

IN THE HIGH COURT AT CALCUTTA
(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA 5306 of 2019

Bikash Chandra De & Ors.

Versus

The Director General, Railway Protection Force & Ors.

Mr. Swapan Kumar Nandi

Mr. S.N. Chakraborty

Mr. Debjyoti Ghosh

.....For the Petitioners

Mr. Sarajit Kumar Ghosh

Mr. Raja Ghosh

.....For the Respondents/Union of India

Heard on : 22.02.2022

Judgment on : 24.03.2022

Krishna Rao, J.: The petitioners are claiming seniority as well as other service conditions like other staffs from the other department who are working in the same Metro Railway Zone.

The petitioners were appointed in the security department of the Railway Protection Force in the different Zones of Railway. The petitioners were brought up by the Railway authorities from different Zones for the

effective operation of the Metro Railway. The Ministry of Railway issued the following Gazette Notification on 28.12.2010:

“New Delhi, the 28th December, 2010

No. 2010/E&R/1500/19.—In exercise of the powers conferred by para 3 (3) of Chapter II of the Railway Act, 1989 (24 of 1989) the Central Government hereby declares the Metro Railway, Kolkata, a project office, to be a Zonal Railway with its headquarters at Kolkata with effect from 29-12-2010.

2. The Metro Railway shall continue to have control over its existing jurisdiction.”

After the notification dt. 28.12.2010, the Metro Rail Kolkata has been declared as 17th Zonal Railway with effect from 29.12.2010 and as on 01.10.2012 the following Employees Strength were sanctioned :

Employee Strength:

(As on 01-10-2021)

Category	Sanction					On Roll	Vacancy
	Perm	Temp	Sup	WC	Total		
Gazetted	5*	39	0	68	112	98	16
Non-gazetted	3984	475	48	514	5021	3707	1314

The Director/Sec(Estt) Railway Board Kolkata vide letter dt. 12.01.2012 informed that the total 723 Non Gazetted posts for the security of Kolkata Metro Railway was sanctioned which are as follows :

“Sanction of the President is hereby accorded for the creation of following 723 non-gazetted posts for the security of Kolkata Metro Railway,

S.N	Name of the Post	Pay Band	Grade Pay	No. of Post
01.	Inspector	PB-2	4600	06
02.	Sub-Inspector	PB-2	4200	30
03.	Assistant Sub-Inspector	PB-1	2800	64
04.	Head Constable	PB-1	2400	220
05.	Constable	PB-1	2000	403
	Total			723

Requirement of rest of the 48 ancillary staff may be met by outsourcing of services.

This issue is with the concurrence of the Finance Directorate of the Ministry of Railways.”

As on 01.03.2014 the following Executive Officers and staffs alongwith ministerial staff of Metro Railway Kolkata were posted :

EXECUTIVE

Description	IPF	SI	ASI	HC	Const.	Driver	Cook/C-mate	Dhobi	Barber	S/wala	Total
Sancd. Strength (Perm)	3	6	5	15	168	2	6	0	0	0	205
Sancd. Strength (W/C)	0	0	0	0	0	2	7	1	1	1	12
Addl. Sanction	6	30	64	220	403	0	0	0	0	0	723
Total Sanction	09	36	69	235	571	4	13	1	1	1	940
Actual Strength	4	10	14	103	179	3	10	1	0	0	324
Vacancy	5	26	55	132	392	1	3	0	1	1	616

MINISTERIAL

Description	OS	Sr. Clerk	Jr. Clerk	Typist	Steno	R/Sorter	Despatcher	Peon	B/Peon	Total
Sancd. Strength (Perm)	4	2	2	1	0	1	0	2	0	12
Sancd. Strength (W/C)	1	2	0	0	0	0	1	0	1	5
Total Sanction	5	4	2	1	0	1	1	2	1	17
Actual Strength	5	1	4	1	1	0	1	2	0	15
Vacancy	0	3	(-) 2	0	0	1	0	0	1	3

On 20.02.2018, 5th Prem Meeting was held and in the said meeting the point regarding separate seniority list for Railway Protection Force for Metro Railway whose names are presently maintained by the Eastern Railway was discussed so that the promotional avenue for RPF staffs may be increased and after the discussion the said matter was referred to the concerned department to place the matter before the General Manager for taking appropriate decision.

The respondents have published the list of Indian Railway Zones wherein at Sl. no. 17 the Metro Railway is mentioned and the Zone of head quarter is mentioned as Kolkata but the Railway division is mentioned as NA. The petitioners have made representations to the authorities for grant of service benefits by allowing the seniority under the Zone of Metro Railway created with effect from 29.12.2010. On receipt of the representation of the petitioners, the Staff Officer to PCSC/RPF, Eastern Railway informed the Sr. Security Commissioner, RPF, Metro Railway that their office does not have any order of Railway Board for treating the security portion of Metro Railway as independent Zone of Metro Railway. On receipt of the said reply, the Metro Railway Kolkata informed the same to the petitioners.

The Counsel for the petitioner submitted that in the year 1998 the petitioners were brought to the Metro Railway for its effective operation and even after declaring the Metro Railway as an independent Zone the petitioners were not sent to their respective Zones.

The Counsel for the petitioners further urged that till date their seniority as well as their promotional aspects have not been considered in

the Metro Railway Zone though the other staffs of the other departments have been considered for their promotional avenue and they have successfully achieved the same.

It is further submitted that inspite of several representations made by the petitioners, the respondents have not considered the request of the petitioners for treating the security portion of Metro Railway as an independent Zone of Metro Railway though as per the Notification of Government of India, Metro Railway is an independent Zone.

The Counsel for the respondent submitted that as per Government of India's Gazette Notification dt. 28.12.2010 the Central Government declares the Metro Railway Kolkata a project office to be a Zonal Railway with its headquarters of Kolkata with effect from 29.12.2010. It is further submitted that prior to the Gazette Notification dt. 28.12.2010 and thereafter also the members of Railway Protection Force, who are posted at the Metro Railway, are controlled by the Principal Chief Security Commissioner, R.P.F having its office at Fairlie Place, Eastern Railway, Kolkata.

It is further submitted that in the Notification dt. 28.12.2010 nothing is stated about the Administrative control over the members of RPF who have been posted at Metro Railway.

The Counsel for the respondent further submitted that the service of the members of the Railway Protection Force is guided by Railway Protection Force Act and the Rules framed there under but the service of the other

railway employees is guided by the Railway Servants (Discipline and Appeal) Rules.

It is further urged that all the benefits of the members of the Railway Protection Force being the members of Armed Force cannot be equated with other Railways Servant.

The Counsel for the respondent submitted that as per Directive No. 32 (Revised) dt. 28.12.2017 Zone means “One of the 16 Zonal Railway and does not include RPSF.”

The Ld. Counsel for the respondent further pointed out clause 8 (i) of Directive No. 32 dt. 28.12.2017 which reads as follows:-

8. i) Transfer from and to Production units: Member of the Force posted in Production Units will, on completion of their tenure, be liable for transfer to controlling/concerned Zonal Railways and vice-versa.

Production Unit	Concerned Railway
CLW, Chittaranjan/Metro Rail Kolkata	Eastern Railway
DMW, Patiala/MCF, Raebareilly/ RCF, Kapurthala, RDSO	Northern Railway
RWF, Yelahanka	South Western Railway
ICF, Chennai	Southern Railway
RWF, Bela./RCF, Harnaut	East Central Railway

The Counsel for the respondent further submitted that that during the pendency of the writ petition maximum number petitioners have been transferred from Kolkata Metro Railway to other Zone of Railway. The Ld. Counsel further submitted that the petitioners have not challenged any rule and the respondents are following the Rules applicable to the petitioners.

Considered the submissions made by the respective parties and the documents available on record.

The petitioners were appointed in the security department of the Railway Protection Force in the different Zones of Railway. For the effective operation of Metro Railway, petitioners were brought to Metro Railway vide Notification dt. 28.12.2010. The Central Government declared the Metro Rail Kolkata as 17th Zonal Railway w.e.f. 29.12.2010. After declaration of the same, 723 Non Gazetted Posts for security of Kolkata Metro Railway were sanctioned. As per the meeting held on 20.02.2018 the point regarding separate seniority list for Railway Protection Force staff for Metro Railway whose names are presently maintained by Eastern Railway was discussed so as to enable the promotional avenues for Railway Protection Force Staff may increased. After the meeting it was decided to place the matter before the General Manager for taking decision.

By way of Notification dt. 28.12.2010, the Central Government declares the Metro Railway, Kolkata, a project office to be a Zonal Railway with its headquarters at Kolkata with effect from 29.12.2010.

The petitioners were appointed in the security department of Railway Protection Force in the different Zone of Railway. The Railway Protection Force has been constituted under Railway Protection Force Act, 1957 for ensuring better protection and security of railway property.

The service conditions of the petitioners are govern under the Railway Protection Force Act, 1957 and the Rule framed there under.

The grievance of the petitioners with regard to their separate seniority list for Railway Protection Force staff for Metro Railway in terms of Notification dt. 28.12.2010 was discussed in the Prem Meeting held on 20.02.2018 and it was resolved that the grievances of the petitioners is to be placed before the General Manager but as per the communication dt. 21.01.2019 no decision has taken by the concern authority i.e. General Manager, Metro Railway.

In view of the above, this Court find that it would be appropriate to direct the respondent no. 2, the General Manager, Metro Railway Kolkata to take appropriate decision by passing a reasoned and speaking order in terms of the 5th Prem Meeting held on 20.02.2018 with regard to separate seniority list for Railway Protection Force for Metro Railway within a period of four weeks from the date of communication of this order.

WPA No. 5306 of 2019 is thus **disposed of**.

Parties shall be entitled to act on the basis of a server copy of the Judgment and Order placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)