

Form No. J(2)
Item No.4.
Court No.26

**IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

**The Hon'ble Justice Debangsu Basak
And
The Hon'ble Justice Md. Shabbar Rashidi**

**F.M.A.1044 of 2023
IA NO: CAN/1/2020(Old No:CAN/733/2020)**

**Union of India & ors.
vs.
Rajeev Ranjan**

For the Appellant : Mr. Partha Ghosh, Advocate

For the
Respondent : Mr. Achin Kumar Majumder,
Advocate
Ms. Ananya Adhikary, Advocate

Hearing on : 12.06.2024

Judgment on : 12.06.2024

DEBANGSU BASAK, J.:-

1. The appeal is directed against the order dated November 22, 2019, passed in WP No.20518 (W) of 2019.

2. By the impugned order, the learned Single Judge set aside the order of transfer on the ground that, such order of transfer did not

comply with the requisites of Rule 91.2 of the Railway Protection Force Rules, 1987.

3 Learned advocate appearing for the appellant submits that, Rule 91.2 of the Rules 1987 essentially requires the Director General of the Railway Protection Force to concur to an order of transfer. He refers to the order of transfer and submits that, such order of transfer refers to the Director General of Railway Protection Force decision to transfer the writ petitioner. Consequently, he submits that, there was substantial compliance with Rule 91.2 of the Rules of 1987 in transferring the writ petitioner/respondent.

4. Referring to Rule 28 of the Rules of 1987, he submits that, the Director General of Railway Protection Force is empowered to issue directives from time to time.

5. The order of transfer should be construed to the correct exercise of power of the Director General keeping in view the provisions of Rule 28 of the Rules of 1987.

6. The writ petitioner/respondent is represented.

7. The writ petitioner/respondent is an Inspector of the Railway Protection Force (RPF). He was initially posted at Bhilai and transferred to Kanchrapara.

8. The transfer order is dated June 27, 2019 and was issued by Assistant Security Commissioner. This order of transfer was challenged

by the writ petitioner on the ground *inter alia*, being issued by an authority without jurisdiction.

9. Relevant provision of transfers as enumerated in the Rules of 1987 are as follows:

“90. General:

Transfer of members of the Force may be ordered from one place to any other place in India in the exigencies of service or for administrative reasons or to avoid local entanglements of such members or for any other consideration.

91. Inter-zonal transfer:

91.1 Superior officers of the Force:

The Director-General on the recommendations of the Chief Security Commissioner concerned or otherwise may transfer any superior officer from one zonal railway to another zonal railway or from Railway Protection Special Force to a zonal railway or vice versa in the interest of administration of the Force.

91.2. Enrolled members of the Force:

All inter-zonal railway transfers of the enrolled members of the Force shall be ordered by the Chief Security Commissioner concerned after obtaining the concurrence of the Director-General.”

10. Rule 90 permits transfer of members of the force from one place to another in the exigencies of service or for administrative reasons or to avoid local entanglements or for any other consideration.

11. Rule 91 deals with inter-zonal transfer.

12. Rule 91.1 prescribes transfer for any superior officer in the force. It empowers Director General on the recommendation of the Chief Security Commissioner concerned or otherwise to transfer any superior officer from one zonal railway to another zonal railway or from Railway Protection Force to a zonal railway or vice versa in the interest of administration of the Force.

13. Rule 91.2 deals with enrolled members of the Force. It provides that all inter-zonal transfer of the enrolled members of the Railway Protection Force shall be ordered by the Chief Security Commissioner concerned after obtaining the concurrence of the Director General.

14. The writ petitioner falls under Rule 91.2. For a valid order of transfer under 91.2 that must be an order of transfer issued by the Chief Security Commissioner with a prior concurrence for the transfer being granted by the Director General of the force.

15. No material is placed on record to suggest that the Chief Security Commissioner concerned issued the order of transfer. The communication dated June 27, 2019 is by the Assistant Security Commissioner. Since the Rules of 1987 delineate a specific designated authority who is to issue the order of transfer, any other authority

inferior to such designated authority issuing the order of transfer would vitiate the same.

16. The writing dated June 27, 2019 which purports to be the order of transfer however, refers to the Director-General of the Railway Protection Force transferred the writ petitioner/respondent. However, since, the writing dated June 27, 2019 was not issued by the designated authority under Rule 91.2 of the Rules 1987, we find no reason to disagree with the view expressed by the learned Single Judge in holding that, the writing dated June 27, 2019 was not in compliance with the Rules 1987 particularly Rule 91.2 thereof.

17. In such circumstances, we find no merit in the present appeal.

18. FMA 1044 of 2023 along with connected application are dismissed without any order as to costs.

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

(Debangsu Basak, J.)

20. I agree.

(Md. Shabbar Rashidi, J.)