

LPA No. 921 of 2014. [O&M]  
Date of Decision: 23<sup>rd</sup> March, 2015.

State of Haryana & Ors. Respondents through  
Mr. R.D.Sharma, DAG, Haryana.  
Mr. S.K.Kaushik, Advocate.

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This Letters Patent Appeal impugns the orders dated 17.01.2014 and 19.05.2014 whereby learned Single Judge disposed of the writ petition filed by private respondents and thereafter has dismissed the review application filed by the appellants.

[2]. The controversy pertains to transfer of Head Constables from Haryana Armed Police [HAP] Cadre to District Police Cadre or Government Railway Police.

[3]. It is an admitted fact that the private respondents [nine in number] are seniors to appellants in the rank of Constable [Technical] as well as Head Constables. The transfer of Technical Constables/ Head Constables to the District Police or GRP is regulated by Standing Order No. 108 of 2014 [Annexure P-3] which, *inter-alia*, provides that the Technical Constables shall continue to serve in HAP Battalion for 10 years or till they attain the age of 35 years and that

they may be considered for transfer from HAP to District Police after they complete 10 years' service or 35 years' age.....". The above stated Standing Order further provides that *'those unwilling for transfer to District Police/GRP may opt to remain in HAP till they reach to the rank of Inspector. Option once exercised shall be final'*".

[4]. The private respondents were ordered to be transferred from HAP to District Police vide orders dated 19.10.2012. There were a large scale Head Constables/Technical Constables who were transferred to the District Police vide the above stated order.

[5]. It could not be disputed by the appellants or learned State Counsel that the private respondents [9 in number] had never requested for their transfer to the District Police Cadre. Similarly, they were not amongst those writ-petitioners comprising the Technical Constables/Head Constables who had approached this Court seeking a direction for their premature transfer to the District Police in relaxation of the Standing Order. The fact that the private respondents were still ordered to be transferred is a mystery which can be solved only by the Authority who passed the order.

[6]. The successor Director General of Police, Haryana then issued a Circular dated 01.01.2014 enabling the transferred Technical Constables/Head Constables to seek their re-transfer to the parent cadre.

[7]. It is pertinent to mention here that after the private respondents were transferred to District Police, the appellants who are otherwise juniors, stood upgraded as a fortuous circumstance and reached the stage of joining the B-I Promotional Course. At that

juncture, the private respondents approached this Court for their re-transfer to the parent Cadre so that their juniors are not allowed to march-over them in joining the B-I Course for further promotion.

[8]. The learned Single Judge vide the impugned order has accepted such claim and thereafter has dismissed the review application filed by the appellants.

[9]. We have heard learned counsel for the parties and gone through the record. In the light of the conceded position that the private respondents never sought their transfer to District Police or GRP through any written representation or otherwise and their transfer to the District Police was ordered unilaterally, we are satisfied that such an order could not be allowed to sustain as it runs not only contrary to the conditions stipulated in the Standing Order No. 108/2014 but also adversely affected the service conditions of private respondents. The subsequent action of the Director General of Police enabling the respondents to revert back to their parent cadre is only the rectification of an error which the Authorities had earlier committed.

[10]. There is no question of violation of principles of natural justice qua the appellants as no indefeasible right ever accrued in their favour.

[11]. Needless to say that the private respondents were born on HAP cadre and they continue to maintain their lien which could not have been terminated or suspended by means of the transfer order dated 19.10.2012.

[12]. Similarly, the appellants can not take undue advantage of

the incidental situation caused by the transfer of private respondents and then start expecting their out-of-turn deployment to B-I Promotional Course.

[13]. For the reasons aforementioned, we do not find any merit in this appeal which is dismissed.

[14]. Dasti.

**( SURYA KANT )**  
**JUDGE**

**March 23, 2015.**  
**dinesh**

**( P.B.BAJANTHRI )**  
**JUDGE**