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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2485/2019, CM APPL. 11555/2019 (Stay), CM APPL.**
14145/2019 (for dir.) and CM APPL. 14146/2019 (Stay)

CT. (BAND) SUKHVINDER SINGH AND ORS. Petitioner

Through: Mr.Bal Kishan and Mr.Himanshu
Kaushik, Advocate.

versus

UNION OF INDIA AND ORS. Respondent

Through: Mr.Jagjit Singh, Senior Standing
Counsel with Mr.Preet Singh,
Advocate.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE TALWANT SINGH

ORDER
% **01.10.2019**

1. 26 Constables (Band) of the Railway Protection Special Force ('RPSF') have filed the present petition challenging a letter dated 22nd January, 2019 issued by the Inspector General ('IG'), P & TS, Railway Board clarifying that the Director General ('DG') and Railway Protection Force ('RPF') had taken a serious view of the posting of RPF/RPSF staff (Non-Gazetted) at the same place beyond the prescribed tenure of 10 years in a single spell or 15 years in broken spells in a particular city/location or in the same RPSF Battalion. The IG has accordingly ordered their transfer to other places in terms of Directive 32 dated 18th September, 2014 as further revised on 28th

December, 2017. This Directive too has been challenged in these petitions.

2. The challenge is also to the consequent transfer orders dated 6th March, 2019 issued by the Respondents, a stay of which has been sought in the present petition.

3. Pursuant to the notice issued in the present petition, a short counter affidavit has been filed by the Respondents pointing out at the outset that under Section 15 of the Railway Protection Force Act, 1957 ('RPF Act'), every member of the RPF would be considered to be always on duty and shall 'at any time be liable to be employed at any place within India'. Reference is also made to Rule 90 of the Railway Protection Force Rules, 1987 ('RPF Rules') which permits transfer of members of the RPF from one place to another in the exigencies of service or for administrative reasons or to avoid local entanglements or any such consideration. A reference is also made to Section 8 of the RPF Act which vests in the DG the superintendence of the force and to Rule 28 of the RPF Rules which grants the DG the power to issue Directives. It is pointed out that it is pursuant to the above provisions that the DG has issued a supersession of the earlier Directive 18, Directive 32 and Directive 32 (revised).

4. It must also be noted here that all the provisions under the RPF Act and Rules that apply to the RPF would equally apply to members of the RPSF. This is made explicit by Rule 7 of the RPF Rules read with Section 3 and 2(1)(a) of the RPF Act. These provisions make it explicit that the RPSF forms an integral part of the RPF. It is, in fact, a specially trained unit of the

RPF.

5. The stand of the Respondents is that the recruitment of the present Petitioners was done as per Schedule III of Directive 18 dated 27th February, 1997, and therefore, they are a separate cadre whose seniority is also maintained separately. It is stated that the employment notice under which the Petitioners were recruited itself stated clearly that the selected candidates would be posted at Delhi/Gorakhpur initially, but were liable to be posted anywhere in the Indian Railway. Learned counsel for the Petitioner has placed reliance on a clarification issued on 2nd July, 2018 regarding the applicability of Paragraph 13 of Directive 32 (Revised) which reads as under:

“13. Posting in Metro cities/Cluster:

In cities/towns where more than 02 RPF units are located, officer and other personnel may be allowed posting for maximum 10 years at a stretch and 15 years in broken spells subject to availability of vacancy.”

6. The clarification was to the effect that above Paragraph 13 would not apply to RPSF personnel. The position was further clarified by the impugned order dated 22nd January, 2019 which reads as under:

“Sub:- Transfer of Non-Gazetted. RPF/RPSF personnel [including RPSF Band staff] beyond prescribed tenure.

Ref:- Rly. Bd's L/No. 2018/Sec(E)/TR-3/512 (Tenure), dated: 28.11.2018.

It is observed that, many RPI7RPSF staff (Non-Gazetted) are posted at the same place beyond the prescribed tenure of 10 years in a single spell or 15 years in different broken spells in a

particular city/location or in same RPSF-Battalion.

In view of the above, DG/RPF has taken a serious view and ordered to transfer out those RPF/RPSF personnel [including RPSF Band staff posted at 2BN & 6BN) to other place who have completed their, tenure as per Directive-32. The following observations have also been passed by DG/RPF:-

A. "PCSC/all RPF Zonal Railways may be advised to ensure Inter- Divisionol/Intra Divisional transfer of RPF personnel (non-gazetted) who have stayed for 10-15 years at a place.

B. In Metro Cities where more than 02 Divisions are located, PCSCs may be advised to ensure transfer of RPF personnel [who have stayed [or 10 to 15 years at a place) to other Division.

C. The cases of terminal postings, Critical illness and Children education be considered on Case to Case basis with Speaking Order."

Any discrepancy found, will be taken seriously and the concerned PCSCs will be held responsible.

This has the approval of DG/RPF.

IG/P&TS
Railway Board"

7. Indeed it appears to the Court that the Petitioners cannot insist in remaining at the same place beyond tenure of 10 years which in any way they have already completed. The impugned transfer orders cannot, therefore, be said to be in violation of Directive 32 (Revised) or the clarification dated 22nd July, 2018.

8. Learned counsel for the Petitioner has referred to the general guidelines

issued under Paragraphs 3(i) and 5(d)(iv) of the Directive 32, which read thus:

“ 3. Guidelines for Periodical Transfer:

...

ii) While making routine periodical transfer, option for choices of three Divisions/ Battalions, Posts/ Outposts, as the case may be, should be obtained by the competent authority. However, the same shall be considered subject to administrative requirement, vacancy position, previous posting, length of service, seniority, etc.

...

5. Inter Zonal Transfer:

...

(D) General Guidelines

...

“(iv) Before recommending eligible candidates for inter zonal transfer, CSC shall take into consideration the vacancies of Head Constables, Assistant Sub- Inspector & Inspector and the Adverse impact of the transfer from one zonal railway to another zonal railway on the current & anticipated vacancy position of the zone in concerned ranks.”

9. The short counter affidavit filed by the Respondents explains how these Petitioners have remained in the same posting for far more than 10 years at a stretch and for that matter even 15 years and there was no question of their insisting that they would remain in the same posting. The Petitioners have implicitly accepted the binding nature of the RPF Act under RPF Rules which obliges them to serve anywhere in the country. They have far exceeded the maximum tenure of 15 years. Therefore, even in terms of Directive 32 (Revised), the Court is unable to find any illegality attaching to the impugned orders dated 22nd January, 2019 and consequential transfer order dated 22nd March, 2019 transferring the Petitioners.

10. The Court also notes that the Petitioners' representation against the transfers was rejected by the DG, RPF by a detailed order dated 29th March, 2019. This notes how regular promotions had been granted to Constables in the Band cadre to the ranks of Head Constables, Assistant Sub-Inspectors and Sub-Inspectors. In fact, an earlier Writ Petition (Civil) 5657/2010 had been filed by 22 HCs (Band) challenging their own promotions and insisting on remaining in their places of posting. The said writ petition was ultimately dismissed by a judgement dated 8th March, 2017. Those Constables who had refused their promotions were reverted to their substantive ranks.

11. For all the aforementioned reasons, the Court finds no merit in this writ petition and it is hereby dismissed along with pending applications.

S. MURALIDHAR, J.

TALWANT SINGH, J.

OCTOBER 1, 2019
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