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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4932/2025 & CM APPL. 22662/2025**

DINESH SINGH

.....Petitioner

Through: Mr. Himanshu Gautam, Adv.

Versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr. Puneet Yadav, Sr. Panel
Counsel with Mr. Kamaldeep, GP and
Mr. Hemendra Singh, Dy. Comdt, BSF

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

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21.04.2025

C. HARI SHANKAR, J.

1. We are constrained to observe that this litigation, which is camouflaged as a challenge to the petitioner's transfer is, in essence, an attempt to hold on, come what may, to the quarter which is presently in occupation of the petitioner.

2. We have heard Mr. Himanshu Gautam, learned Counsel for the petitioner and Mr. Puneet Yadav, learned SPC for the respondents, at length.



3. It is not necessary for us to enter into the prior history of the petitioner's postings. Suffice it to state that the petitioner was transferred to Delhi in 2021 as Second-in-Command in the Border Security Force¹, at the Inspector General Headquarters/Frontier Headquarters. Delhi constitutes a static formation in the organisation of the BSF. Consequent on completion of his tenure in Delhi, the petitioner, on promotion to the rank of Commandant, has been transferred to the 73rd Battalion situated at Murshidabad.

4. The relevant portion of the impugned order of transfer may be reproduced thus:

"OP – IMMEDIATE IN LIEU OF MSG FORM **DTO: 31**
FROM:HQ DG BSF

TO : HQrs Spl DsG (EC/WC)/Command HQ Spl Ops ANO UNCLAS
All Ftr HQrs/All Sector HQrs/Arty HQ Faridkot
All Trg Institutions/All STCs/BICIT New Delhi/CEDCO
Bangaluru
All Bns (including NDRF Bns)
All CH/All Water Wings/All Arty Regiments
CENWOSTO/CSMT/NTCD/TSU
SIW/SIG Regt/SRO/GTS New Delhi
IG(HQ) FHQ/DIG (HQ) FHQ
All Dtes of FHQ/PAD BSF/Adm Dte, GOs Sec (**By dak**)

FROM PERS SECTION: GOS PROMOTION DESK(.)
PROMOTION AND POSTING/TRANSFER OF OFFICERS()
FOLLOWING PROMOTIONS AND POSTING/TRANSFER
ARE HEREBY ISSUED AS PER DETAILS GIVEN BELOW(.)

¹ "BSF", hereinafter



FIRSTLY (.) FOLLOWING **SECOND-IN-COMMANDS** ARE HEREBY PROMOTED TO THE RANK OF **COMMANDANT WITH EFFECT FROM 01.08.2024**, SUBJECT TO FINAL VERDICT OF THE APEX COURT/HIGH COURT OVER ONGOING LITIGATIONS ON RESERVATIONS ETC AND FURTHER POSTED/ ADJUSTED TO THE HQRS AS FOLLOWS (.)

S N	IRLA NO.	NAME (S/SHRI)	PRESENT HQR/UNIT	POSTED TO
1	19772196	SUBASH CH. GANGWAR	FTR HQ KMR	161 BN BSF
2	19770574	SATYADEO KUMAR	17 BN BSF	67 BN BSF
3	19771243	DINESH SINGH	IG (HQ) FHQ	73 BN BSF
4	19770727	SUNIL KUMAR	84 BN BSF	98 BN BSF
5	19770956	GURU RAJ	02 BN BSF	23 BN BSF
6	19772226	NARESH KUMAR SINGHAL	95 BN BSF	50 BN BSF
7	19770680	PRAVEEN KUMAR RANJAN	FTR HQ BSF CG	134 BN BSF
8	19772110	RANDHIR RANJAN	58 BN BSF	157 BN BSF"

5. The petitioner is aggrieved by the aforesaid transfer, albeit on promotion as Commandant, to the 73rd Battalion of the BSF situated at Murshidabad.

6. Aggrieved by the aforesaid order dated 31 July 2024, the petitioner represented to the Inspector General Headquarters on 31



July 2024. That representation stands rejected by the DG Headquarters by order dated 22 March 2025.

7. The aforesaid orders dated 31 July 2024 and 22 March 2025 constitute the basis of challenge in the present writ petition, instituted by the petitioner under Article 226 of the Constitution of India.

8. The prayer clause in the writ petition, which is revealing, reads:

“It is, therefore, most respectfully prayed that this Hon’ble Court may graciously be pleased to:-

- a) Issue a writ order or direction in the nature of certiorari thereby quashing and setting aside the Impugned order dated 31.07.2024 and 22.03.2025 in accordance to BSF (Tenure of posting and deputation) Rules 2000 and FHQ BSF (Personnel Directorate) letter No. 9/100/20070 Pers/BSF/18223-47 dated 18 May 2010.
- b) Issue a writ order or direction in the nature of Mandamus directing the Respondents *to transfer to any other location thereby making him to retain his quarter of GPRA at Delhi.*
- c) Issue any other suitable writ, order or direction which this Hon’ble court may deem fit and proper under the circumstances of the case in the interest of the Petitioners.”

(Emphasis supplied)

9. To sustain his challenge to the impugned orders and his claim for transfer to a posting which would enable him to retain his quarters at Delhi, Mr. Himanshu Gautam, learned Counsel for the petitioner,



relies on Rule 8(1)² of the BSF (Tenure of Posting and Deputation) Rules, 2000³ – which admittedly govern the transfer of the petitioner – requires every member of the BSF, on completion of his tenure in a static formation, to be posted to his parent Battalion *if there is a vacancy*. The petitioner's parent Battalion is the 105th Battalion, which is located in the North East. Mr. Gautam submits that, therefore, in due compliance with Rule 8(1) of the 2000 Rules, the respondents ought to have posted the petitioner in the North East with the 105th Battalion, in which case he would be in a position to retain the quarter held by him at Delhi.

10. A bare reading of Rule 8(1) reveals that it does not confer any absolute right for posting of a member of the BSF, on completion of his tenure in a static formation, to be posted to his parent Battalion. The right, if at all, is conditional on the existence of a vacancy in the parent Battalion.

11. We, therefore, queried of Mr. Himanshu Gautam as to whether there existed a vacancy of Commandant in the 105th Battalion located in the North East.

12. Mr. Gautam candidly submits that there, in fact, is no such

² **8. Criteria for transfer from static formations and on repatriation from deputation-**

1) Every member of the Force on completion of his tenure in a static formation or on repatriation from deputation shall be posted to his parent Battalion if there is a vacancy. In the event of no vacancy, he will be posted to another Battalion:

Provided that the provisions contained in the sub-rule shall apply only to a member of the Force who holds a post which also exists in a Battalion.

³ "the 2000 Rules", hereinafter



vacancy as the post of Commandant is already occupied by one Mr. Himanshu Choudhary.

13. He, however, submits that Mr. Himanshu Choudhary, who is occupying the post of Commandant in the 105th Battalion, has been occupying it beyond the period envisaged by Rule 6⁴ of the 2000 Rules and that, therefore, the continued holding of the post of Commandant by Mr. Choudhary is illegal.

14. It goes without saying that, for the aforesaid submission of Mr. Gautam to even merit consideration, it would be necessary for the petitioner to implead Mr. Himanshu Choudhary, as he is specifically challenging the continued holding of the post of Commandant by Mr. Himanshu Choudhary. We, therefore, offered Mr. Gautam an opportunity to implead Mr. Himanshu Choudhary as a party in this writ petition, so that the consideration, for whatever it was worth, could be examined.

15. Mr. Gautam, on instructions, submits that he is unwilling to implead Mr. Himanshu Choudhary and prays that the Court may proceed with the matter in his absence.

16. We, therefore, cannot, in the absence of Mr. Himanshu Choudhary being made a party countenance a challenge to his holding

⁴ **6. Tenure-** The tenure for a Battalion shall be as under:-
(i) Extreme hard area- Two years.
(ii) Hard area- Three years.



of the post of Commandant in the 105th Battalion.

17. Even otherwise, Rule 8(1) is conditional on the existence of a vacancy in the parent Battalion of the officer. Admittedly, there is no such vacancy. The question of whether Mr. Choudhary is correctly or otherwise continuing to function as Commandant is beyond the scope of Rule 8(1). That is an independent cause of action and cannot impact the application of Rule 8(1).

18. Insofar as Rule 8(1) is concerned, as there is, in fact, no vacancy of Commandant available in the 105th Battalion located in the North East, the petitioner cannot seek as a right to be posted to that Battalion even under Rule 8(1) of the 2000 Rules.

19. Mr. Gautam thereafter draws our attention to a letter dated 29 November 2023, which purportedly invited, from him, a choice of four postings, if he desired to continue to retain his quarter at Delhi.

20. He submits that, in response, the petitioner requested for being posted to the 111th Battalion, 41st Battalion, 42nd Battalion and 43rd Battalion.

21. Mr. Gautam's contention is that, in that view of the matter, the respondent ought to have posted him at one of the said Battalions, and could not, therefore, have posted him to the 73rd Battalion situated at

(iii) In a Frontier- Maximum six years.



Murshidabad.

22. Apart from submitting that the petitioner's case for being posted at one of the aforesaid places was recommended by the Inspector General, Mr. Gautam is unable to show us any provision of law, rule, regulation or executive instruction which mandates that he be posted at one of the aforesaid four choices of posting.

23. He has sought to rely on an SOP/circular dated 18 May 2010 issued by the BSF to all Inspectors General Frontier, the relevant portion of which reads thus:

“No. 9/100/2007-Pers/BSF/18223-47
Government of India
Ministry of Home Affairs
Directorate General Border Security Force
(Personnel Directorate)
Block No.10, 5th Floor
CGO Complex, Lodhi Road
New Delhi -110 003

Dated, the 18 May 2010

To

All IsG Frontier
Head of Trg Instns
(By name)

Sub:- POSTING/TRANSFER OF OFFICERS INSTRUCTIONS
AND SOP THEREOF

04. However, in order to meet all the above requirements and to streamline the Posting/Transfer of Officers, it is proposed that following system will be adopted for Annual Transfer 2010, and onwards:-



(1) A maximum of four choices may be given by the individual Officer prior to the Annual Turn Over by January of each year to consider it in the annual posting order which can then be issued before termination of the academic session Priority will be given to officers who have served in Extreme Hard Areas or Hard Area and who have requested for terminal postings (Within 12 months of Superannuation).

(2) IsG Ftr are requested to compile the requests and choice of all the officers for posting and forward to FHQ (Pers Dte) with their recommendations, keeping in view the BSF (Tenure & Deputation) Rules and other instructions issued by FHQ and the points mentioned in Para-2 above.

(3) Since PMIS data of all the officers is available now on BSF website, the information of Past Posting details may also be used while recommending the Posting/transfer cases.

(4) While issuing posting orders, the operational suitability will be the primary consideration for which the views of Spl DG. IG Frontiers, Ops Dte and 'G' Dte will be considered.

(5) While recommending cases of posting/transfer, IsG of Ftr may also take following points into consideration:-

(a) For any establishment in Delhi, AC/DC should have full exposure/demonstrated good field work for at least 3 years (excluding time spent on In-service Training courses).

(b) Roster of technical expertise will be maintained to address the requirement

(c) Rotation of Officers for posting to TSU, SIW, GIS etc is to be planned so that there is always a mixture of new and experienced officers to ensure continuity

(d) Recently married Officers may be considered/recommended for placement at a family station so as to afford opportunity to stay with spouse for a period of minimum one year



(e) Officers with school-going children or whose wards are to appear in Board Examinations (12th Std) may not be disturbed in middle of the academic session as far as possible

(f) All Officers should have a fair share/rotation of postings to East & West including Delhi, and the aspect of cooling-off period is also to be taken into account while recommending the cases.

(g) For Commandants and above, preference to be given to those who have not been posted to Delhi before, or have served in Extreme Hard Area/Hard Area for immediate past 3 years.

(h) Cases requiring specialized medical care are to be considered/recommended for posting at places having commensurate medical infrastructure/facilities.”

(Virendra)
Inspector General (Pers)
May 2010”

24. We do not read the aforesaid SOP as mandating that the petitioner should necessarily be posted at one of the four choices of postings provided by him.

25. Besides, Mr. Puneet Yadav, learned SPC for the respondents, submits, apropos the aforesaid offer of four choices given to the petitioner, that the SOP dated 18 May 2010 applies to the Annual Transfer of officers, and the petitioner’s case was one of posting consequent to his promotion from the post of Second in Command to



the post of Commandant. As such, the SOP dated 18 May 2010 would also not come to the aid of the petitioner.

26. Mr. Puneet Yadav has also drawn our attention to Rule 9⁵ of the 2000 Rules. The reliance is apt. Rule 9 specifically deals with the situation in which a person up to the post of Second-in-Command is promoted to the next higher rank.

27. There is no dispute about the fact that the posting of the petitioner is in accordance with Rule 9.

28. We do not really know whether we ought to have devoted so much time to this matter, as the petition, as we have already noted towards the beginning of this judgment, is essentially a petition in disguise, with the grievance of the petitioner not being so much with respect to his posting or transfer, as with respect to having to leave the quarters presently in his occupation.

29. We have brought to Mr. Gautam's notice the fact that a person cannot continuously and *ad infinitum* hold on to quarters in his occupation and that there would be other legitimate aspirants who would be entitled to occupy similar quarters.

⁵ **9. Posting on promotion.** – A member of the Force up to and including the post of Second-in-Command while posted in a static formation, shall be posted to a duty Battalion on promotion to the next higher rank. The tenure rule shall not be applied in promotion cases:

Provided that the members of the Force who have less than 2 years of service before attaining the age of superannuation shall be exempted from application of this rule:

Provided further that the provisions contained in this rule shall only apply to the members of the Force who are promoted to a post which also exists in a Battalion.



30. It also appears, from the tenor of submissions during arguments, that the petitioner is apprehensive of the situation of unrest presently prevailing at Murshidabad. Needless to say, when opting to join the CRPF, that is a bargain which the petitioner consciously made. Needless to say, the nation owes a debt of gratitude to men – and women – who are willing to sacrifice their personal comforts, and often their lives, for the cause of the country, and the rest of us.

31. We are however, constrained, to hold that the present petition is a complete misadventure and is totally bereft of merit.

32. For all the aforesaid reasons, we find no reason to interfere with the impugned orders. The writ petition is accordingly dismissed.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 21, 2025/AS

Click here to check corrigendum, if any