

81.
13.7.2023
S.D.

W.P.A. 21923 of 2022

Bikash Chandra De & Ors.

Vs.

The Director General, Railway Protection Force & Ors.

Mr. Swapan Kumar Nandi

Mr. Debjyoti Ghosh

Mr. Sizan Nandi

..For the Petitioners

Mr. Arabinda Sen

Mr. Arijit Majumder

...For the Railways

In the writ petition, the petitioners have prayed for setting aside of a reasoned order passed by the General Manager, Metro Railway passed on April 14/18, 2022 (Impugned order). The Impugned order was passed pursuant to the directions given by an Hon'ble Coordinate Bench of this Court in W.P.A. 5306 of 2019 on March 24, 2022.

Mr. Nandi, learned counsel appears on behalf of the writ petitioners submits that Metro Railway has been declared as a Zonal Railway. Therefore, all the Personnel of the Railway Protection Force (RPF) stationed at Metro Railway should be entitled to same benefits as the Personnel working in the other Zonal Railways.

The Personnel working at Metro Railway should not be discriminated against the other members of the Force.

By the Impugned order, the General Manager held that even though the Metro Railway has been declared to be a Zonal Railway, but in terms of Directive 32 of the RPF/Railway Board, the said Railway is considered to be a *production unit* under the Eastern Railway. Therefore, the RPF stationed at Metro Railway cannot be only considered for promotion amongst themselves. All the Personnel of the Eastern Railway have to be considered for effecting of promotion.

The petitioners' grievance is that despite being declared a Zonal Railway, the petitioners are not given promotion as per the seniority list of the RPF working with the Metro Railway whereas for other staff of Metro Railway promotion was given as per seniority list.

Mr. Sen, learned counsel appears on behalf of the Union of India and submits that the order passed by the Coordinate Bench of the Allahabad High Court dated April 21, 2022 has not attained finality since a review petition in respect of the same is pending adjudication.

Considering the submissions of the parties and the materials placed on record, this Court is of the view that:-

- a. The Standing Order No. 102 issued by the Director General, RPF was passed in March 2010.
- b. The Metro Railway was declared as an independent Zone on December 29, 2010 by the Railway Board's letter.
- c. Therefore, there was no question of taking the Metro Railway under consideration as a separate zone/production unit by the Standing Order dated March 2010.
- d. The Directive No. 32 (revised) was issued by the Director General, RPF on December 28, 2017.
- e. The Impugned order challenged in the writ petition passed by the General Manager, the Metro Railway passed on April 14, 2022.
- f. The Directive No. 32 was set aside and/or quashed by the Hon'ble Coordinate bench of Allahabad High Court on April 21, 2022.
- g. Therefore, there was no question of taking into consideration the order dated April 21, 2022 in the Impugned order dated April 14, 2022 by the General Manager.
- h. This Court cannot be persuaded to follow the order dated April 21, 2022 passed by the Coordinate

Bench of a different High Court in Writ-A No. 10540 of 2018. It has heavily relied on the order passed by another Coordinate Bench in Writ-A No. 37638 of 2017 dated August 2, 2019 for quashing of Directive No. 32.

- i. This Court finds no mention of the said Directive in order dated August 2, 2019 passed by the Coordinate Bench in Writ-A No. 37638 of 2017.
- j. However, this Court finds that by the Impugned order dated April 14, 2022, the General Manager has not proceeded to take a decision by way of independent reasoning. By the Impugned order, the General Manager has only relied on the notices and circulars and Directives of the Railway Board and held that since the RPF association in the PREM meeting held on February 20, 2018 did not offer any remark or comment no decision can be taken. The Coordinate Bench observed that the grievances raised by members of RPF in PREM meeting held on February 20, 2018 were to be placed before the General Manager (GM) for consideration. The GM could not therefore refrain from taking a decision by only stating that it was a matter of policy by the

Central Government. No remark was offered by Central Government so the G.M. could not pass an order. All the facts and law need to be assessed by the G.M. himself and a reasoned order is to be passed by him on the issue of differential treatment between the RPF Personnel stationed at Metro Railway and the other staff of Metro Railway.

In the light of the discussions above, the Impugned order dated April 14/18, 2022 is set aside and/or quashed.

The General Manager, Metro Railway is directed to pass a reasoned order pursuant to the directions passed by the Coordinate Bench on March 24, 2022 upon giving an opportunity of hearing to the petitioners. The said order will be passed as per the applicable laws/or Rules/Regulations/Guidelines in force.

The said order will be passed within three months from date and be communicated to the petitioners within two weeks of passing thereof.

With the directions aforesaid, **W.P.A. 21923 of 2022** is **disposed of.**

All parties shall act on the server copy of this order duly downloaded from the official **website** of this Court.

Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all the formalities.

(Lapita Banerji, J.)