CGHC010353612026 2026:CGHC:46831

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

(Order Reserved on 02-11-2026)

(Final Order Delivered on 05-11-2026)

(Final Order Uploaded on 05-11-2026)

WPS No. 6733 of 2026

Inder Prasad Banjare S/o Hari Har Banjare, Aged About 59 Years Deputy Divisional Forest Officer, Division Bastar, Jagdalpur, District Bastar-Jagdalpur (C.G.)

--- **Petitioner**

versus

1 - State of Chhattisgarh Through The Secretary, Department of Forest and Climate Change, Atal Nagar, Nava Raipur District - Raipur (C.G.)

2 - Chief Conservator of Forest, Department of Forest and Climate Change, Aranya Bhawan, Sector-19, Atal Nagar, Nava Raipur District Raipur (C.G.)

3 - Chhattisgarh State Minor Forest Produce Co-Operative Federation Limited (Registered) Through Its Managing Director, A-25, V.I.P. Estate, Shankar Nagar, Raipur, District Raipur, C.G.

4 - Shri Vijendra Singh Thakur, Deputy Divisional Forest Officer, Udaypur, Division Surguja, District - Surguja, C.G.

--- **Respondents**

For Petitioner	:	Mr. Gagan Tiwari, Advocate
For State	:	Mr. Y.S. Thakur, Addl. AG along with Mr. Suyashdhar Badgaiya, GA
For Respondent No.3	:	Mr. Syed Majid Ali, Advocate
For Respondent No.4	:	Mr. Sushobhit Singh, Advocate

ASHUTOSH MISHRA
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WPS No. 6750 of 2026

Awadhesh Singh S/o Shri Jagdeesh Singh Aged About 38 Years C/o S D O, (Forest) Sub- Division Manendragarh, Distt- Manendragarh - Chirmiri - Bharatpur (C.G.) (Sr. No. 10)

---Petitioner

Versus

1 - State of Chhattisgarh Through The Secretary, Forest and Climate Change, Mahanadi Bhawan Nava Raipur, Distt. - Raipur (C.G.)

2 - Principal Chief Conservator of Forest, Chhattisgarh, Aranya Bhavan, Nava Raipur, Atal Nagar, Dist. Raipur (C.G.)

3 - Divisional Forest Officer Division Manendragarh, District Manendragrh - Chirmiri - Bharatpur (C.G.)

4 - Shri Sanjay Tripathi, Presently Posted As S D O. Forest Katghora, Division, Katghora, District Korba C. G. (Sr. No. 18.)

--- Respondents

For Petitioner	:	Mr. Prafull N. Bharat, Senior Advocate along with Mr. Akash Pandey, Advocate & Mr. Tanmay Thomas, Advocate
For State	:	Mr. Y.S. Thakur, Addl. AG along with Mr. Suyashdhar Badgaiya, GA
For Respondent No.4	:	Mr. V.R. Tiwari, Sr. Advocate along with Mr. Atul Kesharwani & Ms. Priyanka Rai, Advocates

WPS No. 6648 of 2026

Manvendra Markande S/o Shri Krishna Ram Markande, Aged About 36 Years R/o Plot No. 18-A, Ashish Nagar, West Risali, Bhilai, District Durg (C.G.)

---Petitioner

Versus

1 - State of Chhattisgarh of Forest, Chhattisgarh, Aranya Bhavan, Nava Raipur, Atal Nagar, Dist. Raipur (C.G.)

2 - Principal Chief Conservator of Forest, Chhattisgarh, Aranya Bhavan, Nava Raipur, Atal Nagar, Dist. Raipur (C.G.)

3 - Divisional Forest Officer, Division Manendragarh, District Manendragarh-Chirmiri-Bharatpur (C.G.)

4 - Shri Ashok Tiwari, Presently Posted As S.D.O., Forest, Surajpur, Division Surajpur, Dist. Surajpur (C.G.) (Sr. No. 25)

--- Respondents

For Petitioner	:	Mr. Prafull N. Bharat, Senior Advocate along with Mr. Akash Pandey, Advocate & Mr. Tanmay Thomas, Advocate
For State	:	Mr. Y.S. Thakur, Addl. AG along with Mr. Suyashdhar Badgaiya, GA
For Respondent No.4	:	Ms. Priyanka Rai, Advocate

(Hon'ble Shri Justice Bibhu Datta Guru)

CAV Order

1. Since common questions of fact and law arise for consideration in the present batch of writ petitions, they are being heard together and are disposed of by this common order. For the sake of convenience, the facts and pleadings of the lead petition bearing WPS No.6648 of 2026 are being referred to in this order.

2. The petitioners, who are officers belonging to the State Forest Service, have called in question the respective orders whereby they have been transferred/posted to the Chhattisgarh State Minor Forest Produce Trading and Development Cooperative Federation Limited (hereinafter referred to as 'the Federation'). The principal challenge is founded on the ground that the Federation is a separate cooperative establishment and, therefore, posting of the petitioners therein amounts to deputation/foreign service, which cannot be directed without their consent.

3. The case of the petitioners is that they substantively belong to the cadre of the State Forest Service and their parent department is the Forest

Department of the State Government. The Federation, though engaged in activities relating to minor forest produce and receiving financial and administrative support from the State Government, is an independent cooperative society having a distinct legal identity and establishment. It is contended that the posts in the Federation do not form part of the regular cadre of the Forest Department and, therefore, the impugned orders cannot be treated as ordinary transfers within the parent cadre.

4. Learned counsel appearing for the petitioners submit that the controversy involved in the present petitions is no longer *res integra* and stands concluded by the decisions rendered by this Court in ***S.S. Kanwar v. State of Chhattisgarh and Others {WPS No.610 of 2010, decided on 17.08.2010}; J.R. Rathia v. State of Chhattisgarh and Others {WPS No.2927 of 2012, decided on 05.10.2015}*** and ***S.R. Banjare v. State of Chhattisgarh and Others {WPS No.3729 of 2015, decided on 14.10.2015}***. Particular emphasis has been placed upon paragraph 11 of the judgment in ***S.S. Kanwar***, wherein the legal distinction between transfer and deputation has been considered in the light of the decision of the Supreme Court in ***State of Punjab and Others v. Inder Singh and Others, (1997) 8 SCC 372***. It is submitted that deputation essentially means service outside the cadre or parent department and that an employee cannot ordinarily be sent on deputation against his will.

5. It is further submitted that the issue concerning the creation of

sanctioned posts for officers of the Forest Department in the Federation has also been considered by this Court in the proceedings arising out of ***S.R. Banjare***. He would also place reliance upon the order passed by this Court in ***L.K. Choudhary Vs. State of Chhattisgarh & Ors. {REVP No.149 of 2015}***, wherein the contention that creation of sanctioned posts in the Federation would make the Federation a part of the Forest Department was not accepted.

6. *Per contra*, learned State counsel would submit that the impugned orders are not orders of deputation but are merely administrative transfers within the existing cadre of the State Forest Service. It is contended that the Federation is substantially owned, funded and controlled by the State Government and functions as an extended arm of the Forest Department for carrying out activities relating to collection, procurement and disposal of minor forest produce.

7. Learned State counsel would further submit that several posts have been sanctioned for the Federation within the overall sanctioned strength of the Forest Department. Therefore, posting an officer of the State Forest Service against any such post cannot be treated as deputation to a foreign service. Reliance has also been placed upon the proviso to Fundamental Rule 110, particularly clause (a), to contend that the requirement of obtaining consent is not attracted in the case of a body wholly or substantially owned or controlled by the Government. He would also submit that the judgment relied upon by the petitioners

is distinguishable, as the relevant cadre structure and the placement of posts of the Federation within the sanctioned strength of the Forest Department were not specifically considered therein.

8. Mr. V.R. Tiwari, learned Senior Counsel appearing for respondent No. 4 in WPS No.6750 of 2026, while adopting the submissions advanced by learned State counsel, would additionally submit that the judgment relied upon by the petitioners is distinguishable, as the relevant cadre structure and the placement of posts of the Federation within the sanctioned strength of the Forest Department were not specifically considered therein. It is urged that a question which has neither been consciously considered nor determined by a Court cannot be treated as a binding precedent on that particular aspect. In support of this submission, reliance is placed upon ***Delhi Airtech Services Private Limited and Another v. State of Uttar Pradesh and Another, (2011) 9 SCC 354***, particularly paragraph 42, wherein the doctrine of *sub silentio* has been explained with reference to the decision in ***MCD v. Gurnam Kaur, (1989) 1 SCC 101***. Learned Senior Counsel would, therefore, submit that the impugned orders are orders of transfer within the cadre and not orders of deputation, and that the writ petitions deserve to be dismissed.

9. I have heard learned counsel for the parties and perused the material available on record.

10. The principal question which arises for consideration is - whether the

posting of the petitioners, who belong to the State Forest Service and are borne on the establishment of the Forest Department, to the Chhattisgarh State Minor Forest Produce Trading and Development Cooperative Federation Limited (hereinafter referred to as 'the Federation') can be treated as an ordinary transfer within their parent cadre, or whether the same, in substance, amounts to their posting in a separate establishment outside the parent cadre, attracting the principles governing deputation and the requirement of consent ?

11. The question cannot be determined merely by reference to the nomenclature employed in the impugned orders or by the administrative description of the arrangement as an intra-cadre transfer. It is necessary to examine the legal status of the Federation, the character of the posts to which the petitioners have been posted, the cadre structure of the Forest Department and the applicable service rules. The fact that an officer continues to retain his lien in the parent department, or that his service conditions continue to be governed by the rules applicable to the parent cadre, is a relevant consideration; however, such circumstance, by itself, does not conclusively establish that every post in another establishment is a post within the parent cadre.

12. The legal concept of ‘deputation’ is well settled in ***State of Punjab and Others v. Inder Singh and Others, (1997) 8 SCC 372***, wherein the Supreme Court explained that deputation, in service jurisprudence,

ordinarily means service outside the cadre or outside the parent department and involves the posting of an employee to a post outside his cadre, generally in another department or establishment, on a temporary basis. The Court also recognised the significance of consent in an arrangement which has the legal character of deputation. Whether a particular posting constitutes deputation must, therefore, be determined with reference to the nature of the post, the establishment to which it belongs and the applicable service rules.

13. This Court had an occasion to consider substantially the same controversy in **S.S. Kanwar (supra)**. The petitioner therein, an officer of the Forest Department, had been posted as Deputy Managing Director in a District Union functioning under the Minor Forest Produce Federation. After examining the nature of the establishment and the character of the post, the coordinate Bench of this Court held that the posts borne on the establishment of the Society, including the post of Deputy Managing Director, were outside the cadre of Assistant Conservator of Forest in the Forest Department. The posting was, accordingly, held to amount to deputation and not a simple transfer.

14. In the said decision, this Court considered the principles laid down by the Supreme Court in ***Inder Singh (supra)*** and applied them to the posting in question. The decision did not proceed merely on the designation assigned to the post but examined whether the post formed part of the officer's parent cadre or belonged to the establishment of the

Federation. The distinction between a transfer within the cadre and a posting outside the cadre was thus central to the determination.

15. The aforesaid principle was subsequently applied by another coordinate Bench of this Court in **J.R. Rathia (supra)** and **S.R. Banjare (supra)**. In **S.R. Banjare (supra)**, the challenge similarly concerned the posting of an officer of the Forest Department as Deputy Managing Director in a District Union under the Federation. The Court followed the earlier decision rendered in **S.S. Kanwar (supra)** and granted relief to the petitioner.

16. The Supreme Court in ***District Manager, A.P. SRTC, Vijayawada v. K. Sivaji and Others, (2001) 2 SCC 135***, categorically held that decision of a concurrent Bench is binding on a Single Bench and the judicial discipline requires the Single Judge either to follow that decision or refer the matter to a larger Bench. It further held that sitting singly he cannot take a different view on the specious ground that the decision is based on facts.

17. Of particular relevance is the subsequent decision in ***L.K. Choudhary v. State of Chhattisgarh {Review Petition No. 149 of 2015, decided on 26.02.2016}***, arising out of the proceedings in **S.R. Banjare (supra)**. In the review proceedings, the contention was specifically advanced that posts had been sanctioned for officers of the Forest Department for their placement in the Federation and that such sanctioned posts justified treating the posting as an ordinary transfer rather than

deputation. This Court considered the contention and declined to accept that the creation of posts for the Federation, by itself, made the Federation a part of the Forest Department.

18. The aforesaid review decision assumes significance because the respondents in the present proceedings have substantially reiterated the same argument. They contend that a specified number of posts, stated to be 38 in the pleadings, have been earmarked or sanctioned for officers of the State Forest Service for work connected with the Federation and its District Unions. According to them, the existence of these posts within the sanctioned strength, coupled with the continuance of the officers' lien in the Forest Department, establishes that the impugned postings are intra-cadre transfers.

19. It is noteworthy to mention here that the sanction of posts for the performance of functions connected with a particular organisation does not, without more, establish that those posts form part of the regular cadre of the parent department. The relevant sanction orders, applicable recruitment and service rules, and the legal arrangement under which the posts have been created must demonstrate that the posts in question are, in fact, posts borne on the parent cadre. Merely showing that the posts have been sanctioned for officers belonging to that cadre does not necessarily establish such a conclusion.

20. The respondents have further submitted that the Federation is not an ordinary cooperative society but an organisation functioning in close

association with the Forest Department for the collection, procurement and disposal of minor forest produce. It is stated that the Federation receives substantial financial and administrative support from the State Government, that its activities are closely supervised by governmental authorities, and that the officers posted to it continue to retain their lien and remain subject to the service conditions applicable to the State Forest Service.

21. The relationship between the State Government and the Federation is undoubtedly relevant. Nevertheless, the functional connection between two establishments and the exercise of governmental supervision over one of them do not, without examination of the applicable legal framework, establish that both establishments constitute one and the same cadre. The performance of functions connected with the Forest Department may explain why officers of the State Forest Service are required to work in the Federation; it does not, by itself, determine the legal character of their posting.

22. The respondents have also relied upon the proviso to Fundamental Rule 110, particularly clause (a), to contend that consent is not required where the posting is to a body wholly or substantially owned or controlled by the Government. The applicability of the said provision must be examined in its proper context. The question whether the Federation is substantially owned or controlled by the State Government is not necessarily identical to the question whether the

posts in the Federation form part of the regular cadre of the Forest Department. The former concerns the relationship between the Government and the Federation; the latter concerns the cadre structure and the legal character of the posts against which the petitioners have been directed to serve.

23. It is, therefore, necessary to examine the precise terms of Fundamental Rule 110 and the other applicable service rules before determining the consequences flowing from the nature of the Federation and the impugned postings. Neither the separate legal identity of the Federation nor the fact of governmental control can be treated as conclusive in isolation. Equally, the description of a posting as an intra-cadre transfer cannot dispense with the requirement of establishing that the post in question legally forms part of the officer's parent cadre or that the applicable rules otherwise authorise the posting without consent.

24. The respondents' reliance upon decisions rendered in relation to other government-controlled bodies or different service arrangements must also be considered in this context. A conclusion reached under a particular State service rule, statutory framework or administrative arrangement cannot automatically be transplanted to the present case without examining whether the governing provisions and material facts are comparable. The decisions relied upon by the respondents may assist in understanding the scope of governmental control and the operation of the relevant rules, but they cannot displace a binding

decision of this Court on the same legal controversy unless a material distinction is demonstrated.

25. The further objection raised by learned Senior Counsel appearing for respondent No. 4 is that the earlier decisions of this Court did not consider the sanctioned cadre strength, the earmarking of posts for the Federation and the continuance of lien in the Forest Department, and that the decisions are, therefore, sub silentio on those aspects. In support of the submission, reliance has been placed upon ***Delhi Airtech Services Private Limited and Another v. State of Uttar Pradesh and Another, (2011) 9 SCC 354***, particularly paragraph 42, with reference to ***Municipal Corporation of Delhi v. Gurnam Kaur, (1989) 1 SCC 101***.

26. There can be no dispute with the general proposition that a point which was neither consciously considered nor necessary for deciding a case does not, merely because it arose in the course of the proceedings, become part of the *ratio decidendi* of the judgment. However, the application of the doctrine depends upon the nature of the issue and the treatment it received in the earlier proceedings. The doctrine cannot be invoked merely by asserting that an earlier judgment did not discuss every factual detail or every formulation of an argument subsequently advanced.

27. In the present case, the contention concerning the creation of sanctioned posts for officers of the Forest Department in the Federation

was specifically raised in the review proceedings arising out of **S.R. Banjare** (supra). This Court considered that contention and declined to accept that the creation of such posts, by itself, made the Federation part of the Forest Department. The respondents' argument that the issue of sanctioned posts was altogether left unconsidered in the earlier litigation is, therefore, not borne out by the decision in the review proceedings.

28. When an earlier coordinate Bench of the High Court has considered the same controversy, on substantially identical grounds and on the basis of the same material, and has arrived at a considered conclusion, a subsequent coordinate Bench cannot disregard or take a contrary view of the matter merely because a different argument is advanced or the controversy is sought to be examined from another perspective. If the subsequent Bench is unable to agree with the view already taken, the appropriate course is to refer the matter for consideration by a larger Bench in accordance with law. The principle is founded upon the necessity of maintaining consistency, certainty and uniformity in judicial decisions. ***(See: Official Liquidator v. Dayanand and Others, (2008) 10 SCC 1)***

29. Applying these principles, I am of the considered view that the earlier decisions of this Court, particularly ***S.S. Kanwar (Supra)*** and the review decision in **L.K. Choudhary (Supra)**, directly bear upon the controversy raised in the present petitions. The respondents have not

demonstrated a material distinction in the applicable legal framework that would justify disregarding those decisions. The contention based on *sub silentio* cannot, in the circumstances, be accepted as a ground for treating the issue of sanctioned posts as one that remains wholly open.

30. The aforesaid conclusion does not mean that every posting to an organisation having a separate legal identity must invariably be treated as deputation, irrespective of the applicable service rules. The determination must depend upon the legal character of the post, the cadre to which it belongs, the statutory or rule-based authority for the posting and the effect of the relevant provisions. In the present case, however, the respondents' reliance upon governmental control, sanctioned posts and continuance of lien does not, by itself, establish that the posts in question form part of the regular cadre of the Forest Department.

31. The material placed before this Court must accordingly be assessed in the light of the aforesaid principles. The respondents have not established that the posts to which the petitioners have been posted form part of their regular parent cadre merely because such posts have been sanctioned for work connected with the Federation, though the said arrangement is not a part of the service rules. Nor can the legal character of the postings be conclusively determined by describing them as intra-cadre transfers. In view of the earlier decisions of this

Court governing the same controversy, the impugned postings cannot be sustained on the grounds advanced by the respondents.

32. Considering the entire facts & circumstances of the case and in view of the well settled principles of law, this Court is of the considered opinion that the impugned orders, insofar as they direct the petitioners to serve in the Federation without their consent, cannot be sustained in law in the facts and circumstances of the present cases. The challenge succeeds on the grounds discussed hereinabove, and the petitioners are entitled to relief in accordance with the operative directions that follow.

33. In view of the aforesaid discussion and the legal position settled by the decisions of this Court noticed hereinabove, I find that the impugned orders, insofar as they direct the petitioners to serve in the Federation without their consent, are not sustainable in law.

34. Consequently, all the writ petitions are **allowed**. The respective impugned transfer/posting orders, insofar as they relate to the petitioners, are hereby quashed and set aside.

35. It is made clear that this order shall not preclude the competent authority from passing any fresh order in accordance with law and the applicable service rules, consistent with the principles laid down hereinabove.

SD/-
(**Bibhu Datta Guru**)
JUDGE

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