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

Date of decision: 3rd SEPTEMBER, 2025

IN THE MATTER OF:

+ **W.P.(C) 8963/2018**

P K AGRAWAL

.....Petitioner

Through: Mr. SS Pandey and Mr. Roshan
Kumar, Advs.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Ms. Pratima N. Lakra (CGSC), Mr.
Chandan Prajapati, Mr. Shailendra
Kumar Mishra, Mr. Priyam Sharma,
Advs. Mr. Satya Vir Singh (S.I., RPF)
- in person.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

HON'BLE MR. JUSTICE VIMAL KUMAR YADAV

JUDGMENT (ORAL)

SUBRAMONIUM PRASAD, J.

1. The Petitioner has approached this Court by filing the instant writ petition with the following prayers:-

“(a) Issue a Writ of Certiorari calling for the records/ Resolution including any internal policy based on which the Respondents have taken a decision not to consider the Petitioner for promotion to the post of Director General (not communicated to the Petitioner) against the Statutory Rule as well as in total breach of promise held out to the Petitioner for such consideration resulting in issuance of the impugned order dated 04.07.2018 calling for the panel of IPS



officers to be appointed as DG on deputation thereby impliedly rejecting the request of the Petitioner to hold the DPC for his promotion to such post and thereafter quash all such orders, policy, resolutions including order dated 04.07.2018.

(b) Issue a Writ of Mandamus directing the Respondents to follow the Recruitment Rule 1981 as applicable at the time of Petitioner joining the service for promotion to the head of RPF which is now upgraded as Director General or by issuing a resolution as issued for other Railway Services for appointment of DG based on which the Petitioner may be considered for promotion for the post of DG and if found fit necessary direction may be issued for granting him promotion to the post of DG with all consequential benefits.

(c) Issue any other/further direction as this Hon'ble Court may deem fit in the facts and circumstances of the case. ”

2. It is stated that the Petitioner joined the Railway Protection Force (RPF) in the year 1984 as a Group 'A' officer on the basis of Civil Services Examination-1983. It is stated that the induction of the Petitioner was based on Railway Protection Force Officers Recruitment Rules, 1981, as per which, the highest post in the cadre at the relevant time was Inspector General/Director, Security.
3. It is stated that in the year 1983, the highest post in the Railway Protection Force was upgraded to the level of Director General. In the year 2005, the post of Additional Director General was also created between the post of Inspector General and the Director General.
4. It is stated that the Petitioner was holding the post of Additional Director General and was aspiring to be appointed as a Director General,



which is the highest available post in the cadre.

5. It is stated that the Recruitment Rules as framed do not specify the qualification and the method of recruitment for the post of Director General and it only gives norms for filling up the post of Inspector General and Director, Security, RPF. The Schedule to the Railway Protection Force (Group A and Group B posts) Recruitment Rules, 1981, which has been annexed with the present writ petition, is reproduced as under:-

SCHEDULE

Name of Post	No of Posts	Classification	Scale of Pay	Whether selection post or non-selection post	Age limit for direct recruits	Whether benefit of added years of service admissible under rule 2423-A (CSR 404(B) RH)	Educational and other qualifications required for direct recruits
1	2	3	4	5	6	6a	7
1. Inspector General (Railway Protection Force) and director, Security	1	Group 'A'	Rs 2500-125/2-2750	Selection	Not Applicable	Not applicable	Not applicable

Whether age and educational qualifications prescribed or direct recruits shall apply in the case of Promotees	Period of probation, if any	Method of recruitment, whether by direct recruitment or by promotion or by deputation/transfer and percentage of the vacancies to be filled by various methods	In case of recruitment by promotion/deputation/transfer, grades from which promotion/deputation/transfer to be made	If a Departmental Promotion Committee exists, what is its composition	Circumstances in which Union Public Service commission is to be consulted in making recruitment
8	9	10	11	12	13
Not applicable	2 years	By Promotion failing which by transfer on deputation	Promotion: Chief Security Officers and Deputy Inspector General RPF or RPSF and Additional Director Security with 5 years' service in the grade rendered after appointment thereto on a regular basis. Transfer on deputation: IPS Officers of the rank of Inspector General of Police or of the rank of Deputy Inspector General eligible for appointment as Inspector General of Police. (Period of deputation shall not exceed 5 years).	Group 'A' DPC 1. Chairman Railway Board - Chairman 2. Financial Commissioner (Railways) - Member 3. 3 other Members of the Railway Board - Members	Consultation with the union Public Service commission necessary while amending/relaxing any of the provisions of these rules.

6. It is stated that one Mr. Dharmendra Kumar, IPS, was the Director General of the Railway Protection Force and he was to retire on his



superannuation on 30.09.2018. The Petitioner staked his claim for being promoted to the post of Director General, Railway Protection Force after the retirement of the said Mr. Dharmendra Kumar, IPS, stating that the Petitioner is posted as Additional Director General since 17.01.2018 in the Railway Protection Force, Railway Board. It was stated that since the post of Additional Director General is just below the post of Director General in the hierarchy of the Railway Protection Force, and therefore, the Petitioner is entitled to be considered for the post of Director General.

7. The representation given by the Petitioner has yet not been considered by the Respondent. On 04.07.2018, an order was issued by the Respondent for filling up the post of Director General, Railway Protection Force. The said order reads as under:-

“Sub: Falling up of the post of Director General, Railway Protection Force, Railway Board in scale Rs. 80,000/- fixed (pre-revised).

1. The undersigned is directed to state that the post of Director General, Railway Protection Force, Railway Board in scale Rs.80,000/- fixed (pre-revised), is due to fall vacant on 01.10.2018, on superannuation of Shri Dharmendra Kumar, IPS (AGMUT: 84), the present incumbent of the post. The post of Director General, Railway Protection Force, Railway Board had been manned by an IPS Officer of appropriate seniority, who is eligible for appointment at DG Level at the centre on deputation basis from the date of creation of the post.

2. It is therefore requested that a panel of suitable IPS officers having appropriate seniority may kindly be furnished alongwith up-to-date APAR Dossiers and Vigilance/DAR clearance at the earliest, so as to enable the Ministry of Railways to process the



proposal for obtaining the approval of the ACC for appointment to the aforesaid post.”

8. It is this order which is under challenge in the instant writ petition.
9. It is the case of the Petitioner that the appointments in the Railway Protection Force are governed by the Railway Protection Force Act, 1957, and the Railway Protection Force Rules, 1987 and the Recruitment Rules, 1981.
10. Learned Counsel for the Petitioner contends that the induction of the Petitioner was based on the RPF Officers Recruitment Rules, 1981. The highest available post, at the relevant point of time, was Inspector General/Director, Security, which was to be filled up according to the Schedule. It is stated that the highest post was later on upgraded to that of Director General, for which there are no Recruitment Rules.
11. Learned Counsel for the Petitioner contends that the practice of appointing only IPS Officers to the post of Director General, RPF, *sans* any Recruitment Rules is contrary to law. He states that the Petitioner spent around 34 years in service and has a legitimate expectation to be considered to be appointed for the topmost post, i.e., Director General, and that without there being any Recruitment Rules to fill up the said post, the Union of India cannot fill up that post by way of lateral entry and appointing an IPS Officer to the said post, leaving at lurch other Officers of the RPF who have reached upto the level of Additional Director General to be considered for the post of Director General. He states that the Petitioner had joined the Railway Protection Force on the basis of the Civil Services Examination conducted in the year 1983 and that without there being anything to show that persons who have joined the Railway Protection Force as Group ‘A’ officer cannot



man the post of Director General and only an IPS Officer alone is competent to man the post of Director General, the Petitioner ought to be considered for promotion to the post of Director General.

12. *Per contra*, learned Counsel for the Union of India contends that as a matter of practice, the post of Director General is always being manned by an IPS Officer of appropriate authority and this post is filled up by way of deputation.

13. The instant writ petition was filed in the year 2018 and the Petitioner has attained superannuation on 30.04.2020. Consequent to the retirement of Mr. Dharmender Kumar, IPS, and pending this writ petition, one Mr. Arun Kumar, IPS, was appointed as the Director General, RPF. The said Mr. Arun Kumar, IPS, has also attained the age of superannuation.

14. This Court is of the opinion that as of now even if the petition is allowed, the only relief which this Court can grant is to direct the Union of India to frame Recruitment Rules or in the alternative direct that the Petitioner, who was an Additional Director General at that time, to be considered along with Mr. Arun Kumar, IPS, and other similarly placed Officers and then decide as to whether the Petitioner can be appointed as a Director General, RPF or not. This Court is of the opinion that the petition as of now has been rendered infructuous since the Petitioner and Mr. Arun Kumar, IPS, have already superannuated.

15. It is pertinent to mention that a Coordinate Bench of this Court in Harananda & Ors. v. Union of India & Ors., **2012 SCC OnLine Del 6001**, had directed the Union of India to carry out the necessary cadre structure of the Railway Protection Force as an Organized Group A Services and finalize the service rules with reference to the RPF being a Group A Central Civil



Service. This Court had also directed the Cabinet Secretary to nominate a Nodal Officer to coordinate with the three bodies, namely, UPSC, DoPT and the Ministry of Railways for the said purpose. The Union of India had challenged the said Judgment before the Apex Court. The Apex Court in Union of India v. Sri Harananda & Ors., (2019) 14 SCC 126, upheld the Judgment passed by the Coordinate Bench of this Court and dismissed the said challenge by the Union of India. The Apex Court has observed as under:-

“10.1. The short question which is posed for consideration before this Court is, whether in the facts and circumstances of the case, the High Court has committed any error in treating and/or considering OM No. 96/E(GR)I/16/I dated 8-5-2003 of the DoPT, Government of India as “in principle” decision for constitution of the RPF as an Organised Group A Central Service and thereby directing to take further steps of cadre structure of RPF as also to finalise the Service Rules with reference to the RPF being an Organised Group A Central Civil Service?

10.2. At the outset, it is required to be noted that, from the impugned judgment and order passed by the High Court, it appears that the impugned judgment and order is a consent order, passed by the High Court only after counsel for the parties agreed that the Court can dispose of the matter by issuing the necessary directions. Therefore, as such, thereafter it would not be open for the appellants to challenge the impugned judgment and order passed by the High Court which seems to be an ad invitem order. At this stage, it is required to be noted that, as such, though sufficient time was granted, the original respondents which included the Ministry of Railways, Ministry of Personnel, Public Grievances and Pension, DoPT, did not file any counter-affidavit. Therefore, as such, it was



never disputed by any of the respondents that the OM dated 20-11-2003 is not an “in principle” decision of the DoPT for constitution of the RPF as an Organised Group A Central Service. Under the circumstances, as such, thereafter it will not be open for the appellants to challenge the impugned judgment and order by which the High Court has disposed of the writ petition by issuing a mandamus that, within the next six months, the necessary cadre structure of RPF as also the Service Rules would be finalised with reference to RPF being an Organised Group A Central Service. The aforesaid direction is issued by the High Court considering the fact that as far back in 2003, vide OM dated 20-11-2003, “in principle” decision was taken by the DoPT to constitute the RPF as an Organised Group A Central Civil Service and thereafter, even in the year 2005, draft Service Rules were prepared by the Ministry of Railways after doing the exercise of gradewise cadre structure and, despite the above, no final decision was taken to constitute the RPF as an Organised Group A Central Civil Service. Under the circumstances, as such, the impugned judgment and order passed by the High Court does not call for any interference by this Court.

11. Even on merits also, the appellants have no case.

11.1. According to the appellants, the OM dated 20-11-2003 cannot be said to be “in principle” approval granted by the DoPT to constitute the RPF as an Organised Group A Central Service and the proposal will have to be placed before the Cadre Review Committee for its approval. However, reading OM dated 20-11-2003, the High Court is justified in treating and/or considering the same as “in principle” approval by the DoPT to the proposed constitution of the RPF as an Organised Group A Central Service. However, Para (2) of the said OM stated that the proposal will have to be placed before the Cadre



Review Committee for its approval, just like a normal cadre review proposal for the department for further processing. Merely because the “in principle” decision was to be placed before the Cadre Review Committee, it cannot be said that the “in principle” decision contained in the OM dated 20-11-2003 was subject to the further approval and/or no “in principle” decision was taken. The said “in principle” decision was to be placed before the Cadre Review Committee for its approval just like a normal cadre review proposal for further processing. It is required to be noted that while issuing the OM dated 20-11-2003, the DoPT did consider the Ministry of Railways' OM dated 8-5-2003 by which the Ministry of Railways by a detailed note has opined to constitute the RPF as an Organised Group A Central Service. Therefore, the submission on behalf of the appellants and the DoPT that OM dated 20-11-2003 of the DoPT cannot be said to be “in principle” decision by the DoPT to the proposed constitution of the RPF as an Organised Group A Central Service, cannot be accepted. At the cost of repetition, it is to be noted that the High Court was made to believe by all, including the Ministry of Railways and DoPT that the OM dated 20-11-2003 is the “in principle” approval by the DoPT to the proposed constitution of the RPF as an Organised Group A Central Service.

12. *One of the grievances of the Department seems to be, which is the competent authority so far as the RPF is concerned on the issue, namely, whether the Ministry of Railways and/or the Ministry of Home Affairs and/or DoPT. It is required to be noted that, right from the beginning, the Ministry of Railways has opined and proposed and/or considered the RPF as an Organised Group A Central Service, which is evident from their correspondences right from 2001 onwards. Even considering the Government of India (Allocation of Business) Rules, the DoPT would have jurisdiction on*



the general questions relating to recruitment, promotion and seniority pertaining to Central Services, except the Railway Services. The DoPT would have authority on the appointment of non-Indians to civil posts under the Government of India, except the posts under the Department of Railways. It also further provides that the Ministry of Railways has the authority on all matters, including those relating to Railway revenues. Therefore, the DoPT and/or the Ministry of Home Affairs would not have any authority to deal with the subject with respect to services of RPF.

12.1. *Another thing which is required to be noted is and it is evident from the correspondences between the Ministry of Railways and DoPT and other authorities that, right from the beginning, as such, the Ministry of Railways opined to constitute the RPF as an Organised Group A Central Service.*

13. *One of the objections against treating/constituting the RPF as an Organised Group A Central Services is that one of the attributes i.e. Attribute (iv), namely, all the posts from JTS to SAG level should be filled by promotion, is not satisfied as there is a provision for deputation in Recruitment Rules of the RPF to the posts of DIG and IG. At this stage, it is required to be noted that, except the post of IG (RPF), other posts are to be filled in by promotion or on deputation. Therefore, merely because some posts can be filled in by way of deputation also, and otherwise, if the posts are required to be filled in by promotion also, it cannot be said that Attribute (iv) is not satisfied. However, unfortunately, the posts are filled in by way of deputation only resulting in stagnation so far as the officers belonging to RPF are concerned and they are waiting since a number of years for their promotion. Neither are they getting promotion nor are they considered as Ogacs and, as such, they are denied the benefits.*



13.1. At this stage, it is required to be noted that even the Ministry of Railways also prepared the draft Rules in the year 2005 after undertaking the exercise of gradewise cadre structure.

13.2. Considering the aforesaid submissions and facts and circumstances and the material on record, when the High Court has issued the mandamus considering and/or treating the OM dated 20-11-2003 as “in principle” decision/approval of the DoPT to constitute the RPF as an Organised Group A Central Services and thereby directing the appellants to take further steps for cadre structure of the RPF and finalise the Service Rules with reference to the RPF being an Organised Group A Central Civil Service, it cannot be said that the High Court has committed any error. The RPF is rightly treated and considered as an Organised Group A Central Service.”

16. It is surprising that even pursuant to the said mandate of this Court, the post of Director General is only being filled up by way of a lateral entry without there being any service rules. The Apex Court in Sanjay Prakash & Ors. v. Union of India, 2025 SCC OnLine SC 1201, has also passed the following directions:-

“33. Following the same, DoPT issued OM dated 26.03.2019 calling upon the cadre controlling authorities for the RPF and CAPF i.e. Ministry of Railways and Ministry of Home Affairs respectively to send detailed modalities on all issues/directions as per the decision of this Court in *Harananda* (supra) in the matter of organized status and consequential benefit of NFFU to enable implementation at the earliest.

34. In this proceeding, we are not concerned with the OM dated 08.04.2019 dealing with RPF. Nonetheless, it may be mentioned that vide the said OM dated



08.04.2019 of the Railway Board, Ministry of Railways, judgment of this Court in Harananda (supra) has been implemented by taking the relevant steps, such as, notifying RPF as OGAS, restructuring of RPF cadre and to revise the recruitment rules of RPF in consultation with the Union Public Service Commission (UPSC). This was followed by OM dated 12.04.2019.”

17. Though this petition is being disposed of as infructuous, it is incumbent upon the Union of India to carry out the orders of the Apex Court in Sri Harananda (supra) and Sanjay Prakash (supra).

18. No doubt, it is settled law that in the absence of any statutory rules governing the service conditions, recourse to recruitment based on executive orders can be taken but executive decisions which have the effect of recruiting persons only from one service and completely cutting out the promotional avenues of officers can fall foul of Article 14 of the Constitution of India. [Refer to: Dr. Sharmad v. State of Kerala & Ors., 2025 SCC OnLine SC 71 and Nagpur Improvement Trust v. Yadaorao Jagannath Kumbhare & Ors., 1999 (8) SCC 99].

19. In view of the fact that the petition has become infructuous, this Court is not adjudicating on this aspect at all.

20. With these observations, the writ petition is disposed of along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

VIMAL KUMAR YADAV, J

SEPTEMBER 3, 2025

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