

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE VIVEK RUSIA

ON THE 22nd OF JANUARY, 2024

WRIT PETITION No. 432 of 2014

BETWEEN:-

**PREMLAL VERMA S/O NATHULAL VERMA, AGED ABOUT 56 YEARS,
OCCUPATION: SERVICE, R/O 1036/B, ROAD NO5, NEW RAILWAY
COLONY, RATLAM (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI L.R. BHATNAGAR, ADVOCATE.)

AND

- 1. CHIEF SECURITY COMMISSIONER, WESTERN RAILWAY HEAD
QUARTER OFFICE CHUCRGATE, MUMBAI (MADHYA PRADESH)**
- 2. DIVISIONAL SECURITY COMMISSIONER, WESTERN RAILWAY, NEAR
DIVISIONAL OFFICE, DO-BATTI, RATLAM (MADHYA PRADESH)**

.....RESPONDENTS

(NONE.)

*This petition coming on for orders this day, the court passed the
following:*

ORDER

The petitioner has filed the present petition challenging the order dated 17.08.1998 issued by Divisional Security Commissioner, Railway Protection Force, Ratlam whereby he has been de-categorised on medical ground to the post of Peon in the pay-scale of Rs.2550-3200 (RPS) and posted in the office. The petitioner is also challenging the letter dated 18.07.2013 passed by respondent No.1.

02. The petitioner was appointed as Constable in Railway Protection Force (for brevity "RPF") in a pay-scale of Rs.200-240. He

was promoted to the post of Head Constable in a pay-scale of Rs.3200-4900 and he was drawing pay of Rs.3540/- on 10.06.1997. On 23.12.1996 he was returning from duty and met with an accident, he was admitted in Railway Hospital where his left leg was amputated below the knee. He remained under treatment upto 27.10.1997. The petitioner has been declared unfit for duties of Constable in RPF however, the doctor declared him fit to perform the duty in light job.

03. The petitioner was directed to appear before the Screening Committee on 11.08.1998 at Mumbai. According to the petitioner, the Committee did not take his consent and recommended him fit for the post of Peon in a pay-scale of 2550-3200 (RPS). On the basis of this recommendation of Committee, the petitioner was downgraded to the post of Peon in a pay-scale of Rs.2550-3200 which is a Group-D post. According to the petitioner, he had no option but to accept the said post in order to provide bread and butter to his family. The petitioner submitted a representation on 15.04.2013 that the decision taken on 17.08.1998 is liable to be renewed because he is unable to maintain his family and education of two sons on such a low pay. The same has been rejected vide impugned order Annexure P/1 hence, present petition before this Court.

03. After notice, the respondents have filed the reply by submitting that after the said accident, he was found fit under B1 category, therefore, appointed as a Peon in a pay-scale of Rs. 2550-3200 by giving a pay protection of Rs.320/-, he was drawing salary of Rs.3,540/-. Thereafter, the petitioner was promoted to the post of Daftari vide order dated 04.04.2002 and further promoted to the post of Record Sorter on 08.05.2006. The petitioner was also granted the benefit of MSEP on completion of 20 years of service, thereafter, he was further given benefit on completion of 30 years of service w.e.f. 16.04.2013. It

is further submitted that the petitioner duly accepted the order dated 11.08.1998 without raising any objection and now after 16 years he cannot complain that the said order was passed without obtaining his consent.

04. Shri L.R. Bhatnagar, learned counsel for the petitioner submits that the respondents while considering the case of the petitioner did not follow their own Indian Railway Establishment Manual (for brevity "IREM"). Chapter 13 of IREM deals with the absorption of medically incapacitated staff in alternate employment. Paragraph No.1302 of IREM says that if such a railway servant cannot be immediately adjusted against or absorbed in any suitable alternative post, he may be kept on special supernumerary post in the grade in which the concerned employee was working on regular basis before being declared medically unfit. Effort should be made locate suitable alternate employment for him.

05. Admittedly, the petitioner was appointed as a Constable thereafter, he was promoted to the post of Head Constable. The job of the petitioner was to perform the duties in the training. After amputation of his left leg, he was medically declared unfit for the said job, therefore, in the year 1998 the respondent has appointed him to the post of Peon which is a D-category post and whereas the petitioner before the accident was working in a C-category post. The petitioner accepted the said order in the year 1998 without any protest, therefore, now, after lapse of 20 years he cannot complain that this order was passed against his wish.

06. Even on the post of Peon he was given the benefit of pay protection, past service, he was promoted twice on the post of Daftari and thereafter, on the post of Record Sorter. He was also granted the benefit of upgradation after 20 years and 30 years of service, therefore,

he cannot complain that he was discriminated or put in a lower post due to which he suffered the financial loss. Only the nature of duty was changed that too because he was declared medically unfit. The paragraph No.1303 of the IREM on which the petitioner has placed heavy reliance says that the railway servant both in Group 1 and Group 2 to perform the duties for the post they are holding from the date they are declared medically unfit for the present post. No Officer has authority to permit the railway servant concerned to perform the duties on the post beyond that day. If such railway servant cannot immediately be adjusted against or absorbed in any suitable alternative post, he may be kept on a special supernumerary post in the Grade in which he was working on regular basis.

07. Therefore, in this case, the petitioner was immediately adjusted on the post of Peon. Paragraph No.1303 nowhere says that railway servant who has been declared medically unfit is liable to be adjusted or absorbed on an equivalent post. The word which is used is “any suitable alternative post”, therefore, which can be a lower post also. Paragraph No.1308 of IREM deals with the fixation of pay and according to which the pay of the disabled medically de-categorised railway servant will be fixed on absorption in an alternative post at a stage corresponding to pay previously drawn in a post held by them on a regular basis before acquiring disability. Under paragraph No.1309 he is also entitled for benefit of past service and also the seniority under paragraph No.1310 of IREM.

08. In view of the above, even if the petitioner has been absorbed in the Class-IV post i.e. Peon, he was given the benefit of pay protection, seniority, past service, he has also earned promotion twice and upgradation after completion of 20 years and 30 years of service. The petitioner accepted post of Peon way back in the year 1998 and

after serving 16 years on the said cadre, he filed an application for review of the said order which is not permissible under the regulation.

09. With the aforesaid, Writ Petition stands dismissed.

(VIVEK RUSIA)
JUDGE

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