

**(2008) 10 DEL CK 0048**

**In the Delhi High Court**

**Case No :** Writ Petition (C) No. 6749 of 2008

ASI Bhanu Pratap

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision :** 22-10-2008

**Acts Referred:**

**Citation :** (2008) 10 DEL CK 0048

**Hon'ble Judges :** Sanjay Kishan Kaul, J;Mool Chand Garg, J

**Bench :** Division Bench

**Advocate :** U. Srivastava, for the Appellant; R.K. Dhawan and Rahul Gaur, for the Respondent

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## **Judgement**

Sanjay Kishan Kaul, J.—The petitioner was appointed to the Railway Protection Force (Western Railway) as a Constable on 16.08.1987 and was promoted as a Head Constable in 1996 and thereafter as an ASI on 21.10.2005. The petitioner applied for transfer from Western Railway to Northern Railway allegedly on account of the personal difficulties and the petitioner was transferred on 17.08.2007. The grievance of the petitioner is that while fixing seniority of ASI/RPF the petitioner has been assigned the seniority as HC/RPF.

2. We have had the occasion to consider the controversy in the reverse perspective in W.P.(C) 4476/2007 titled as B.L. Bishnoi and Ors. v. Union of India and Ors. decided today. We have concluded that inter-zone transfers are not permissible in case of a promoted post as per the standing order No. 70 dated 27.09.2004. It is not in dispute that the post on which the petitioner was working being of ASI Constable was a promotional post for the petitioner and thus, inter-zone transfer was not permissible unless the petitioner is placed at the bottom of the list as HC/RPF.

3. The respondents apparently woke up to the problem after the controversy in B.L. Bishnoi's case (Supra) had arisen and that is the reason the petitioner was sought to be assigned a lower seniority as Head Constable in the zone to which

the petitioner has been transferred. Learned Counsel for the petitioners submits that if the petitioner would have known his fate of a lower seniority possibly he would not have exercised the option to seek transfer.

4. In view of the judgment in B.L. Bishnoi's Case (Supra), we consider it appropriate to give the petitioner the option to go back to his zone within a period of three months from today. During this period of three months status quo would be maintained in terms of order dated 29.09.2008. In case the petitioner chooses to stay in the Northern Zone, then he would have to take his seniority as Head Constable but in case he decides to go back to his original zone being the Western Railway, the petitioner would work in the post of ASI as per promotion granted to him earlier.

5. The writ petition is disposed of in the aforesaid terms.

6. Dasti.