending, therefore, it was thought desirable to transfer the petitioner and accordingly, the impugned order dated 27.06.2025 contained in Annexure P/4 has been issued. It is further contended by the counsel that in view of the admission of the State in his return, the impugned order deserves to be set aside in light of the decision of the Apex Court in the case of *Somesh Tiwari vs. Union of India and Others reported in (2009) 2 SCC 592*. The substantive post of the petitioner is Deputy Superintendent of Police and he was posted as Additional Superintendent of Police in terms of Clause-24 of the Madhya Pradesh Police Executive (Gazetted) Services Recruitment and Promotion Rules, 2000 (hereinafter referred to as "Rules of 2000") and such a posting does not amount to promotion, therefore, he could have been transferred only by the Police Establishment Board. Whereas, in the present case, there is no decision by the Police Establishment Board to transfer the petitioner. Hence, the impugned order is *non-est* and unsustainable in the eyes of law.

5. Per contra, learned counsel for the respondent/State contends that the present petition is liable to be dismissed inasmuch as it is a case where against the present petitioner, the disciplinary proceedings were pending and taking into consideration the aforesaid fact, an administrative decision has been taken to transfer the petitioner. It is contended by the counsel that it is not only the transfer order of the petitioner but various other officers have been transferred by the said order and a perusal of the aforesaid reflects that it is not an exercise which can be termed as an arbitrary exercise of powers.



It is further contended by the counsel that the transfer of an employee is an administrative exercise, thus, the same cannot be interfered with as the transfer is an incident of service. It is also contended by the counsel that it is a case where the petitioner having been posted as Additional Superintendent of Police, was no more holding the post of Deputy Superintendent of Police and the petitioner has also availed the benefits which are attached to the post of Additional Superintendent of Police including pay scale. Thus, at this stage, the petitioner is precluded from taking a stand that his substantive post is that of Deputy Superintendent of Police. If the petitioner is taking recourse to such a contention, firstly he should not have accepted the order dated 31.07.20023 contained in Annexure P/2, by which, the petitioner was posted as Additional Superintendent of Police and secondly, the petitioner even as on date, can be accommodated at Seoni in the capacity of a Deputy Superintendent of Police. Accordingly, counsel submits that the present petition filed by the petitioner deserves to be dismissed.

6. Learned senior counsel for the private respondent contends that the present petition is liable to be dismissed inasmuch as the petitioner herein has been posted against a higher post and virtually by the statutory force, the said order of posting is an order of promotion for all practical purposes. It is contended by the senior counsel that the order in terms of Rule-24 of the Rules of 2000 is passed by a Committee and the conferment of benefits as per Rule-24 of the Rules of 2000 is based on merit-cum-seniority subject to fulfillment of fitness criteria. It is thus contended by the senior counsel that it is not a simple case of posting, on the contrary the petitioner's posting is to a



higher post and such posting has statutory foundation as stipulated in Rule-24 of the Rules of 2000. It is further contended by the senior counsel that Schedule-1 which is appended to the Rules of 2000, stipulates that an Additional Superintendent of Police, is entitled for the scale of senior Selection Grade of Rs.12000-375-16500/- or Senior Scale of Rs.10000-325-15200/-. It is also contended by the senior counsel that posting of an Additional Superintendent of Police to a Deputy Superintendent of Police can only be given after completion of eight years of qualifying service. The petitioner having completed eight years of qualifying service was posted as an Additional Superintendent of Police and therefore, was no more working as Deputy Superintendent of Police. Undisputedly as per Schedule-V, the petitioner having completed eight years of qualifying service as Deputy Superintendent of Police, was posted as an Additional Superintendent of Police. Therefore, the present post of the petitioner cannot be treated as equivalent to a Deputy Superintendent of Police, inasmuch as a Deputy Superintendent of Police unless and until completes eight years of minimum service or scale of the pay, is not entitled for being posted as an Additional Superintendent of Police. But the petitioner has been conferred the said benefit as he had completed qualifying service.

7. It is further contended by the senior counsel that it is settled position of law that the transfer is an incident of service. There was no requirement to obtain concurrence of the Police Establishment Board inasmuch as, the Police Establishment Board is only required to deal with the cases of transfer of the police officers below the rank of Deputy Superintendent of Police. As



the petitioner is holding a higher rank, there was no occasion with the Police Establishment Board to carry out the exercise of transfer of the present petitioner. A perusal of the impugned order 27.06.2025 contained in Annexure P/4 reflects that by the said order, none of the Deputy Superintendent of Police has been transferred. In such circumstances, senior counsel submits that the present petition is liable to be dismissed.

8. No other point is argued or pressed by both the parties.

9. Heard the rival submissions of both the parties and perused the record.

10. A perusal of the record reflects that the impugned order dated 27.06.2025 contained in Annexure P/4 is being disputed by the petitioner mainly on the ground that the same has not been passed by the Police Establishment Board which was constituted in terms of the direction of the Apex Court in the case of Prakash Singh (supra). According to the senior counsel for the petitioner, the petitioner's substantive post is Deputy Superintendent of Police and he was only posted as an Additional Superintendent of Police vide order dated 31.07.2023 and such posting as an Additional Superintendent of Police cannot be treated as promotion to a higher post, therefore, the impugned order is a nullity.

11. To deal with the aforesaid contention, it is first important to take note of the decision of the Apex Court in the case of Prakash Singh (supra). The Apex Court in the case of Prakash Singh (Supra) was approached by the petitioner therein with a prayer for direction to the Union of India to redefine the roles and functions of the police and also frame a new



Police Act on the lines of Model Act provided by the National Police Commission.

12. The Apex Court considering the imminent situation, issued directions till a relevant legislation was brought in force by the legislature. The directions which are contained in paragraphs 31(3) & (5) are relevant for purposes of the instant matter and are reproduced as under:-

"Minimum tenure of IG of police and other officers

(3) Police officers on operational duties in the field like the Inspector General of Police in-charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge District and Station House Officer in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless it is found necessary to remove them prematurely following disciplinary proceedings against them or their conviction in a criminal offence or in a case of corruption or if the incumbent is otherwise incapacitated from discharging his responsibilities. This would be subject to promotion and retirement of the officer.

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Police Establishment Board

(5) There shall be a Police Establishment Board in each State which shall decide all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police. The Establishment Board shall be a departmental body comprising the Director General of Police and four other senior officers of the Department. The State Government may interfere with the decision of the Board in exceptional cases only after recording its reasons for doing so. The Board shall also be authorised to make appropriate recommendations to the State Government regarding the postings and transfers of officers of and above the rank of Superintendent of Police, and the Government is expected to give due weight to



these recommendations and shall normally accept it. It shall also function as a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above regarding their promotions/transfers/disciplinary proceedings or their being subjected to illegal or irregular orders and generally reviewing the functioning of the police in the State."

13. As per the direction of the Apex Court in paragraph 31(5) of Prakash Singh (supra), all State Governments were directed to constitute a Police Establishment Board and as per the said direction, the Police Establishment Board was invested with the power to transfer an officer of and below the rank of Deputy Superintendent of Police. A perusal of paragraph 31(5) of the said judgment makes it abundantly clear that the constitution of Police Establishment Board is in respect of transfer, posting, promotion and other service related issues of officers of and below the rank of Deputy Superintendent of Police. Thus, it can be safely concluded that the directions pertaining to the Police Establishment Board which are contained in paragraph 31 (5) of the judgment of the Apex Court in the case of Prakash Singh (supra), were confined to the transfers, postings and promotions of the officers of and below the rank of Deputy Superintendent of Police.

14. During the course of argument, parties have been at loggerheads so far as the interpretation of paragraph 31(3) of the judgment of the Apex Court in the case of Prakash Singh (supra) is concerned. According to senior counsel for the petitioner, the police officers on operational duty cannot be transferred unless they are allowed to complete two years of qualifying service. On the contrary, opposite sides have made an attempt to argue that the post of Deputy Superintendent of Police is not mentioned in paragraph



31(3) of the judgment of the Apex Court of Prakash Singh (supra) as a result of which, the petitioner is precluded from claiming that before completion of two years of tenure, he cannot be transferred.

15. A perusal of the judgment of the Apex Court in the case of Prakash Singh (supra) reflects that paragraph 31(3) of the impugned judgment puts a restriction on shifting or transfer of officers who have been deputed on operational duties in the field and in paragraph 31(3) of the judgment, the Apex Court also referred to the nomenclature of different posts. The nomenclature which is mentioned in paragraph 31(3) of the impugned judgment of the Apex Court, undisputedly does not include the post of Deputy Superintendent of Police.

16. Simultaneously, if paragraph 31(5) of the impugned judgment of the Apex Court of Prakash Singh (supra) is perused, the same reflects that in the said paragraph, the Apex Court specifically mentioned the post of Deputy Superintendent of Police and concluded that the officers of and below the rank of Deputy Superintendent of Police can be subjected to transfer by a decision of Police Establishment Board.

17. The said paragraph of 31(3) of Prakash Singh (supra) was interpreted by a decision of a Division Bench of this Court in *W.A. No.693/2019 (Devi Singh Thakur vs. S.N. Pathak and others)* dated *06.12.2019*, and observed as under:-

" Evidently, the minimum tenure of two years is fixed for the Police officer on operational duties in the field like the Inspector General of Police in Charge Zone, Deputy Inspector General of Police in Charge Range, Superintendent of Police in Charge District and Station House Officer in Charge of Police Station. Thus, the SDO(P)/CSP; are kept out of the periphery as they are



*not in the operational duties in field. Though learned Single Judge in Dr. Kripa Shanker Dwivedi (supra) in paragraph 21, of the order therein has observed that the Superintendent of Police being engaged in investigation therefore, "by necessary implication they were also police officers on operational duties in the field." We, however, respectfully disagree with the observation. Firstly, the SDOPs/DSPs/CSPs, being omitted in paragraph 30 of the Judgment in Prakash Singh (supra) cannot be treated to be *cassus omisus*, a well settled Rule of interpretation unprovided for by a Statute. Applying the principle to a Judgment by a Superior Court by including the post by "necessary implication," is unwarranted."*

18. A perusal of the aforesaid observations of the Division Bench of this Court reflects that this Court made a specific observation that the officers who are not mentioned in paragraph 31(5) of the judgment of the Apex Court of Prakash Singh (supra), cannot be included therein and such a non-mentioning cannot be treated to be *cassus omisus*. Therefore, paragraph 31(3) of the judgment of the Apex Court in the case of Prakash Singh (supra) undisputedly does not include the post of Deputy Superintendent of Police and paragraph 31(5) of the aforesaid judgment of the Apex Court of Prakash Singh (supra) contains specific reference to the post of Deputy Superintendent of Police. Thus, this Court does not find any force in the argument of the present petitioner that the present petitioner cannot be transferred as he has not completed two years of service at a particular place of posting. Moreover, it is a case wherein the petitioner vide an order dated 31.07.2023 was posted as an Additional Superintendent of Police, Seoni and the order of transfer has been issued on 27.06.2025 contained in Annexure P/4. Therefore, the petitioner is being transferred, after allowing him to complete approximately one year and eleven months at a place.

19. The post of Additional Superintendent of Police, according to the



petitioner, is not a promotional post but as per the respondents, the same is for all practical purposes a promotional post for an officer holding the post of Deputy Superintendent of Police.

20. To deal with the said contention, it is first apposite to refer to the statutory provisions contained in the Rules of 2000. A perusal of the Rule-21, 22 and 23 of the Rules of 2000 provides the eligibility criteria for appointment from Junior Scale to Senior Scale of State Police Service, from Senior Scale to Selection Grade of State Police Service, and from Selection Grade to Senior Selection Grade of State Police Service. Rule-24 of the Rules of 2000 which has nexus with the case in hand stipulates as under:-

"24. Condition of eligibility for posting as Additional Superintendent of Police.-(1) Only those members of service who are working in the senior scale or selection grade of the State Police Service and fulfil the conditions of eligibility placed in column (4) of Schedule V, shall be eligible for consideration for being posted as Additional Superintendent of Police, Deputy Commandant, or in the equivalent rank.

(2) Selection for posting shall be made by the committee as specified in column (5) of Schedule V.

(3) Selection shall be made on the basis of merit cum seniority subject to fitness in all respects.

(4) Being not posted on the posts as mentioned in sub-rule (1) above shall not be a bar for an officer in the senior scale to be considered for Selection Grade or senior selection grade of the Service."

21. A perusal of Rule-24 of the Rules of 2000 reveals that only those members of service who are working in the senior scale or selection grade of the State Police Service and fulfill the eligibility criteria which is mentioned



in column (4) of the Schedule V, shall be eligible for being posted as an Additional Superintendent of Police, Deputy Commandant, or in the equivalent rank. It is also mentioned in the said Rules that such selection for posting will be made by the committee as specified in column (5) of Schedule V. The Selection shall be made on the criteria of merit-cum-seniority subject to fitness criteria.

22. So far as equivalency of post is concerned, Rule-24(1) of the Rules of 2000 itself contains the answer. As per the provisions of Rule 24(1) of the Rules of 2000, the post of Additional Superintendent of Police is equivalent to the post of Deputy Commandant and in the said Rule it is mentioned that in terms of Rule 24 of the Rules of 2000, an eligible candidate may also be considered for an equivalent rank also. If Schedule V of the Rules of 2000 is perused, it would reveal that for being posted as Additional Superintendent of Police, a Deputy Superintendent of Police is required to possess the eligibility criteria of eight years service to his credit or scale of pay on the post mentioned in column 2 thereof. Thus, apparently the Deputy Superintendent of Police who fulfills the eligibility criteria of qualifying service of eight years becomes entitled to be posted as an Additional Superintendent of Police. Therefore, the post of Deputy Superintendent of Police cannot be treated to be an equivalent the post of Additional Superintendent of Police because if such an interpretation is adopted, the same would *dehor* the very provision contained in Rule 24(1) of the Rules of 2000 inasmuch as Rule 24(1) of the Rules of 2000, specifically deals with the right for consideration for posting as an Additional Superintendent of



Police, Deputy Commandant or in the equivalent rank.

23. The petitioner while working as Deputy Superintendent of Police was undisputedly not holding the equivalent rank to the post of Additional Superintendent of Police. Undisputedly, he was conferred with the benefit of Rule-24 of the Rules of 2000 and accordingly, he was posted as an Additional Superintendent of Police. The petitioner as a Deputy Superintendent of Police had completed eight years of his service and it is undisputed that a Deputy Superintendent of Police who has not completed eight years of his service, cannot be posted as Additional Superintendent of Police as he does not fulfil the minimum eligibility criteria mentioned in Rule-24 as well as Schedule V of the Rules of 2000.

24. As such, this Court does not find any force in the argument of the present petitioner that the petitioner's substantive post being Deputy Superintendent of Police and order dated 31.07.2023 contained in Annexure P/2, merely being an order of posting as an Additional Superintendent of Police, cannot cause detriment to the right of the petitioner for being transferred by the Police Establishment Board only. It is a case where the petitioner who is working as an Additional Superintendent of Police, which is higher post than the Deputy Superintendent of Police, has been transferred. Therefore, in the considered view of this Court there was no requirement that the order of transfer should have been passed by the Police Establishment Board, in view of the specific direction of the Apex Court in paragraph 31(5) of the judgment of the Apex Court in case of Prakash Singh (supra).

25. So far as the contention of the petitioner that the order of transfer



of the petitioner is stigmatic in nature, is concerned, a *prima facie* perusal of the impugned order of transfer dated 27.06.2025 contained in Annexure P/4 clearly reflects that the same does not suggest that the petitioner was transferred in view of the disciplinary proceedings. A stand has been taken by respondent Nos.1 and 2 in paragraph 5 of their return wherein they have stated as under:-

"5. That it is appropriate here to mention that the petitioner during the course of argument has placed heavy reliance on the judgment rendered in the case of Prakash Singh & Others Vs. Union of India & Others reported in (2006) 8 SCC 1 in fact, the said judgment is of no assistance in the case of petitioner. In the said judgment, the post of Additional S.P. is not even mentioned. Further, it is mentioned in the judgment that Police Establishment Board shall empower to decide all transfers/postings/promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police. Admittedly, the petitioner is holding the post of Additional S.P. therefore same is not applicable in his case. In addition to the aforesaid, the Hon'ble Apex court in the case of Prakash (Supra) has appreciated the suggestion made by the committee and has reproduced as many as seven suggestion in the judgment. The suggestion No.2 deals with minimum tenure of Inspector General of Police and other officers and it is mentioned that they shall have a prescribed minimum tenure of 2 years however, exception has been carved out that in the cases where disciplinary proceedings, conviction, criminal offence or in a case of corruption or if the incumbent is otherwise incapacitated from discharging his responsibilities, he can be removed prematurely. In the case in hand, it is an admitted fact that two charge sheets have been issued against the petitioner therefore, the competent authority thought it appropriate to transfer the petitioner from the present place of posting. "

26. At this juncture, it is apposite to refer to the decision of Apex Court in the case of **Somesh Tiwari (supra)** has held in paragraph 16 as under:-

"16. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is



ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds-one malice in fact and the second malice in law. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal."

27. A perusal of the decision of the Apex Court in the case of Somesh Tiwari (supra) clearly reveals that when the transfer order is passed in lieu of punishment, the same is required to be set aside being wholly illegal. The order impugned in the case in hand nowhere suggests that any allegation has been levelled against the petitioner in the order of transfer. The reason to pass such order has been assigned by the State in the return. Whether the reason so assigned by the State can be treated to be just and cogent, this query finds answer in the decision of Apex Court in the case of *Union of India and Others vs. Janardhan Debanath and Another reported in (2004) 4 SCC 245*. The Apex Court in the said case held as under:-

"The allegations made against the respondents are of serious nature, and the conduct attributed is certainly unbecoming. Whether there was any misbehaviour is a question which can be gone into in a departmental proceedings. For the purposes of effecting a transfer, the question of holding an enquiry to find out whether there was misbehaviour or conduct unbecoming of an employee is unnecessary and what is needed is the prima facie satisfaction of the authority concerned on the contemporary reports about the occurrence complained of and if the requirement, as submitted by the respondents, of holding an elaborate enquiry is to be insisted upon, the very purpose of transferring an employee



in public interest or exigencies of administration of enforce decorum and ensure probity would get frustrated."

28. The aforesaid decision of the Apex Court was further relied upon by the Division Bench of this Court in the case of *Devi Singh vs. The State of Madhya Pradesh and others in W.A.No. 1002/2020 decided on 02.11.2020* has held as under:-

"In view of the principles laid down in the case of Janardhan (supra), it is clear that a complaint and conduct of an employee can be a ground to transfer him. In the transfer order, there exists no finding regarding conduct of appellant. Thus, we are unable to hold that the transfer order is punitive in nature. So far as the question of payment of salary is concerned, we are inclined to direct that in the event the appellant has performed his duties, it will be lawful for the respondents to decide the question of salary within 30 days. If work has been extracted from the appellant during the relevant period, it shall be lawful for the respondent to pay the salary. However, if they decide it otherwise, they shall pass a reasoned order while deciding the representation to be preferred by the appellant as per the order of the writ court and communicate the outcome of the same to the appellant."

29. Therefore, it is evident that there is a decision by the employer to conduct an enquiry and for that purposes, the transfer of petitioner being imperative in the public interest or exigency of the administrations, the same cannot be faulted with.

30. A perusal of the aforesaid reflects that as per the stand of the State, as two charge-sheets were issued against the petitioner, therefore, the competent authority thought it to be appropriate to transfer the petitioner. Such a decision cannot be termed as stigmatic in nature and reliance by the petitioner on the decision of the Apex Court in the case of Somesh Tiwari (supra) is also misplaced.

31. As such, in view of the decision of the Apex Court in the case of



Janardhan Debanath (supra), the issuance of the impugned transfer order cannot be termed as an exercise carried out in *malafide* exercise of powers. It is also important to note that on the date of issuance of the impugned order of transfer i.e. 27.06.2025 contained in Annexure P/4, the petitioner had to serve for more than one year and three months of service and therefore, the petitioner is not entitled to claim that as he has served the department for a short period of service, he could not have been transferred.

32. In view of the aforesaid detailed discussion, this Court is of the considered view that the petitioner is not entitled for any relief as the impugned order of transfer dated 27.06.2025 contained in Annexure P/4 having been issued in view of the administrative exigency, cannot be questioned or interfered with by this Court. Such interference is not permissible, inasmuch as it is undisputed that the transfer is an incident of service and the interference with the same is only required when the same is actuated by *malafides*. The interference with the transfer order is limited which is settled by the Apex Court in a catena of judgments. [Please See: **Union of India and Others v. S.L. Abbas**, (1993) 4 SCC 357, **State Bank of India v. Anjan Sanyal and others**, (2001) 5 SCC 508, **Public Services Tribunal Bar Association v. State of U.P. and another**, (2003) 4 SCC 104, **State of U.P. and Others v. Gobardhan Lal**, (2004) 1 SCC 402, **Chaudhary and Others v. State of M.P. and Others**, ILR (2007) MP 1329, **Government of Andhra Pradesh v. G. Venkata** 4 WP. No. 4738/2017 (**Braj Kishore Paliwal Vs. State of M.P. and others**) Ratnam, (2008) 9 SCC 345 and **State of Haryana and Others v. Kashmir Singh and Another**, (2010) 13 SCC 306].



33. Therefore, this Court does not find any ground to entertain this petition. Accordingly, the petition stands **dismissed**.

(MANINDER S. BHATTI)
JUDGE

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