



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Civil Writ Petition No. 1775/2025

Devendra Choudhary S/o Mala Ram, Aged About 38 Years, 165,
Sunaron Ka Bas, Village Batadu, Barmer (Rajasthan).

----Petitioner

Versus

1. State Of Rajasthan, Through The Secretary, Finance (Revenue), Government Of Rajasthan, Jaipur.
2. The Director Cum Secretary To The Government, Directorate, Department Of Treasuries And Accounts, Jaipur.
3. The Panchayat Samiti Baytu, District BarmerThrough Its Block Development Officer.

----Respondents

Connected matters

S.B.Civil Writ Petition Nos. 1778/2025, 1792/2025, 1844/2025,
1883/2025, 1887/2025, 1920/2025 & 1962/2025

For Petitioner(s)	:	Mr. Ankur Mathur, Ms. Divya Bapna, Mr. Manish Patel, Mr. Mukesh Rajpurohit, Ms. Aditi Sharma, Mr. Teja Ram Choudhary, Mr. Rajesh Shah
For Respondent(s)	:	Mr. Mahaveer Bishnoi – AAG, Mr. Harshvardhan Singh Chundawat, Mr. Sandeep Vishnoi, Mr. Naresh Kumar

HON'BLE MR. JUSTICE ARUN MONGA

Order (Oral)

28/01/2025

1. With a mere stroke of the pen, as many as 1,116 Assistant Account Officers (Grade-I & II) have been transferred. However, it is contended on behalf of the petitioners that this was not an administrative exigency, as portrayed, but a deliberate and arbitrary act—rather a questionable slip of the pen—colorable exercise of authority, in violation of Circular dated 08.03.2017 issued by the Finance Department. Said circular is applicable on



the Directorate of Treasury & Accounts (parent department of the petitioners), which is under the ultimate supervision and control of the Administrative Secretary of the Finance Department.

2. By way of the above bunch of matters, being disposed of vide this common order, petitioners/ Assistant Account Officers (Grade-I & II) are assailing their respective transfer orders, all dated 15.01.2025, passed by the Director cum Secretary, Department of Treasury & Accounts, Jaipur. The facts of the cases are not relevant for the purpose of adjudication, as this Court is to adjudicate upon the veracity and legality of the order passed by the Director cum Secretary.

3. Since violation of Clause (1) of the Circular dated 08.03.2017 issued by the Finance Department has been alleged, it would, therefore, be apposite to first have a look at the same before proceeding further. Translation of the same reads as under:-

“The transfer of Junior Accountant, Accountant (New designation - Assistant Accounts Officer, Grade-II), and Assistant Accounts Officer (New designation - Assistant Accounts Officer, Grade-I) will ordinarily not be ordered before completion of four years. However, in special circumstances and in the interest of the state, transfer can be ordered even before four years, with the permission of the State Government.”

4. A perusal of the above reveals that two fold immunity is envisaged qua the account officers mentioned in the Clause (1) *ibid* i.e.

(a) - That ordinarily they shall not be transferred before expiry of four years term of their posting;



(b) – In special or extra ordinary circumstances, in case they are required to be transferred before completion of term of 4 years, owing to the administrative exigency, a consent has to be obtained from the Finance Department.

5. Having perused the impugned order, it transpires that in the penultimate part thereof it is clearly stated that the transfer orders have been passed after carrying out the necessary compliance of the Clause *ibid* by taking consent of the Finance Department vide another letter of even date i.e. 15.01.2025. I am thus of the opinion that the consent required under Clause (1) may not necessarily has to be a prior consent, as long as the same is obtained either pre or *post facto* within a reasonable period. In the present case, concededly, a prior consent has been taken, to that extent, there is therefore no violation, as alleged.

6. In light of the aforesaid, there is no quibble about the proposition that ordinarily the Assistant Account Officers (Gr.-I & II) ought not to be dislodged prior to completion of the four years tenure. Given the nature of responsibilities and the sensitivity attached to the specialized nature of job of conducting audit & accounts in the respective offices, where accounts officers services are deputed, there is certain protection provided to allow them to work with certain independence. But, neither there is absolute prohibition nor any statutory immunity that even if administrative exigency so warrants, they cannot be transferred. Reasons are not far to seek. In clause (1), *ibid*, itself it is so stated that, in special circumstances if the public/State interest so warrants then a



consent can be obtained from the Finance Department before passing appropriate transfer orders.

7. Adverting once again now to the impugned orders, from a reading thereof, it is not borne out as to which of the transferred officials had completed their four years, therefore, necessitating their transfer. Alternatively, nor is it clear which of the officials had to be transferred owing to the special circumstances. The sheer large number i.e. 1,116, in the first flush is indicative that the transfer orders have been passed in great haste. There was possibly no time with the competent officials to either determine the special circumstances qua each of them or to even have the empirical data available before them qua the length of their tenure on their current postings.

8. Be that as it may, it is not for this Court to get into the micro management of sifting through each individual case and take a call on the same. It is best left open to the discretion of the competent authority to comply with the Circular *ibid*.

9. Pertinently, the disclosure of special circumstances is a matter between the competent authority and the Finance Department, for, it is only after the special circumstances are brought to the notice by the competent authority of the Finance Department that a decision on the consent in terms of clause (1), *supra* can be taken. In the absence of disclosure of special circumstances, seeking the consent would violate the letter, spirit and intent of the Clause (1), *ibid*. The entire idea is to provide certain protection to the Account Officers, who have to necessarily act as a watch dog, being the auditors of their superiors qua the



expenditure incurred from the public exchequer. However, reasons to be disclosed by Directorate to the Finance Department need not be conveyed to the transferring officials, unless sought for in accordance with law (read RTI, Act). Sensitive administrative reasons are not required to be made public, which could compromise the efficiency of the department or reveal internal deliberations. Transparency between the administrative authority and the Finance Department reinforces the rule of law by ensuring that the circular's provisions are followed to prevent potential abuse of authority by ensuring that transfers are not carried out arbitrarily or without justification. Disclosure of special circumstances to the Finance Department acts as a check on the exercise of power, ensuring that transfers are made in good faith and in the public interest and rule of law is maintained.

10. Accordingly, in light of the observations made hereinabove, it is directed that the competent authority shall take a fresh call with respect to all of 1,116 Assistant Account Officers (Grade-I & II) and segregate them into two separate lists i.e. the ones who have completed their four years warranting their transfers and; the second list of those where special circumstances exist as per Clause (1) of the Circular, *ibid*.

11. Till then the implementation of the impugned transfer orders shall be kept at abeyance in rem.

12. Needless to say that those of the transfer orders, which do not require to be recalled after carrying out the aforesaid exercise shall be implemented. Those cases, where owing to special



circumstances, transfers have to be carried out, such officials are at liberty to assail the same by filing fresh petition, if so advised.

13. At this stage, learned Additional Advocate General submits that passing of the fresh orders requires prior sanction from the competent authority in view of the ban imposed by the Chief Secretary vide an administrative order dated 03.01.2024. In order to obviate any procedural hurdle, it is made clear that since the transfer orders have been put on hold by mandamus of this Court, thus taking fresh administrative decision qua the petitioners shall be construed to be in continuation of the earlier transfer orders. No prior sanction would thus be required in terms of the circular dated 03.01.2024 issued by the Chief Secretary.

14. Also, as a matter of abundant caution, it is clarified that those of the officials who have been transferred vide impugned orders herein and have no grievance qua the same, their transfer orders need not be recalled or reviewed by the competent authority pursuant to the mandamus issued vide instant order. Likewise, those of the officials who have not been displaced outside the same town where they are currently posted, in their case also the competent authority shall be exempted to pass any fresh orders.

15. In the parting, at the cost of repetition, I may hasten to add that no doubt, the finance department administrative circular dated 08.03.2017 provides flexibility by allowing transfers before four years in "special circumstances" and "in the interest of the State", but at the same time it also aims to provide certain stability to officers. Thus, a balance has to be maintained by



adopting an approach to protect officers from arbitrary actions without undermining the authority's ability to manage administrative exigencies. It is in this context that the competent authority ought to have segregated officers into two lists—those who have completed four years and those transferred due to special circumstances. Same would also ensure that each case is individually assessed. I am conscious that administrative decisions, especially those involving large-scale transfers, require certain degree of discretion which this court is not equipped to second-guess. The separation of powers and the expertise of the administrative body has to be given due credence. Endeavour of this court by directing a reassessment of the transfers is merely to provide a safeguard against seemingly arbitrary action by striking a fair and pragmatic balance between rights of the account officers and administrative exigencies.

16. The writ petitions are thus disposed of with liberty to the competent authority to carry out the aforesaid needful exercise within a period of 30 days with effect from the date of receipt of web-print of this order and pass fresh orders, wherever warranted, keeping in mind the observations made here in above.

17. All pending applications also stand disposed of.

(ARUN MONGA),J

22, 24, 34, 68, 91, 93, 113 & 128 -AK Chouhan/-

Whether fit for reporting : Yes / No