



2025:DHC:9030-DB



\$~74 & 75

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

+ W.P.(C) 14385/2021 & CM APPL. 45348/2021

SUMIT KUMARPetitioner

Through: Mr. Amit Dubey, Mr. Sarthak Dubey, Ms. Nikita Motwani, Advs.

versus

UNION OF INDIA THROUGH DIRECTOR GENERAL
RAILWAY PROTECTION FORCERespondent

Through: Ms. Nidhi Raman, CGSC with
Mr. Akash Mishra & Mr. Arnav Mittal,
Advs.

+ W.P.(C) 11570/2022

VIPIN KUMARPetitioner

Through: Mr. Amit Dubey, Mr. Sarthak Dubey, Mr. Sparsh Jain, Advs.

versus

UNION OF INDIA THROUGH DIRECTOR GENERAL
RAILWAY PROTECTION FORCERespondent

Through:

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

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08.10.2025

C. HARI SHANKAR, J.

1. The writ petitioners in these petitions are Constables in the



Railway Protection Force¹. Sumit Kumar, petitioner in WP(C) 14385/2021 is posted at Malda in West Bengal, whereas Vipin Kumar, petitioner in WP(C) 11570/2022 is posted at Bhavnagar in Gujarat.

2. Pooja, the wife of Sumit Kumar, is working as a Teacher in a school run by the State of Uttar Pradesh at Bijnor, whereas Neha Kumari, the wife of Vipin Kumar, is working as an Assistant Teacher in Maharajganj, Uttar Pradesh. They are both employees of the state of Uttar Pradesh.

3. The petitioners sought transfer to a place where their respective spouses were posted or to a proximate place of posting, invoking, for the said purpose, Clause 3(d) of circular dated 2 February 2010, issued by the Railway Board, which reads thus:

“3. The guidelines as framed by DOP&T in view of the 6th CPC, have been examined in this ministry and it has been decided to adopt these with certain modifications. Accordingly provisions of guidelines issued under board’s letter dated 5.11.97 *ibid* have been modified as under:

d. WHERE ONE OF THE SPOUSE IS A RAILWAY SERVANT AND THE OTHER BELONGS TO A STATE SERVICE.

The railway servant should be posted close to the station / place in the Railway / Division / PU in whose territorial jurisdiction the place/ station of posting of his/her spouse falls. If it is not possible, if a request from the railway servant to the controlling authority the spouse for his/ her posting at the place of posting of the railway servant is received the same may be forwarded to the concerned authority for sympathetic consideration.”

¹ “RPF” hereinafter



4. The petitioners' representations were disposed of by the respondents by identical orders dated 22 October 2021 (in the case of Sumit Kumar) and 17 August 2020 (in the case of Vipin Kumar) along with similar requests of several other employees.

5. In each case, the ground for rejecting the representations, at that stage, was the same, and reads thus:

“Their spouses are working as Teacher & other non-transferrable jobs. Therefore, it cannot be considered as a transferrable job involving dislocation. Since, we have very limited vacancies for Inter Railway transfer right now, these cases of spouse working in non-transferrable job may not be considered at present. However, they will be free to apply later.”

6. Mr. Amit Dubey, learned Counsel for the petitioners, submits that the respondents are in error in refusing the petitioners' requests for transfer on the ground that their wives were in non-transferrable jobs and that, therefore, there would be no dislocation.

7. Having perused the orders dated 22 October 2021 and 17 August 2020, whereby the petitioners' requests for transfer were rejected, we are not in agreement with Mr. Dubey that the reason for rejection was that their wives were in non-transferrable jobs. The fact that the petitioners' spouses were in non-transferrable jobs is not in dispute. Clause 3(d) of the Railway Board Circular dated 2 February 2010 envisages posting of the railway employee close to his spouse, if it is possible to do so. If it is not possible to do so, the Clause envisages the employee approaching the employer of the spouse to transfer the spouse and, in that event, forwarding of the application by



the Railway Authorities, seeking a compassionate consideration.

8. This latter eventuality does not apply in the present case, as the wives of petitioners are admittedly posted in jobs which do not permit their transfer outside the state of Uttar Pradesh.

9. As such, the respondents' responsibility was only to post the petitioners close to their respective wives, if it was possible to do so.

10. The orders under challenge dated 22 October 2021 and 17 August 2020 specifically state that there were limited vacancies for Inter-Railway transfer at that point of time. The petitioners were advised to apply later.

11. Instead of re-applying, the petitioners approached this Court and these petitions have, therefore, remained pending for four years before us.

12. Mr. Dubey submits that, in the interregnum, several juniors of the petitioners have been granted spousal transfer. That cannot, in our considered opinion, be a legitimate grievance as the petitioners, instead of re-applying, approached this Court and if, during the pendency of the petitions, juniors have been extended the benefit of spousal transfer, that is only because the petitioners chose to come to the Court rather than avail the opportunity of re-applying.

13. Ms. Nidhi Raman, learned CGSC for the respondent in WP(C) 14385/2021 submits that, after the passing of the order dated 22



October 2021, Sumit Kumar re-applied in 2023 but did not cite the posting of his spouse as the ground for seeking transfer. Transfer on spousal ground has again been sought by a representation submitted by him in May 2025 which is presently under consideration. She undertakes on instructions that a decision on the representation would be taken expeditiously.

14. We direct that a decision on the representation be positively taken within a period of 16 weeks from today and communicated to the petitioner.

15. We may, in this context, note the recent decision of the Supreme Court in **SK Nausad Rahaman v UOI**,² in which the Supreme Court has observed that the State, while framing its policy, “has to give due consideration to the importance of protecting family life as an element of the dignity of the person and a postulate of privacy”. In the said decision, the Supreme Court also relied, with approval, on the following passage, from **Bank of India v Jagjit Singh Mehta**³ which, we feel, is also of relevance in the present case:

“5. *There can be no doubt that ordinarily and as far as practicable the husband and wife who are both employed should be posted at the same station even if their employers be different. The desirability of such a course is obvious.* However, this does not mean that their place of posting should invariably be one of their choice, even though their preference may be taken into account while making the decision in accordance with the administrative needs. In the case of all-India Services, the hardship resulting from the two being posted at different stations may be unavoidable at times particularly when they belong to different services and one of them cannot be transferred to the place of the other's posting. While

² (2022) 12 SCC 1

³ (1992) 1 SCC 306



choosing the career and a particular service, the couple have to bear in mind this factor and be prepared to face such a hardship if the administrative needs and transfer policy do not permit the posting of both at one place without sacrifice of the requirements of the administration and needs of other employees. In such a case the couple have to make their choice at the threshold between career prospects and family life. After giving preference to the career prospects by accepting such a promotion or any appointment in an all-India Service with the incident of transfer to any place in India, subordinating the need of the couple living together at one station, they cannot as of right claim to be relieved of the ordinary incidents of all-India Service and avoid transfer to a different place on the ground that the spouses thereby would be posted at different places. ... No doubt the guidelines require the two spouses to be posted at one place as far as practicable, but that does not enable any spouse to claim such a posting as of right if the departmental authorities do not consider it feasible. *The only thing required is that the departmental authorities should consider this aspect along with the exigencies of administration and enable the two spouses to live together at one station if it is possible without any detriment to the administrative needs and the claim of other employees.*”

(Emphasis supplied)

16. While there can, obviously, be no absolute right to be posted with, or near to, one's spouse, unless the applicable Rules or instructions so postulate, the State has, in deciding postings, strive to ensure that spouses are posted proximate to each other, in the interests of securing a healthy and harmonious family life. Of course, this would be subject to administrative exigencies, which must in all cases predominate, but these exigencies must be genuine, and not merely in the nature of an escape route to avoid acceding to a request based on spousal posting considerations.

17. Ms. Nidhi Raman submits that there are over 700 applications which have been filed by officers seeking transfer on spousal ground. She submits that the petitioner's case would be considered keeping in mind his seniority position as well as the number of vacancies



available.

18. We are satisfied that this undertaking would, for the present, subserve the interests of justice. However, we direct the respondents to keep in mind the law enunciated by the Supreme Court, as noted *supra*, while taking a view on the representation of the petitioner, as well as the object of the circular dated 2 February 2010, as contained in para 1 thereof, which we deem appropriate to reproduce, thus:

“1. In view of the utmost importance attached to the enhancement of women status in all walks of life and to enable them to lead a normal family life as also to endure the education and welfare of children, the instructions regarding posting of husband and wife at the same station was issued vide ministry of railways letter No. E (NG)II/71/TR/14 dated 01.10.71, as reiterated in letter no. E(NG)1-86/TR/14 dated 06.01.88. Pursuant to a recommendation of the 5th CPC, the scope of these instructions was further widened and detailed guidelines were issued vide this Ministry’s letter No. E(NG)1-97/TR/28 dated: 05.11.97 in a consolidated form.”

19. Learned Counsel for the parties are not clear as to whether Vipin Kumar, the petitioner in WP (C) 11570/2022, has re-applied for transfer on spousal grounds. In case he has not done so, he is permitted to do so within a period of one week from today. In case any such application is received by the respondents, they would consider the application as well within the same time frame which we have fixed as above.

20. While, given the very nature of things, we are not in a position to issue *mandamus* to the respondents to agree to the petitioners’ requests, we do expect that they would take a sympathetic view of the matter, keeping in mind the objectives of posting spouses at the same



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station as outlined by the Supreme Court and the objective of the circular dated 2 February 2010, as manifested by para 1 thereof.

21. With these observations, both these writ petitions are disposed of.

C. HARI SHANKAR, J

OM PRAKASH SHUKLA, J

OCTOBER 8, 2025/rjd