



2025:DHC:11814-DB



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

+ W.P.(C) 19132/2025 and CM APPL. 81175/2025

MONU SHARMA AND ORSPetitioners

Through: Mr. Ankur Chhibber, Mr.
Nikunj Arora and Mr. Prahil Sharma,
Advocates

versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Balendu Shekhar, CGSC
Mr. Rajkumar Maurya, Mr. Krishna
Chaitanya and Mr. Divyansh Singh Dev,
Advocates

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% **22.12.2025**

C. HARI SHANKAR, J.

1. This writ petition assails the following order dated 28 April 2025, issued by the National Disaster Response Force¹ of the Ministry of Home Affairs:

“ORDER

The 14th, 15th & 16th NDRF Bns are newly raised Battalions in NDRF and initially, the officer/personnel were inducted in these battalions in bulk numbers. After completion of deputation tenure of seven years, all the initially inducted officer/personnel will have to be repatriated to their parent organization in one go, which will adversely affect the functionality and operational efficiency of these battalions.

Signature Not Verified¹ “NDRF”, hereinafter

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2. In view of above, DG NDRF has approved the following initial turnaround operation in respect of officer/personnel of 14th, 15th & 16th Bns NDRF in phased manner subject to providing of equal number of officer/personnel in each rank from ITBP and BSF:

- i) 1/3rd personnel be repatriated after completion of 5th year.
- ii) 1/3rd personnel be repatriated after completion of 6th year.
- iii) 1/3rd personnel be repatriated after completion of 7th year.
- iv) The repatriation will be subject to the condition that not more than 25% of the overall strength of NDRF be replaced in any particular year. Further, for subsequent period, a uniform policy of repatriation, as applicable to other CAPFs Battalions, will be applicable to the NDRF Battalions.

2. The above repatriation has to be done strictly on the basis of seniority i.e. first come first out basis. There will be no choice/option for Unit Commandants to choose among the personnel for the purpose.

3. It is further clarified that the seniority of initially inducted officer/personnel has to be counted from the Date of their joining in NDRF only. As regard, personnel who are inter-Bn posted/transferred to other NDRF Bns, their seniority should be counted from the original battalion allotted.

4. Unit Commandants of 14th, 15th & 16th Bns NDRF to forward nominal roll of their Unit officers / personnel along with their Date of Joining and proposed date of their repatriation in accordance to Para-2 above, so as to reach this HQ by 05.05.2025 positively. The information/proposal is required in the following format: -"

S/N	IRLA/ Regt. No.	Rank/ Cadre	Name	Date of Joining in the Unit	Proposed date of repatriation	Phase	Remarks, if any

(G.S. Chauhan)
Dy. Inspector General (Estt)"

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2. We have heard Mr. Ankur Chhibber, learned counsel for the petitioner, at some length.

3. The petitioners originally belong to the Indo Tibetan Border Police². By orders dated 25 September 2020 and 29 October 2020, they were sent on deputation to the NDRF for a period of seven years. The said period would come to an end in 2027. By the impugned order dated 28 April 2025, the petitioners had been informed that they would be repatriated to their parent cadre in ITBP and BSF in a phased manner.

4. The grievance of the petitioner is that the impugned order illegally curtails their period of deputation. Mr. Chhibber submits that the impugned order is in the teeth of the applicable policy.

5. Mr. Chhibber has invited our attention to Policy Guidelines dated 22/24 November 2016³ governing deputation of combatized CAPFs and AR personnel (officers, subordinate officers and other ranks) in other organizations. He has particularly drawn our attention to Clause 3 of the said Guidelines, which covers the period of deputation and reads as under:

“3. **PERIOD OF DEPUTATION:**

(A) (i) Extension of tenure of all CAPF's personnel has to be done by the Police-II Division, MHA. The borrowing Organisation has to write to Police-II Division and the Police-

² “ITBP”, hereinafter
³ “2016 Guidelines”, hereinafter



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II Division would get the requisite clearance; not the borrowing and lending Organisations.

(ii) No extension beyond the fifth year shall be considered and no case for extension of deputation beyond five years shall be referred to MHA.

(iii) The period of deputation in respect of CAPFS & AR personnel with State Govt., Public Sector Undertakings, Autonomous Bodies, Universities, Union Territories Administration, Local Bodies etc. and vice versa should be for a period of 05 years (initially for a period of 04 years extendable up to a period of 05 years)."

6. Mr. Chhibber has also placed reliance on para 21 of the 2016 Guidelines, which reads thus:

"21. Where the Central Government is of the opinion that it is necessary or expedient to do so, it may, by order, for reasons to be recorded in writing, relax any of the provisions of this Policy with respect to any individual, class or category of individuals."

7. The aforesaid 2016 Guidelines were amended by Office Memorandum⁴ dated 5 May 2017 issued by the MHA, under the subject, "Policy guidelines for deputation of combatized CAPFs & ARs personnel in other organization". Paras 2 and 3 of the said OM, to the extent relevant, reads thus :

"2. Keeping in view the fact that the National Disaster Response Force (NDRF) is a 100% deputationist Force, and the personnel on deputation need to be imparted specialized knowledge and skills before they are able to discharge their responsibilities and act in most difficult/diverse hostile circumstances, it has been decided with the approval of the competent authority that before the CAPF & ARs personnel are selected for deputation, they may be imparted on job training and other specialized training for a period of atleast 02 years. On

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successful completion of training of 2 years, the personnel will be inducted into deputation in NDRF for 07 years and the period of attachment/training would not be reckoned in the total deputation of 7 years. Further, during the period of attachment/training in NDRF, the personnel will not be entitled for any deputation allowance.

3(B)(ii) - Para 3(B) (ii) stands revised as under :

On account of specialized nature of job, the appointment on deputation to Narcotics Control Bureau, National Investigating Agency (NIA) and National Disaster Response Force (NDRF) will be 07 years at the time of initial appointment itself. No further extension will be granted in any case , as per the guidelines of Department of Personal and Training. These organizations are required to take advance steps well in advance to get a suitable replacement appointed.”

8. Mr. Chhibber emphasises the fact that the revised para 3(B)(ii) made it clear that the appointment on deputation to specialized agencies including the NDRF was to be 7 years at the time of initial appointment itself. He points out that this tenure of 7 years was specifically envisaged keeping in mind the specialized nature of the job. Mr. Chhibber has also placed reliance on the stipulation, in the aforesaid OM, that the DG, NDRF, would undertake a rigorous evaluation of each of the personnel sent on deputation to the NDRF on completion of two years’ attachment/training to ensure that only personnel who was suitable for the deputation would be allowed to undertake the deputation of seven years. He submits that the petitioners have cleared this evaluation and were found suitable for seven years’ deputation. In these circumstances, he submits that the NDRF could not have directed phased repatriation of the petitioners to their parent cadres before the period of seven years was over.

9. Mr. Chhibber further submits that the impugned decision of the

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NDRF is not predicated on the ground that the petitioners' services and expertise were not required in the NDRF, but was on an entirely extraneous consideration, which was the possible adverse effect on the functionality and operational efficiency of the Battalions which would be replacing the petitioners, if the petitioners were sent back in one go after seven years. This, he submits, is a consideration which is contrary to the very basis for sending the petitioners on deputation to the NDRF as envisaged by the OM dated 5 May 2017 (*supra*).

10. If the Directorate General of the NDRF is unilaterally permitted to take such a decision, Mr. Chhibber submits that it would result in rampant arbitrariness and would also fly in the face of the very purpose for posting the petitioners on deputation in the NDRF, as envisaged by the aforesaid OM. It would also render the very foundation of the policy of such deputation redundant.

11. Mr. Chhibber has also placed reliance, as a fall back argument, on para 21 of the 2016 Policy Guidelines, which empowers the Central Government to relax the provisions of the Policy with respect to any individual or category of individuals. The impugned decision, therefore, could, if at all, have been taken only by the Central Government. The DG, NDRF has unilaterally taken the said decision without even involving the Central Government and the MHA in the exercise. This, according to Mr. Chhibber, is illegal.

12. Mr. Chhibber has also placed reliance on the issue of the judgment of the Supreme Court in *Union of India Through Govt. Of*



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*Pondicherry and Anr. v. V. Ramakrishnan and Others*⁵, and has particularly emphasized para 32 thereof, which reads as under:

“32. Ordinarily, a deputationist has no legal right to continue in the post. A deputationist indisputably has no right to be absorbed in the post to which he is deputed. However, there is no bar thereto as well. It may be true that when deputation does not result in absorption in the service to which an officer is deputed, no recruitment in its true import and significance takes place as he is continued to be a member of the parent service. When the tenure of deputation is specified, despite a deputationist not having an indefeasible right to hold the said post, ordinarily the term of deputation should not be curtailed except on such just grounds as, for example, unsuitability or unsatisfactory performance. But, even where the tenure is not specified, an order of reversion can be questioned when the same is mala fide. An action taken in a post-haste manner also indicates malice. (See *Bahadursinh Lakhubhai Gohil v. Jagdishbhai M. Kamalia*⁶)”

13. Mr. Balendu Shekhar, learned CGSC, has placed reliance on clause 2(e) of the 2016 Policy Guidelines, which reads:

“2. **Eligibility for deputation:**

(e) These guidelines will not be applicable in the case of deputation to SPG, NSG and NDRF as they are purely deputationist Forces. However, the terms and conditions for deputation to these Organizations as prescribed by these specialized borrowing Organisations be followed.”

14. To this, Mr. Chhibber submits the aforesaid disclaimer would not apply after the introduction of the MHA OM dated 5 May 2017, which was specifically promulgated to cater to specialized agencies, such as the NDRF.



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15. Having heard Mr. Chhibber, we are of the opinion that this writ petition is completely lacking in merit and does not even deserve issuance of notice.

16. The submission of Mr. Chhibber, to the effect that the repatriation of the petitioners was in the teeth of the Policy Guidelines or the MHA OM dated 5 May 2017, fails to impress. The OM dated 5 May 2017 merely provides that the officers being sent on deputation to specialized agencies, such as the NDRF, were being sent because of the specialized nature of the job to be performed. It is for this purpose that the DG, NDRF was required to carry out an initial examination of the suitability of the candidates being sent for deputation within the first two years and clear only those candidates who were suitable to undergo the remaining period of five years, which would complete the deputation period of seven years. These Guidelines, do not state, either expressly or by necessary implication, that the petitioners could not be repatriated prior to the expiry of seven years.

17. The impugned order has been issued by the NDRF itself. Far from this being an invalidating feature, this fact, to our mind, would lend credence to the impugned order. The NDRF is expected to know the requirements of persons who are on deputation with it, given its functionalities and operational requirements. It was in full awareness of its requirements that the NDRF has taken a conscious decision, on 28 April 2025, to repatriate the persons who were on deputation with it to their parent ranks in the ITBP and BSF, in a phased manner, on completion of the fifth, sixth and the seventh years of deputation.



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18. The law that a deputationist has no right to continue till the expiry of the deputation period is, by now, all but set in stone. We may refer in this context to the following passages from the judgments of the Supreme Court in *Ratilal B. Soni v. State of Gujarat*⁷, and *Kunal Nanda v. Union of India*⁸, *Parshotam Lal Dhingra v. Union of India*⁹.

19. Thus, a deputationist has no right to continue on the deputation post till the expiry of the deputation period. The position may be different if there is an express stipulation in the Rules or in the provisions applicable to deputation proscribing repatriation of the deputationists prior to the expiry of the deputation period. We do not find any such provision in existence in the present case.

20. The judgment of the Supreme Court in *V. Ramakrishnan* on which Mr. Chhibber places reliance, also does not advance the stand of the petitioners. That, in fact, was a case in which the decision to repatriate the deputationists was found to suffer from malice in law. We may reproduce in this context the following passages from the said decision:

“31. In terms of Article 16 of the Constitution, the employees similarly situated cannot be discriminated. Employees having the same qualification, thus, must be considered by a duly constituted DPC consisting of the Chairman/Member, UPSC, Chief Secretary and Secretary (Works). It is unfortunate that the Government of Pondicherry instead and in place of asking UPSC to constitute a

⁷ 1990 Supp SCC 243

⁸ (2000) 5 SCC 362

⁹ 1957 SCC OnLine SC 5



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DPC for consideration of the cases of all eligible candidates, passed the order (vide letter dated 28-9-2005) on the same day on which the new rules came into effect, requesting UPSC to regularise the services of R. Sundar Raju as Chief Engineer from the date of his ad hoc promotion. Such an act betrays a lack of bona fides on the part of a State which is required to be performed in a fair and reasonable manner. It smacks of favouritism. Having regard to the unauthorised purpose for which the action has been taken, the same would attract the principle of malice in law. (See *Punjab SEB Ltd. v. Zora Singh*¹⁰.)”

21. In so far as para 32 of the decision in *V. Ramakrishnan* is concerned, the Supreme Court has clearly noted, in the said paragraph, that, while ordinarily a term of deputation once fixed would not be curtailed, this was permissible on just grounds as, for example, unsuitability or unsatisfactory performance.

22. No doubt, the curtailment in the period of deputation of the petitioners is not on the ground of unsuitability or unsatisfactory performance. It is, however, based on a consideration which, given the fact that we are dealing with para military forces, cannot be treated as unjust. The NDRF has itself taken into consideration the fact that if all deputationists were to be repatriated to their parent organization in one go, it would affect the functionality and operational efficiency of the Battalions, which is why a decision was taken to repatriate the officials to their parent ranks in the ITBP and the BSF in a phased manner.

23. No *malafides* have been alleged by the petitioners in the passing of the impugned order.



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24. In that view of the matter, we have no doubt that the NDRF, while passing the impugned order, has also factored in the consideration of the necessity of retaining the petitioners keeping in mind their operational requirements.

25. In such matters especially while dealing with paramilitary forces, Courts have a very limited role to play.

26. The submissions advanced by Mr. Chhibber, in our view, do not make a case for interference by this Court with the impugned order dated 28 April 2025.

27. The writ petition is, accordingly, dismissed in limine.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

DECEMBER 22, 2025/yg