

14.09.2023
DL-133
(PP)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 3082 of 2023

Sri Govinder Singh
Vs.
Union of India & Ors.

Mr. Achin Kumar Majumder
...for the petitioner.
Mr. Kalyan Kumar Chakraborty,
Mr. Sovan Mukherjee
....for Union of India.

Under challenge in the present writ petition is an order of premature cancellation dated January 31, 2023 of the order of transfer dated February 5, 2021.

Mr. Majumder, learned counsel appearing on behalf of the petitioner draws the attention of this Court to Directive No.32 (Revised) dated December 28, 2017 issued by the Ministry of Railways to show the period of tenure of posting of other enrolled members of Railway Protection Force (RPF) at a particular place is usually 5 years. He also submits that under clause 5 of the Directive relating to inter-zonal transfer, a constable shall be eligible for being considered for the said transfer after completion of 10 years of service, including the training period. Since the petitioner joined service on April 12, 2005, he successfully completed 10 years of service prior to the order of inter-zonal transfer being passed on February 5, 2021 in his favour. The inter-zonal transfer of the petitioner was effected on mutual transfer basis and,

therefore, the premature order of cancellation of the same was arbitrary and illegal.

Mr. Chakraborty, learned counsel appearing on behalf of Union of India submits that other enrolled members of the Force including the petitioner would only be eligible for mutual transfer upon completion of 10 years of service. The members of the Force who served in the Railway Protection Force (RPF) formed separate Cadre compared to the members of the Force who performed their duties as Railway Protection Special Force (RPSF), who constituted a separate Cadre. He submits that an enrolled member transferred from one zonal Railway to the other zonal Railway will not be allowed to seek further inter-zonal transfer before completion of 10 years of service in the new zone except in the circumstances specified under Chapter IV para 3.4 of the RPF Establishment Manual, 2019. However, no satisfactory explanation was given as to why the period of computation of 10 years of service will not include the period of service that the enrolled member of the Force rendered with the RPSF.

Mr. Majumder, in Reply, contends that the RPF Rules, 1987 govern both the enrolled members who rendered their service in RPF and the ones who rendered their service in RPSF. Therefore, there was no rule which disentitled the petitioner's service rendered with RPSF for not being considered for

calculation of the length of service. The training period of a member of RPF was required to be computed for the purpose of calculation of 10 years of service.

The written instructions handed over by Mr. Chakraborty in Court today are retained with the records.

From the written instructions dated August 21, 2023 issued by the Staff Officer, Principal Chief Security Commissioner/RPF, it appears that the enrolled members of the Force who constitute RPSF shall form a separate Cadre for the purpose of fixation of seniority. It categorically states that in 1962 a “Special Emergency Force” has been raised from the existing strength of RPF during Chinese Aggression which was especially entrusted with the task of protecting the border districts. That Force was renamed as “Railway Protection **Special** Force”.

Therefore, to the mind of this Court, the formation of RPSF was from the enrolled members of RPF. Why the service rendered as an enrolled member of RPSF which is a specialised Force created from RPF shall not be taken into consideration while computation of the length of service is not explained by the authorities. The written instructions filed by PCSC/RPF goes to show that RPSF has been formed from the enrolled members of RPF and is entrusted with the purpose of protecting the border districts

and, therefore, are rendering service which are more stringent in nature.

The members of RPF are to be considered a separate cadre from the members serving at RPSF, so that the seniority of the RPSF members do not get diluted by consideration of their seniority along with the members of RPF. RPSF members are to perform more arduous duties at the border Districts. Therefore, special privileges have been given to them by considering their seniority amongst RPSF members only, which is a specialised and much smaller Force.

Why the tenure spent by an enrolled member of RPSF performing more arduous task should not be taken into account whereas the training period of a member of RPF should be taken into consideration while computation of the tenure of service for inter-zonal transfer, is beyond the comprehension of this Court.

Therefore, this Court finds no reason in not taking into account the service of the petitioner that he rendered as an enrolled member of RPSF while computation of 10 years of service for the purpose of inter-zonal transfer.

This Court finds perversity in the decision making process of the Impugned Order dated January 31, 2023 in cancelling the order of transfer dated February 5, 2021.

This Court sets aside and/or quashes the impugned order of premature transfer dated January 31, 2023.

Accordingly, it directs the petitioner to be posted at the previous place of posting at Metro Railway, Kolkata as was initially directed on March 31, 2021 by the Senior Security Commissioner, RPF. This order shall be implemented within 2 weeks from date.

Accordingly, **WPA 3082 of 2023** is **disposed of**.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon'ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)