

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.2474 of 2023

***Director General, Railway
Protection Force, New Delhi &
Ors.***

.....

Appellants

*Mr. B. Moharana, CGC along with
Mr. P.K. Parhi, DSGI*

Vs.

Sanjata Kumar Harichandan

.....

Respondent

Ms. B. Pattanaik, Advocate

CORAM:

**ACTING CHIEF JUSTICE DR. B.R. SARANGI
MR. JUSTICE MURAHARI SRI RAMAN**

**ORDER
06.11.2023**

Order No.

01

This matter is taken up through hybrid mode.

2. Ms. B. Pattanaik, learned counsel files vakalatnama in Court today on behalf of the respondent. The same be kept on record and her name be indicated in the cause list.
3. Heard Mr. B. Moharana, learned Central Government Counsel along with Mr. P.K. Parhi, learned Deputy Solicitor General of India appearing for the appellants and Ms. B. Pattanaik, learned counsel appearing for the respondent.
4. The appellants have filed this writ appeal challenging the judgment dated 29.08.2023 passed in W.P.(C) No.22177 of 2023, by which learned Single Judge, while allowing the said writ petition, has directed that it would be open to the appellants to

apply the guidelines as well as the provisions of the rules, i.e. under Rules-90 to 93 of the Railway Protection Force Rules, 1987 in the next year in the manner as has been prescribed in the guideline and within the time stipulation fixed in Directive No.58 under Annexure-1 to the said writ petition. Learned Single Judge further made clear that the Court has not considered the individual ground taken by the respondent while assailing the transfer order, rather the Court has considered the validity of the transfer order in the light of the guideline under Annexure-1 to the said writ petition.

5. Mr. B. Moharana, learned Central Government Counsel appearing for the appellants vehemently contended that there is error apparent on the face of the records while passing the judgment dated 29.08.2023 and contended that learned Single Judge has not taken into consideration the guidelines while passing the impugned judgment. Therefore, he seeks for interference of this Court.

6. Ms. B. Pattanaik, learned counsel appearing for the respondent contended that the learned Single Judge has rightly passed the judgment dated 29.08.2023 in W.P.(C) No.22177 of 2023. As such, while allowing the said writ petition, learned Single Judge has directed that it would be open to the appellants to apply the guidelines as well as the provisions of the rules, i.e. under Rules-90 to 93 of the Railway Protection Force Rules, 1987 in the next year in the manner, as has been prescribed in the guideline and within the time stipulation fixed in Directive No.58 under Annexure-1 to the said writ petition. Thereby, this Court does not require interference of this Court at this stage and

accordingly, the writ appeal should be dismissed.

7. Considering the contentions raised by learned counsel for the parties and after going through the records, this Court finds that the respondent, after being duly selected, was appointed as a Constable on 15.04.2000 in the Railway protection Force and was initially posted at Raipur in the district of Chhatishgarh. In the year 2003, he was transferred to Sambalpur Division and thereafter, he was again transferred to Khurda Division in march, 2009. While working as such, he was promoted to the rank of Head Constable in the year 2021 and was posted at RPF Post, Puri. The Railway Protection Force Rules, 1987, which has been framed under the Railway Protection Act, 1957 provides for the contingencies in which the members of the force are to be transferred from one place to the other. Rule-90 of the RPF Rules, 1987 further provides that members of the force can be transferred from one place to the other in India in the exigency of service based on administrative views. Similarly, Rule-92 thereof speaks of the periodical transfer. Rule-92.2 thereof provides that transfers of the enrolled members of the Force may be ordered by the Principal Chief Security Commissioner concerned and other officers specified in Schedule-II. As such, the Principal Chief Security Commissioner is the competent authority to transfer the Petitioner.

4. Rule-93 of the RPF Rules, 1987 lays down the general principle for effecting periodical transfer. Such rule provides that no member of the force shall be transferred from one station to the other unless he has been at that station for the normal prescribed period nor he shall be allowed to remain at that station more than

one year thereafter without the specific approval of the competent authority. Further, in view of Rule 93.1 of the RPF Rules, 1987, the tenure of RPF/RPSF personnel has been fixed vide Standing Order No.102 dated 29.03.2010. As per the said Standing Order, the tenure of a Head Constable in a particular station is 5 years. Moreover, as per the said Standing Order, all members of the force shall be transferred on completion of their prescribed tenure. Standing Order No.110 was issued constituting establishment board to recommend transfer of RPF personnel keeping in view the requirement to maintain fairness and transparency in the transfer. At that point of time, the Ministry of Railway, Government of India, issued a directive for transfer of members of the RPF on 10.3.2023, which is otherwise known as Directive No.58. The said Directive No.58 was framed and circulated by the D.G., RPF in exercise of his power under Rule-28 of the RPF Rules, 1987. Further, the said Directive No.58 has been issued in supersession of all earlier orders and the said directive contains a set of guidelines to streamline the transfer of the members of the force keeping in view the requirement of Rules 92 and 93 of the RPF Rules, 1987. Needless to say, the aforesaid directive defines the word 'transfer' which means and includes posting of a member of a force from one unit to the other. Mere change of working unit in the same office or at the same place/station shall not be construed as transfer. So far as the tenure of a member of the force is concerned, at a particular place of posting, the aforesaid Directive No.58 provides that the same shall mean as has been provided under Rule-93.1. Thus, every member of the force shall be transferred after completion of the prescribed tenure, unless

given an extension by the competent authority in writing.

5. The writ petition further reveals that the transfer of the enrolled members of the force shall be given effect to through an ICT application which has been designed, developed and implemented for the aforesaid purpose. Moreover, there shall be no manual transfer except with the prior approval of D.G., RPF. Under the new Directive No. 58, the RPF personnel shall be asked to submit their option in the event they have completed their tenure at the present place of posting within a time schedule which shall be considered by the authorities. However, such exercise of option shall not confer any right on such personnel to be transferred to a place of his choice. The new place of posting shall be assigned objectively and basing on the administrative requirements, vacancy position, previous postings and the length of service etc. under the guidelines. Such guidelines also lay down the manner in which preference is to be given to eligible staff while transferring their service. As such, the said Directive No.58 is statutory in nature and more so, the same is binding on the parties. Therefore, any transfer is to be made in consonance with the Rules-92 & 93 of the RPF Rules, 1987 read with the Directive no.58.

6. On scrutiny of the guidelines, it appears that under Clause-C of the guideline, a procedure has been prescribed for giving effect to periodical transfers. In sub-clause (xix), it has been specifically provided that all annual periodical transfers shall be processed in the month of January of every calendar year and completed on or before 15th March or before the end of the local Academic session, whichever is earlier. Such a provision has been included

in the guideline keeping in view the inconvenience likely to be caused to the officers and staff of R.P.F. in course of transfer and to provide them sufficient time to their resettlement with their family along with admission of their wards at the new place of posting. While interpreting a provision, which is statutory in nature, an attempt should always be made by the Court to give meaning to each and every word expressed in the rules/guidelines. Not a single letter/word used in the Rules/guidelines would be construed as a dead letter in the Rule Book.

7. Learned Single Judge, while considering the case of the respondent, has taken note of the various provisions of the guidelines vis-à-vis the Rules applicable to the present case and came to a finding that Railway Protection force, being a disciplined force and the same having been construed to be an armed force in view of Section-3 of the Act, the Railway Protection Force is a disciplined force and accordingly, the officers as well as the personnel are required to show a certain degree of discipline in their conduct both on field as well as in administrative matters.

8. In view of such position, learned Single Judge taking into consideration the above analogy has allowed the writ petition and directed that it would be open to the appellants to apply the guidelines as well as the provisions of the rules, i.e., under Rules-90 to 93 of the RPF Rules, 1987 in the next year in the manner, as has been prescribed in the guideline and within the time stipulation fixed in Directive No.58 under Annexure-1 to the writ petition and also clarified that learned Single Judge has not considered the individual ground taken by the respondent while

assailing the impugned transfer order. Rather, the learned Single Judge has considered the validity of the transfer order in the light of the guideline under Annexure-1 to the writ petition.

9. In the above view of the matter, this Court does not find any error in the judgment dated 29.08.2023 passed by the learned Single Judge in W.P.(C) No.22177 of 2023 so as to cause interference of this Court at this stage.

10. Accordingly, the writ appeal merits no consideration and the same is dismissed.

(DR. B.R. SARANGI)
ACTING CHIEF JUSTICE

(M.S. RAMAN)
JUDGE



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Signature Not Verified

Digitally Signed
Signed by: ALOK RANJAN SETHY
Designation: Secretary
Reason: Authentication
Location: Orissa High Court
Date: 07-Nov-2023 11:29:37

