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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2125 OF 2023

Union of India and Ors. Petitioners

Vs.

Deepak Kumar and Ors. Respondents

Ms.Smita Thakur i/b Mr.Suresh Kumar for the Petitioner (Union of India)

Mr.Rahul Walia for Respondent nos.1 to 5

**CORAM: S.V.GANGAPURWALA, ACJ &
SANDEEP V. MARNE, J.**

DATED : MARCH 27, 2023

P.C.

1. The Petitioners assail the order passed by the Tribunal. The present Respondents had opposed the Tribunal challenging the order dated 30.09.2022. The Petitioners sought inter zonal transfer. The Tribunal under the impugned order directed to release the present Respondents / original Applicants for their transfer/posting on request transfer basis to Danapur Division within a period of two weeks.

2. We have heard the learned counsel for the Petitioners and the learned counsel for the Respondents.

3. The Petitioners expressed difficulty in accommodating the Respondents at Danapur Division on the ground that no vacancy exists. On the last date, letter dated 21.02.2023 was placed of Danapur Division to suggest that the sanctioned strength of SM cadre is 650 in Danapur Division and at present, no any vacancy exist in the said cadre. The panel of 26 ST candidates received laterly from RRB/Patna & MFP is also pending in their office. It was stated in the letter that it is not feasible to revalidate NOC for accommodating all the Applicants in the division in SM cadre.

4. We certainly cannot direct the present Respondents to be transferred at a place where no vacancy exists as on the date. However, the stand of Petitioners also is not correct to state that the Applications of the Respondents were of the year 2014 and as such, they were not sanctioned though request letter was received from Danapur Division on 07.12.2021. There was no impediment to consider the Application of the present Respondents at the said time.

5. Be that as it may, as there are no vacancies available at present, it would be inappropriate to transfer the present Petitioners to accommodate in Danapur Division.

6. However, we observe and direct that whenever the vacancy would arise in Danapur Division for the post of Petitioners, the case of the Petitioners shall be considered for transferring them to Danapur Division on priority basis.

7. Order of the Tribunal shall stand modified accordingly.

8. With these observations, Writ Petition is disposed of. No costs.

(SANDEEP V. MARNE, J)

(ACTING CHIEF JUSTICE)