



W.A.Nos.2192 to 2195 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : **04.07.2023**
Pronounced on : **20.12.2023**

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.Nos.2192 to 2195 of 2018
in W.P.Nos.27828 to 27831 of 2010
and C.M.P.Nos.17044 to 17049 of 2018,
C.M.P.Nos.17051 and 17052 of 2018 and
C.M.P.Nos.5502, 5507, 5511 and 5516 of 2019

1. The Union of India
Rep. by its Secretary,
Ministry of Railways,
(Railway Board),
Rail Bhawan, New Delhi.

2. The Director General
Railway Protection Force,
Railway Board, New Delhi.

3. The Chief Security Commissioner
Railway Protection Force,
Southern Railway,
Park Town, Chennai - 600 003.

... Appellants /
Respondents
in all the Writ Appeals

Vs.

1. M.Velayutham



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2. M.Pakirisamy
3. M.P.Kuppuswamy
4. A.K.Sukumar
5. K.Murugan
6. A.K.Srinivasan

... Respondents / Petitioners
in W.P.No.27828 of 2010

1. T.Ganesan
2. T.Dharmaraj
3. G.Saravanan
4. B.A.Balu
5. V.P.Paneer Selvam
6. A.Sekaran
7. C.Gandhi
8. S.Arone
9. N.Gabrial
10. L.Venkatesalu

... Respondents / Petitioners
in W.P.No.27829 of 2010

1. L.Natarajan
2. M.Devendiran
3. T.Hari Krishnan

... Respondents / Petitioners
in W.P.No.27830 of 2010

1. R.Dinakaran
2. C.Anbazhagan

... Respondents / Petitioners
in W.P.No.27831 of 2010

Prayer : Writ Appeal filed under Clause 15 of the Letters Patent Act, to set aside the common order, dated 14.02.2018 passed in W.P.Nos.27278 to 27231 of 2010.

For Appellants : Mr.V.Radhakrishnan, Senior Counsel
for Mr.M.Vijay Anand
in all the Writ Appeals

For Respondents : Mr.N.R.R.Arun Natarajan
in all the Writ Appeals



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COMMON JUDGMENT

WEB CO **R.SURESH KUMAR, J**

Since this Intra Court Appeals are directed against the common order passed by the learned Judge in the connected writ petitions on 14.02.2018, all these writ appeals were heard together and are disposed of by this common order.

2. The contesting respondents in these appeals (herein after called as “employees”) were enlisted / appointed as Constables in the Railway Protection Special Force (in short “the RPSF”) in the year 1988. Some of the employees were posted at the V Battalion of the said RPSF in Trichy and some of them were posted at the VII Battalion of RPSF in Hyderabad.

3. The service conditions of these employees are governed by the Rules called The Railway Protection Force Rules, 1987 (in short we call it as “the Rules”).



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4. After rendering service as constables from their initial appointment, i.e., from 1988, these employees were given promotion as Head Constable in the year 2001, of course, on adhoc basis. Subsequently, in the year 2004, they have been given regular promotion as Head Constables, resultantly since 2001 at least these employees had been working as Head Constable in the respective Battalion of the RPSF.

5. Section 15 of the Railway Protection Force Act, 1957 (in short “the Act”) generally enables the Railway Authorities to post the members of the force including the constables like employees at any place within India.

6. Rule 90 makes it that, transfer of members of the force may be ordered from one place to another place in India in the exigencies of service or for administrative reasons.

7. Rule 92.2 enables for periodic transfers of enrolled members of the force within the zone. Rule 99 speaks about determination of seniority of



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inter-zonal transfer, wherein rule 99.2 discuss about transfer on own request or on mutual exchange. This is the relevant rule for the resolvment of the issue raised in this batch of cases, therefore for better appreciation or easy reference, the relevant rule namely rule 99.2 of the Rule is extracted hereunder :

"99.2 Transfer on own request or on mutual exchange : - Seniority of an enrolled member (except Sub-Inspectors or Inspectors) of the force transferred on his own request or on mutual exchange from one zonal railway to another shall be fixed below that of all existing confirmed and officiating enrolled member of the Force in the relevant rank of that railway irrespective of the date of confirmation or length of officiating service of the transferred member of the Force."

8. The rule 28 of the Rules empowers the Director General of RPF to issue such directions in the form of directives relating to enforcement and furtherance of the provisions of the Act and the Rules from time to time. In exercise of such power, standing order 70 was issued in proceedings dated 29.07.2004 of the Director General of RPF. The said instructions given in



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this order will be supplementing the provisions contained in the Rules.

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9. As per the standing order 70, in clause 17, the eligibility of RPF personnel seeking inter-zonal transfer are dealt with. Under 17(A) of standing order 70, the RPF personnel would be eligible for inter-zonal transfer after completion of 10 years of service in a particular zone. However, RPSF personnel, i.e., Railway Protection Special Force personnel are concerned, they shall be eligible for transfer to RPF after completion of 20 years in RPSF. 17(A)(a) states that, the total length of service in the RPSF or the zone will be the criteria for considering the applications of personnel for inter-zonal transfer including transfer from RPSF to RPF. Clause (b) makes it clear that, once an individual is transferred from the RPSF to the zonal railway of his choice, he will not be allowed to seek further inter-zonal transfer. Similarly, once an individual is transferred from one zone to another, he will not be allowed to seek further inter-zonal transfer. 17(B)(b) of standing order 70 makes it clear that, such a transferred person should be ready to go on bottom seniority in the same rank.



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10. With the aforesaid legal background, since these employees had been working in the RPSF in the respective battalion since 1988, in the year 2008 as they have completed 20 years of service in the RPSF, they become eligible to seek for inter-zonal transfer or transfer from RPSF to RPF. Accordingly, these employees sought for transfer from the respective battalions of RPSF to the RPF south zone.

11. The said request made by these employees totally 54 members including these respondent employees was considered by the second appellant who is the competent authority to consider such transfer and was recommended to the first respondent, who on the basis of approval given by the second respondent for the transfer of 473 such Head Constables for transferring them to various zonal railways on bottom seniority in the same rank had passed orders allowing such inter-zonal transfer.

12. Insofar as these respondents employees are concerned, since they have been transferred as such from the respective battalion of RPSF to the southern zone, i.e., Southern Railway as Head Constables on the bottom



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seniority, the third appellant wrote a letter on 29.04.2008, informed the second appellant, i.e., Director General of RPF stating that, the constables appointed in the year 1984 in the southern railway, i.e., south zone are yet to be promoted to the rank of Head Constable, therefore the 54 Head Constables of RPSF from the two battalion, if they come and join in the Southern Railway RPF who are enlisted or appointed originally in the year 1988, the promotional chance of the 1984 constables at southern zone or Southern Railway at RPF would get affected.

13. Based on this stand taken by the third appellant, the first appellant by his proceedings, dated 23.05.2008 had issued a clarification that the Head Constables and ASIs who have been transferred from RPSF to RPF may be absorbed in the bottom seniority of their batchmates of feeder category in the concerned zonal Railway.

14. Only after this clarification, the third appellant, i.e., the Chief Security Commissioner, RPF, Southern Railway issued posting orders posting 54 Head Constables who come on inter-zonal transfer on request to



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RPF, Southern Railway as Constables.

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15. It is to be noted that, at the time of joining or before posting orders are issued by the third appellant, each of these employees, i.e., the respondent employees and others who came to the south zone RPF was directed to give a letter that, they knew that they will be posted only as constable, that too on the bottom seniority of the constable in the south zone RPF.

16. With that condition, they joined as constable in the south zone RPF and had been working for two years. In 2008, they started agitating the issue and ultimately, they come to the Court by filing writ petitions in W.P.Nos.27828 to 27831 of 2010 praying for issuance of Certiorarified Mandamus, to quash the order of transfer, dated 30.05.2008 placing these employees in the bottom seniority of constables in Southern Railway, RPF and consequently seek direction to the appellants herein who were the respondents in the writ petitions to place these employees in the bottom seniority of Head Constables in the Southern Railway, RPF.



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17. These writ petitions were decided only in the year 2018 by a common order passed by the writ court, dated 14.02.2018, where the learned Judge who heard the matter by giving his reasons exhaustively was pleased to allow these writ petitions in favour of the employees. Therefore aggrieved over the said order passed by the writ court, dated 14.02.2018 in those writ petitions, this batch of writ appeals have been directed at the instance of the appellants herein.

18. Heard Mr.V.Radhakrishnan, learned Senior Counsel appearing for the appellants Railways who would submit that, insofar as the right of inter-zonal transfer vest with the employees are concerned, if at all such transfer is to be effected, such inter-zonal transfers can be given only in the entry level post not in the promoted level post, which means, such inter-zonal transfer can be given only in the constable post not in the Head Constable post.

19. He further submits that, the employees respondents admittedly



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were appointed only in the year 1988, i.e., 1988 batch. If they come in bulk numbers, i.e., 50 plus such Head Constables come and join in the Southern Railway, RPF, i.e., southern zone or south zone, the Constables who were appointed in the year 1984, i.e., 1984 batch, as some of them still are waiting to get promotion to the post of Head Constable would get affected. When such being the position if the vacancies of Head Constables available in the south zone RPF are filled up by these transferred employees from RPSF, then the promotional avenues for those who came to the force prior to these peoples, i.e., in the year 1984 would get affected in their promotional prospects. Therefore it was brought to the notice of the second and first appellant by the third appellant.

20. The third appellant writes such a letter to the first appellant through the second appellant on 29.04.2008, which reads thus :

"Kind attention is invited to Railway Board's letter cited wherein DG's approval was communicated for transfer of 54 Head constables / RPSF to Southern Railway on bottom seniority in the same rank of their batch mates promoted under Rule 70.



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The Head Constables / RPSF posted to Southern Railway were appointed as constables in the year 1988/1993 except Shri.A.Md.Hasibuddin vide Sl.No.53 of Board's letter cited (D.O.A.15.07.84). However, the constables of this Railway who were appointed in the year 1984 are yet to be promoted to the rank of Head Constable under Rule 70. It is, therefore, felt that accepting these Head Constables / RPSF in the same rank at this stage would severely affect the promotional prospects of many Senior Constables besides inviting large number of representations regarding seniority etc.

Considering the above facts, it is requested to kindly review the above order and transfer the Head Constables / RPSF to this railway only as constables if they are willing on the usual terms and conditions governing such Inter Railway Transfers.

For kind orders."

21. Considering this letter issued by the third appellant, the first appellant has passed an order on 23.05.2008 with the following effect :

"With reference to the above, it is to advise that



HCs and ASIs who have been transferred from RPSF to RPF may be absorbed in the Bottom seniority of their batchmates of feeder categories in the concerned zonal Railway."

22. Therefore by virtue of these orders, especially the order, dated 23.05.2008, these respondents employees were directed to be absorbed in the bottom seniority of their batchmates of feeder category in the concerned zonal railway.

23. Citing these communications, the learned Senior counsel appearing for the appellants would submit that, in order to avoid heart burn in the force at various zones including the southern zone, where seniors were waiting for getting promotions, when that being so, if juniors are fit in in the promoted post, by virtue of that, if the promotional avenues of the seniors are getting affected, that will create heart burn in the members of the force. Therefore, in order to streamline the administration, such a decision had been taken by the first appellant, that is also in consonance with the relevant rules and instruction issued in this regard, therefore such a decision taken by



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the appellants to fix these employees in the bottom seniority of their batchmates of feeder category in the concerned zonal railway is in tune with the legal position as well as the factual matrix, therefore such a decision taken by the appellant cannot be questioned.

24. The learned Senior counsel would further submit that, however the learned Judge who heard the writ petitions, on the assumption that transfer on request was approved only after transferor and transferring authorities had given consent before the order of inter-zonal transfer by the Director General was pleased to allow the writ petitions.

25. According to the learned Senior counsel, this finding given by the learned Judge is factually incorrect and he has further stated that, as a matter of fact, before approval of inter-zonal transfer order passed on 23.04.2008, the mandatory procedure contained in the standing order 70 was not followed. That is the reason why it was necessiated for third appellant, RPF, Southern Railway to seek clarification in his letter, dated 29.04.2008 to the Director General of RPF, i.e., the second appellant.



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WEB COPY 26. The learned Senior counsel appearing for the appellants would also submit that, insofar as rule 99(2) of the Rules, which is mainly relied upon by the learned Judge in the impugned order, it has been interpreted by a Division Bench of the Delhi High Court in the matter of **B.L.Bishnoi v. Union of India and another** passed in W.P.(C).No.4476 of 2007 reported in **(2016) SCC Online Del 911**. The learned Senior counsel has relied upon the following passages in the said Judgment in support of his contention.

"9. It is further submitted by the petitioner that in terms of Rule 99.2 of the RPF Rules, even when the transfers are to be made inter-Railways, the persons who are bought on transfers in the Direct Recruitment posts, have to join at the bottom seniority and cannot claim seniority over and above the personnel who are working in the borrowing railway. Rule 99.2 of the RPF Rules, reads as follows:

"99.2 Transfer on own request or on mutual exchange : Seniority of an enrolled member of the Force transferred on his own request or on mutual exchange from one zonal



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railway to another or to the Railway Protection Special Force and vice versa shall be fixed below that of all existing confirmed and officiating enrolled member of the Force in the relevant rank of that railway or Railway Protection Special Force irrespective of the date of confirmation or length of officiating service of the transferred member of the Force.

10. The petitioners further state that in terms of Paragraph 312 of the Indian Railway Establishment Manual Volume I (hereafter “IREM”), the seniority of a railway servant transferred at their own request from one railway to another should be allotted below that of the existing, confirmed, temporary and officiating railway servant in the ‘*relevant grade*’ in the promotion group. Note (ii) states that the expression ‘*relevant grade*’ applies to grade where there is an element of direct recruitment. The above mentioned paragraph reads-

“312 TRANSFER ON REQUEST

The seniority of railway servants transferred at their own request from one



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railway to another should be allotted below that of the existing confirmed, temporary and officiating railway servants in the relevant grade in the promotion group in the new establishment irrespective of the date of confirmation or length of officiating or temporary service of the transferred railway servants.

Note : (i) This applies also to cases of transfer on request from one cadre/division to another cadre/division on the same railway.

[Rly. Bd. No. E(NG) 1-85 SR. 6/14 of 21-1-1986].

(ii) The expression “relevant grade” applies to grade where there is an element of direct recruitment. Transfers on request from Railway employees working in such grades may be accepted provided they fulfil the educational qualifications laid down for direct recruitment to the post. No such transfers should be allowed in the intermediates grades in which all the posts



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are filled entirely by promotion of staff from the lower grade(s) and there is no element of direct recruitment.

(Railway Board's letter NO. E(NG)I/99/TR/15 dated 08.02.2000)''

27. Therefore the word “relevant rank” occurred in rule 99.2 of the Rules since has been interpreted to state that, the relevant grade applies to grade where there is an element of direct recruitment, since the direct recruitment takes place only in the post of Constable not in the post of Head Constable, the word relevant grade denotes only constable, hence the bottom seniority to be fixed only in the constable post at the time of transfer, i.e., inter-zonal transfer on voluntary basis within the meaning of rule 99.2 of the Rules.

28. Therefore the action taken by the appellants in placing these employees on the bottom seniority of the same batchmate of the feeder category of these employees is strictly in consonance with rule 99(2). Hence, the view taken by the learned Judge in interfering with such transfer and



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posting orders given by the appellants cannot be sustained. Therefore the learned Senior counsel would seek indulgence of this Court to interfere with the order passed by the learned Judge, which is impugned herein and to allow these appeals.

29. Per contra, Mr.N.R.R.Arun Natarajan, learned counsel appearing for the respondents employees has submitted that, the learned Judge has considered the rule 99(2) of the Rules and the word “relevant rank” mentioned under the Rule, which is nothing but the rank where the employees already been working in the transferors place, that means, if they had been working as Head Constables, that is the rank where they have been working from where if they seek for transfer to any other zone as inter-zonal transfer or transfer from RPSF to RPF only in the very same rank they should be posted, of course on bottom seniority of that rank. This position has been misconceived by the appellants and even though earlier the request of these employees having been considered such an inter-zonal transfer was approved by the second and first appellant and orders were passed, subsequently on the instructions given by the third appellant by citing the



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reasons that, 1984 batch of constables in the south zone are still waiting to get promotion as Head Constable, a decision has been taken to change their views by giving a condition that, such a transfer if it is made from RPSF to RPF, they may be absorbed in the bottom seniority of their batchmates of feeder category in the concerned zonal Railway.

30. The learned counsel would contend that, this decision subsequently taken and implemented by the appellants Department is, strictly speaking, against the very spirit of the language used in rule 99(2) of the Rules.

31. The learned counsel would contend that, if the transfer has to be made as per the rule in the particular manner, that should be made only in that manner not otherwise. Therefore in accordance with rule 99(2) alone the transfer should have been made, contrary to the rule, if any orders are passed by making the inter-zonal transfer, that will go against the Rule. Therefore that is bad in law, which was the view taken by the learned Judge in the order impugned, of course correctly, he contended.



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32. The learned counsel would also submit that, these employees had been given promotion as Constables in the year 2001 at the respective Battalions in the RPSF, from 2001 to 2008, they have been working as Head Constables. When that being so, the present action taken by the appellants by placing them as Constables during the inter-zonal transfer by fixing the bottom seniority against rule 99(2), by thus, there has been an order of reversion impliedly passed by the appellant Department which is impermissible. Therefore on that ground itself, the orders impugned before the writ court should be interfered with, which in fact has been interfered with correctly by the learned Judge, hence, such an approach and the conclusion reached by the learned Judge through the impugned Judgment does not warrant any interference from this Court, he contended.

33. We have considered the aforestated submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.



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34. The admitted facts are that, these employees respondents were appointed as Constables in the Railway Protection Special Force in the year 1988. Those who have been posted as RPSF, whether would be entitled to get inter-zonal transfer to RPF or among various zones in the RPSF is concerned, such a inter-zonal transfer is possible which has been backed by relevant rule of the 1987 Rules as well as standing order 70 issued in this regard by the Railway Board, Government of India.

35. The Standing Order 70 has made clear that, transfer of the members of the force are ordered from one place to another in India in the exigencies of service or for administrative reasons or to avoid local entanglements of such members or for such any other consideration.

36. Insofar as the inter-zonal transfer is concerned, clause 17(A) and Clause 17(B) speaks about such inter-zonal transfer. The said two clause of Standing Order No.70, dated 29.07.2004 is extracted hereunder for ready



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reference :

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"17.A. All RPF personnel shall be eligible for inter-zonal transfer after completion of 10 years of service in a particular zone. However, RPSF personnel shall be eligible for transfer to RPF after completion of 20 years in RPSF. The following guidelines shall be followed in cases of inter-zonal transfers.

a) The total length of service in the RPSF or the zone will be the criteria for considering the applications of personnel for inter-zonal transfers (including transfers from RPSF to RPF).

b) Once an individual is transferred from the RPSF to Zonal Railway of his choice, he will not be allowed to seek further inter-zonal transfer. Similarly, once an individual is transferred from one Zone to another, he will not be allowed to seek further inter-zonal transfer.

c) Inter-zonal transfers (including transfers from RPSF to RPF) will be effected keeping in view the vacancy position of RPSF / Zonal Railways.

B. Only in very exceptional cases and in cases of extreme compassion, inter-zonal transfers will be



considered before the employee completes the above stipulated tenure. The following guidelines shall be followed in dealing with such request.

- a) RPF / RPSF personnel wanting transfer must have completed probation in the rank.
- b) He should be ready to go on bottom seniority in the same rank.
- c) Transfers should be made only to direct recruitment grades."

37. Therefore if at all an employee or a member of the force in RPSF seeks for such inter-zonal transfer, he should have completed 20 years service in RPSF. The total length of service in the RPSF or the zone will be the criteria for considering the application of personnel for inter-zonal transfer. It is further to be noted that, once an individual is transferred from the RPSF to zonal Railway of his choice, he will not be allowed to seek further inter-zonal transfer. The transferee should be ready to go on bottom seniority in the same rank. These are all the conditions that has been imposed in standing order No.70, dated 27.09.2004 issued by the first appellant. If we look at the standing order by placing it in juxtaposition with



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the 1987 rules, the relevant rule is 99.2 which has already been extracted herein above, where the words mentioned are that, the seniority shall be fixed below that of all existing confirmed and officiating enrolled member of the force in the relevant rank of that Railway.

38. Therefore in rule 99.2, the words "relevant rank" will have the same meaning in clause 17(B)(b) of standing order No.70 with the words "in the same rank". The word "relevant rank" and the word "same rank" denotes only the rank wherein the transferee employee has been working in the place from where he is being transferred by way of inter-zonal transfer, of course on his own request after completion of 10 years and 20 years of service as the case may be.

39. Here in the case in hand, all these respondents employees had been working in the RPSF in the concerned Battalion of the RPSF since their enlistment, i.e., from 1988 onwards, therefore they completed 20 years of service in the very same RPSF Battalion. Therefore they would be entitled or eligible to seek for such inter-zonal transfer as per the standing order No.70.



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Such a request made by them having been considered inter- zonal transfers have been allowed by the appellant.

40. Subsequently, while giving posting orders on the basis of the revised order passed by the first appellant, of course triggered by the request made by the third appellant citing the reason that, some of the constables of the 1984 batch in south zone were yet to get promotion as Head Constables, these employees respondents were asked to give letters individually to give up their claim in the Head Constable post as well as their seniority.

41. In this context, affidavit averments have been made by these employees in the writ affidavit that, after transfer order the movement order also had been issued by the Battalion Chief and when they reported duty at Chennai to join in RPF, south zone, at that time only, it was demanded that they would be posted as constable, that too only in the bottom seniority, if they do not accept such postings, they would not be accepted in the south zone. Therefore, according to these employees, there was a demand on behalf of the appellants, especially the third appellant office, to give such individual letter of giving up their seniority and claim over the relevant rank or same rank, i.e., Head Constable post, where they had already been



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working in the RPSF and accordingly, these employees had no other option had given such letters individually.

42. In this context, they also averred in their affidavit that, from the date of their initial appointment in the year 1988, these employees had been working in the RPSF, i.e., away from their family for several years, therefore they wanted to join with their family. That is the reason why they sought for such inter-zonal transfer that too after having rendered 20 years of service which alone gives them eligibility to seek such inter-zonal transfer and therefore after having awaited for 20 years to join their family at that juncture, if such a demand had come from the third appellant office to give an individual letter of consent to give up the seniority as well as the ranking, these employees had no other option had given those letters they claimed. There is every justification on the part of these employees as at that juncture definitely they would not have any other option except to give such letters.

43. However, merely because such letters had been given by these employees whether the right accrued on them is vanished is a question.



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44. The Law is well settled in this regard that, the theory of acquiescence cannot be invoked against the statutory right. Here the statute confers under rule 99.2 that, in case of inter-zonal transfer, seniority shall be fixed in the relevant rank of that Railway.

45. The relevant rank of that Railway means the southern railway, for which these people sought for inter-zonal transfer, where if at all seniority to be fixed, these employees should be fit in as the junior must, i.e., bottom seniority of Head Constable of the south zone Railway. This has been reiterated in the standing order No.70 also, where clause 17(B)(b) makes it very clear that, such an employee seeks for inter-zonal transfer should be ready to go on bottom seniority in the same rank.

46. Though subsequently they have taken a decision that, no inter-zonal transfer would be given in the intermediary post and such transfer would be permitted only in the entry level post like constable, such a decision taken subsequently would not affect the right accrued on these



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employees, of course through Statute.

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47. Even though a Division Bench Judgment of the Delhi High Court in B.L.Bishnoi's case (cited supra) has been relied upon by the learned Senior counsel appearing for the appellants, having gone through the same, we are of the view that, the word "relevant rank" has been made it as "relevant grade".

48. The word relevant rank denotes only the rank where the transferred employees respondents were originally working before transfer. This has been reiterated in Clause 17(B)(b) of standing order No.70 with the words "in the same rank". Therefore the word "relevant rank" and the word "same rank" mentioned in rule 99.2 and clause 17(B)(b) of the standing order No.70 has made it abundantly clear that, the seniority shall be fixed, on such inter-zonal transfer, only at the relevant rank and not below the relevant rank or the same rank.

49. Therefore whatever the view that has been expressed by the Division Bench of the Delhi High Court in B.L.Bishnoi's case, since it goes



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contra to the statute, we are not persuaded by the said views expressed by the learned Judges in the said Judgment. Therefore the said decision of the Delhi High Court would not in any way improve the case of the appellants.

50. Moreover, the learned Judge in the impugned order, has dealt with number of decisions cited on behalf of the appellants / respondents before the writ court such as (i) Union of India and others v. Deo Narain and others reported in CDJ SC 2008, (ii) Union of India through the Secretary Finance, Ministry of Finance, North Block, New Delhi and others v. Ranjeet Kumar and others reported in CDJ 2016 Bihar HC 008 and (iii) Naresh Kumar Gupta v. Union of India reported in CDJ 1999 All HC 1448.

51. Having considered all these Judgments, the learned Judge had expressed his view that, those Judgments cannot be applied to the factual matrix of the present case. We are in agreement with the said view expressed by the learned Judge.

52. Even though some more Judgments have been cited by the learned



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Senior counsel appearing for the appellants, having gone through the same, we find that those judgments cannot be applied to the facts of the present case in view of the clear rule position. Therefore those cases also would not advance the cause of the appellants.

53. Moreover, as has been rightly pointed out by the learned counsel appearing for the respondents employees that, these employees had earned promotion as Head Constable in the year 2001, of course on adhoc basis, subsequently on regular basis and since 2001 till 2008, when the transfer was effected, they had been working as Head Constables in the concerned Battalion of the RPSF and as they have completed 20 full years of service in the RPSF Battalions, they become eligible to seek for inter-zonal transfer which they sought for. Those request having been considered was allowed by the appellants including the first appellant. However, on receipt of such orders of inter-zonal transfer, the third appellant had raised objection stating that, some of the 1984 batch of constables in the south zone still are awaiting to get their promotion, therefore their promotional avenues would get affected, if these 50 plus employees are posted by way of inter-zonal



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transfer from RPSF to RPF, Southern Railway. Therefore if at all to be transferred they should be transferred and fit in in the bottom seniority of the entry level, i.e., feeder category namely constable post, a revised order subsequently has been passed by the first appellant, based on which, these people were posted at the bottom seniority of the constable level.

54. In this context, it is to be noted that, these employees had been working as Head Constable for seven years on regular basis also. Thereafter if at all they seek for inter-zonal transfer, they have to loose the seniority in such post of Head Constable. This has been clearly demonstrated in the relevant rule namely rule 99.2 of the 1987 Rules as well as the clause 17(B)(b) of the standing order No.70.

55. However, making them to loose the one ranking itself and push them back into the entry level, i.e., constable by thus, they will be pushed back 20 years.

56. By virtue of this action, these employees though had entered into



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service as constable in the force in the year 1988, after 20 years again will be pushed back in the same category. If at all these employees are posted in the bottom seniority of constable even they will go behind the 1984 constables of south zone, thereby they will be pushed back to 24 years.

57. If that position continues, these employees would never see the light of getting promotion even to the post of Head Constable for the entire service or before superannuation. That kind of situation can never be imagined in service jurisprudence and also the rules does not permit for such a drastic action of reversion and pushing back these employees to 24 years, as that would be a great punishment for them.

58. By virtue of these orders which were impugned before the writ court, such a grave punishment has been imposed on these employees. Therefore on that ground also, those orders were liable to be interfered with. Accordingly it was interfered with, of course rightly by the learned Judge through the impugned order.



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WEB COPY 59. Therefore for all these reasons and the discussions herein above made, we have no hesitation to hold that, the view taken by the learned Judge in the order impugned is not erroneous or flawed one, therefore it should be sustained.

60. Resultantly, all these writ appeals are to be rejected as they fails. Accordingly, these writ appeals are dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petitions are closed.

(R.S.K., J.) (M.S.Q., J.)
20.12.2023

Index : Yes

Speaking Order : Yes

Neutral Citation : Yes

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tsvn

**Common Judgment in
W.A.Nos.2192 to 2195
of 2018**

20.12.2023