

(2003) 11 SHI CK 0012

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 1414 of 1993

Jai Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 27-11-2003

Acts Referred:

Central Reserve Police Force Act, 1949 — Section 7(2)
Central Reserve Police Force Rules, 1955 — Rule 25, 25(9)
Constitution of India, 1950 — Article 226, 227

Citation : (2003) 3 ShimLC 423

Hon'ble Judges : Lokeshwar Singh Pant, J

Bench : Single Bench

Advocate : Shrawan Dogra, for the Appellant; Ankush Sood, Additional C.G.S.C. for Respondents Nos. 1 to 3, for the Respondent

Final Decision : Dismissed

Judgement

Lokeshwar Singh Pant, J.—Jai Singh Petitioner has filed this writ petition under Articles 226/227 of the Constitution of India for an appropriate writ, order or direction to the following effects :

(i) That the transfer of Petitioner from Group Centre Dharampur to Group Centre Jamnagar vide order dated 10.9.1988 may kindly be quashed and set aside and the Respondents may be directed to post the Petitioner in Himachal Pradesh Division forthwith. It may be declared that Petitioner has continued as Naik/Driver in Himachal Pradesh Division at his original place in the seniority for all intents and purposes;

(ii) That the Respondents may be directed to consider the case of Petitioner for promotion to the rank of Head Constable/driver on the basis of his seniority as Naik/driver in Himachal Pradesh Division from 21.4.1992 i.e. when Respondents No. 4 to 9 were so promoted;

(iii) That as a result of his promotion from due date the Respondents may be

directed to grant him all consequential benefits including seniority and arrears of pay etc.;

(iv) That any other relief deemed just and proper in the circumstances of the case may also be granted;

(v) That costs of the writ petition may also be awarded.

2. The Petitioner was appointed as Constable/Driver in the organization of the Directorate of S.S.B. in the year 1971. He joined on 19.2.1971 at first Battalion S.S.B. Kumarsain District Shimla. He was later on promoted as Lance Naik/Driver in 1975. In the year 1979 in place of Battalion, the pattern of raising a Group Centre was introduced by Respondents No.1 to 3 and consequently first battalion Kumarsain was re-designated as Group Centre. In 1982 Group Centre Kumarsain was shifted to Dharampur, District Solan. The Petitioner was promoted as Naik/Driver on 6.9.1984.

3. According to the Petitioner as per condition of eligibility as contained in letter dated 9.3.1977, a copy whereof is annexed with the writ petition as Annexure P-1, the Petitioner became eligible for further promotion as Head Constable/Driver in 1987 when he completed three years satisfactory service as Naik/Driver. The Petitioner's name figured at serial No. 2 in the seniority list (Annexure P-2) of Naik/Driver for Himachal Pradesh Division for 1986-87 and his date of promotion as Naik was shown on 6.9.1984. For further promotion from the rank of Naik the next avenue of promotion is to the rank of Head Constable/Driver on the basis of seniority of Naik at Divisional level. The seniority of Head Constables is maintained on all India level. The Respondents directed the Petitioner vide order dated 10.9.1988 to report for duty at newly raised Group Centre, Jamnagar at Gujrat without his consent or willingness. The Petitioner joined at new place of his posting at Jamnagar on 18.10.1988. According to the Petitioner he learnt that as per SSB Directorate order No. 1/SSB/D/88(17) 1527 dated 24.6.1988 one Head Constable/Driver and two Constable Drivers were ordered to be transferred to Group Centre, Jamnagar. The Respondents chose to transfer the Petitioner instead of transferring Head Constable/Driver whose seniority is based on All India basis without considering the claim of the Petitioner when his seniority was settled at Divisional level. The Petitioner submitted a representation dated 13.2.1989 to Respondent No. 2, (a copy whereof is enclosed herewith as Annexure P-3) requesting his re-transfer to parent Division. The said representation was followed by repeated representations dated 1.9.1989, 19.11.1990, 3.12.1990, 10.12.1991 and 10.1.1992.

4. The Petitioner further stated that in April/May, 1992, he came on sanctioned leave to his home State i.e. Himachal Pradesh. During his leave period he learnt that vide order No. B-II/8/88-9246-49 dated 21.4.1992 six persons, namely, S/ Shri Gurmukh Ram, Sawaran Singh, Amar Singh and Parkash Chand, Umedh Singh and Mangal Dass who were junior to him in Himachal Pradesh Division

were promoted as Head Constables/Drivers. S/Shri Gurmukh Ram, Sawaran Singh, Amar Singh and Parkash Chand figured at serial Nos. 4 to 6 in the seniority list (Annexure P-2) whereas S/Shri Umedh Singh and Mangal Dass did not even figure in the seniority list. The seniority of the Petitioner was ignored. On 21.6.1992 the Petitioner issued legal notice (Annexure P-4) to the Respondents against the illegal promotions of his junior persons effecting his seniority. The Petitioner again submitted representation dated 10.12.1992 requesting for taking early action for promoting him from due date, but till the date of filing the writ petition he had not received any favourable response from the Respondents. As per the Petitioner, since the seniority is maintained at Divisional level, incumbents holding posts in such Division cannot be transferred outside their parent Division without their consent or willingness adversely affecting their avenue of promotion. The Petitioner was neither senior most nor junior most Naik in Himachal Pradesh Division. He was arbitrarily picked up for such transfer. The persons junior to the Petitioner in the rank of Naik were promoted in Himachal Pradesh Division to the rank of Head Constable in April, 1992 whereas the Petitioner is still continuing as Naik in Rajasthan and Gujrat Division. On these premises, the Petitioner has filed the present writ petition seeking the above said reliefs.

5. The writ petition was filed on September 16, 1993. The Respondents were called upon to file counter to the writ petition. Shri V.K. Malik the then Divisional Organiser, Punjab and Himachal Pradesh, SSB, Division has filed affidavit-in-reply on behalf of the Respondents. In preliminary submissions the Respondents have submitted that the writ petition is not maintainable as the Petitioner is liable to serve at any place within the territory of India and his transfer to Group Centre, Jamnagar of Rajasthan and Gujrat Division was effected in accordance with Section 7(2) of the CRPF Act, 1949, under which the service of the Petitioner is governed. Despite transfer of the Petitioner to Group Centre, Jamnagar, his seniority amongst Naik/Drivers was at serial No. 1 and he became eligible for promotion w.e.f. 31.7.1991, consequent upon his passing of Auto-Fitter Course on 30.7.1991. As per the 40 point Roster maintained by Group Centre, vacancy at serial No. 1 was to be filled up by a Scheduled Caste candidate. As no Scheduled Caste candidate was available, the Petitioner could not be promoted and the case for de-reservation of the said vacancy had been taken up with the S.S.B. Directorate and on receiving the sanction thereof, the Petitioner would be considered for promotion as per the Rules. On merits, the stand of the Respondents is that the Battalions were re-designated as Group Centres in the SSB Organization and 1st Battalion Kumarsain was re-designated as Group Centre on 1.7.1980 and the head quarters of Group Centre, Kumarsain was transferred to Dharampur in February/March, 1983 and not in 1982 as stated by the Petitioner. It is admitted that the Petitioner was promoted w.e.f. 6.9.1984 to the rank of Naik/Driver but his promotion was on ad-hoc basis because the Petitioner had not passed Auto Fitter Course which was a pre-requisite condition for promotion. Mere completion of three years of service as Naik/Driver does not

entitle the Petitioner for promotion to the next higher rank of Head Constable/ Driver which in fact is further subject to the availability of the vacancy. The Respondents have stated that as the Petitioner could be transferred u/s 7(2) of CRPF Act, 1949, there was no requirement of asking consent/willingness of the Petitioner. The Deputy Inspector General (E) of Directorate General of Security Office of the Director SSB vide memorandum dated August 1, 1988 (a copy of which is enclosed as Annexure A) had ordered the transfer of 145 posts from Group Centre, Dharampur to Group Centre, Jamnagar as per the Cabinet Secretariat Order No. A-11013/18/87-DO-I dated 21.4.1988. Pursuant to the above orders of the SSB, Directorate, a full company strength of personnel was permanently transferred to Jamnagar. The Petitioner was accordingly transferred to Group Centre, Jamnagar against the post of Head Constable/ driver and adjusted against the higher post. But at the relevant time the Group Centre, Dharampur was having one Head Constable/Driver against the sanctioned strength of three Head Constables and one more Naik/Driver senior to the Petitioner who wanted to proceed on voluntary retirement. The Respondents denied the receipt of any of the representation allegedly made by the Petitioner. They have stated that the Petitioner is at serial No. 1 in the seniority list of Naik/ Drivers drawn at the Divisional head quarters Rajasthan and Gujarat Division and till date he has not been superseded. The Respondents have admitted that seven Naik/Drivers of Himachal Pradesh Division were promoted to the rank of Head Constable/Workshop and Head Constable/Driver on the basis of their eligibility and seniority in Himachal Pradesh Division w.e.f. 21.4.1992 as the Petitioner was permanently transferred to Group Centre, Jamnagar of Rajasthan and Gujarat Division on permanent basis and he was not holding his lien in Himachal Pradesh Division. Therefore; his claim for seniority and promotion in Himachal Pradesh Division could not be accepted. The promotion/ seniority etc. was to be maintained by the concerned new Group Centre Rajasthan and Gujarat Division where the Petitioner is presently posted. The Respondents have further extended the SSB activities in Rajasthan and Gujarat Division by creating two companies with the strength of 145 men each from the Group Centres of Himachal Pradesh Division i.e. Group Centres Sapri and Dharampur. As a result thereof the strength of Group Centre, Dharampur and Sapri would stand reduced by one Company each and the Company strength of personnel transferred accordingly will form regular members of SSB. Group Centres of Jaisalmer and Jamnagar. The personnel transferred to the said two Centres will acquire fresh seniority and promotion etc. in their new Group Centres.

6. In the supplementary affidavit dated 28.10.1994, the Divisional Organiser has stated that after de-reservation of the post of Head Constable at SSB. Unit Jamnagar, the Petitioner had been promoted to the post of Head Constable/ Driver w.e.f. 14.5.1994.

7. The Respondents in his rejoinder to the reply has admitted that as per the provisions of Section 7(2) of CRPF. Act, 1949, every member of the Force is under an obligation to serve without and beyond as well as within the territory of

India. According to him, this provision is general in nature and in the exigencies of service any member of the Force may be required to serve anywhere but the Respondents under the garb of the said provisions cannot arbitrarily change the parent Division of the Petitioner without following any norms and guidelines. If the exigencies of service required, then either the Respondents should have invited options from Naiks serving in Himachal Division for their transfer to newly created Jamnagar Group Centre under Rajasthan and Gujarat Division and in the absence of any body opting for such transfer, junior most Naik should have been sent on transfer. He has contended that when he was transferred to Group Centre, Jamnagar in 1988, there were four vacant posts of Head Constables available in Rajasthan and Gujarat Division including one created in Group Centre, Jamnagar. As such, the defence of the Respondents that he could not be promoted due to the said post being reserved as per roster point No. 1 of 40 point roster is not factually correct. The Petitioner has been promoted as Head Constable as per order dated 14.5.1994 but he has been rendered junior in All India Seniority (Annexure P-6) whereas Respondents No. 4, 5 and 8 who were junior to the Petitioner as Naik in the Himachal Pradesh Division are figuring at serial Nos. 16, 14 and 15 respectively. The Petitioner has stated that passing Auto Fitter Course was not a pre-requisite condition for promotion as in the seniority list (Annexure P-6), the persons at serial Nos. 4, 9 and 10 have been promoted as Head Constables/Drivers whereas in column No. 9 nothing is mentioned which clearly indicates that the said persons have not passed the Auto Fitter Course and the plea of the Respondents that the Petitioner has not passed Auto Fitter Course has been advanced simply to defeat his claim. He next contended that Shri Laxmi Singh the senior most Naik/Driver in Himachal Pradesh Division had sought voluntary retirement with a view to avoid his transfer to Group Centre, Jamnagar but it appears that subsequently he withdrew his request for voluntary retirement and is now continuing as Head Constable in Group Centre, Dharampur. The Petitioner has reiterated and reasserted other averments of the writ petition.

8. In sur-rejoinder to the rejoinder filed by the Petitioner, the Respondents have re-asserted that there is no provision under the CRPF Act and Rules wherein it is provided that a personnel should be posted out of his home town only with his prior consent. In addition to Section 7(2) of CRPF Act, Rule 25(a) of the CRPF. Rules envisages that a member of the Force may be employed in any part of the Indian Union for the restoration and maintenance of law and orders and for any other purpose as directed by the Central Government. The Petitioner was initially promoted on ad-hoc basis w.e.f. 6.9.1984 as Naik Driver. His ad-hoc promotion as Naik Driver was accordingly regularized w.e.f. 6.9.1984 after he had qualified the Auto-Fitter-Course. S/Shri Mano Singh (Sr. No. 4), Benu Ram (Sr. No. 9) and Subal Chandra Kaleta (Sr. No. 10) in the seniority list do not belong to Himachal Pradesh Division. The personnel at serial No. 4 belongs to Group Centre Imphal of Manipur and Nagaland Division and those who were at serial Nos. 9 and 10 belong to Group Centre Bassar of Arunachal Pradesh Division. Those persons

were promoted by their respective Group Centres before promulgation of promotion rules, though, they have not undergone Auto Fitter Course. It is contended that the Petitioner has been given full service benefit as admissible under the Rules. The contention of the Petitioner that there were about, six Naik driver in Himachal Pradesh Division at the time of his transfer to Rajasthan and Gujarat Division is factually incorrect. There were only two Naik/Drivers available in Group Centre Dharampur and the Petitioner was the junior most out of these two Naiks Drivers. It is admitted that Respondents No. 4, 5 and 7 appearing at serial No. 16, 14 and 15 of the seniority list of Head Constable/Drivers respectively were promoted in Himachal Pradesh Division on 11.5.1992, 17.4.1992 and 29.4.1992 respectively and the Petitioner was promoted on 14.5.1994 as per the seniority maintained at Rajasthan and Gujarat Division and the seniority of Naik Drivers of Himachal Pradesh, Rajasthan and Gujarat Divisions are maintained separately.

9. The Petitioner has filed supplementary affidavit pursuant to order dated 10.7.1995 to the sur-joinder filed by the Respondents in which he has stated that in SSB Organisation there was no provision to impart training in the said course till 1991 when for the first time the training in the said course was started at Saloni-Bari, Assam. The Petitioner had no occasion to qualify the said Course while posted as Naik Driver in Himachal Pradesh and again when on transfer he joined at SSB. Group Centre, Jamnagar. The Petitioner represented on 2.2.1991 requesting the authorities concerned to send him for the said training but his request was turned down by the Deputy Commandant, Group Centre, Jamnagar vide memorandum dated 13th February, 1991 pointing out that the Petitioner was promoted as Naik Driver without any condition and only those persons were sent for Auto Fitter Course in whose case there was no condition regarding passing of Auto Fitter Course and their promotions were made on ad-hoc basis. The Petitioner had qualified the Auto Fitter Course on 31st July, 1991 and thereafter the alleged impediment in the way of the Petitioner for further promotion was not available to the Respondents. The Petitioner has given the names of those personnel in paragraph 7 of the supplementary affidavit who were promoted as Head Constable Drivers without their having passed Auto Fitter Course.

10. During the course of hearing the learned Counsel for the parties have made their submissions based on the pleadings noticed herein-above. Mr. Shrawan Dogra contended that the transfer of the Petitioner from SSB. Group Centre, Dharampur, Himachal Pradesh to SSB, Group Centre Jamnagar Rajasthan and Gujarat Division without his consent and willingness effecting his further promotion to the post of Head Constable/Driver in his parent Division Himachal Pradesh was arbitrary and illegal as his juniors who figured at serial Nos. 4 to 7 in the seniority list (Annexure P-2) and two more persons who did not figure in the seniority list were promoted from Himachal Pradesh Division by ignoring the seniority of the Petitioner. According to the learned Counsel had the Petitioner not been transferred to SSB. Group Centre, Jamnagar, he could have been

promoted as Head Constable/Driver in 1992 whereas his seniority has been considered on the basis of the seniority list of Rajasthan and Gujarat Division. He also contended that one Head Constable and two Drivers were to be transferred to Group Centre, Jamnagar from Group Centre, Dharampur but for the reasons not known to the Petitioner instead of transferring Head Constable/Drivers who are having seniority on all India basis the Respondents chose to transfer the Petitioner having seniority at Divisional level and thereby the seniority of the Petitioner at Divisional level has been adversely affected debarring him for further promotion as he was neither senior most nor junior most Naik in Himachal Pradesh Division.

11. I have considered the contentions of the learned Counsel for the Petitioner. It is not in dispute that the S.S.B. Battalions, Kumarsain and Dharampur were re-designated as Group Centre in the S.S.B. Organisation in the year 1980. 1st Battalion Kumarsain was re-designated as Group Centre on 1.7.1980 and its head quarter was transferred to Dharampur in February/March, 1983. The Petitioner was promoted w.e.f. 6.8.1984 to the rank of Naik/Driver on ad-hoc basis because he had not passed Auto Fitter Course which was pre-requisite condition under the Rules. The services of the Petitioner are governed under the CRPF Act, 1949. u/s 7(2) of the Act every member of Force shall be liable to serve without and beyond as well as within the territory of India. Rule 25(9) of the CRPF, Rules also envisages that the member of the Force may be employed in any part of the Indian Union for the restoration and maintenance of law and orders and for any other purpose as directed by the Central Government as per the condition of eligibility for promotion of personnel working in various centres in the SSB. Battalions/Company. As per Annexure P-1 the essential condition for promotions from Lance Naik Driver to Naik Driver are: (i) Must have put in three year service as Lance Naik Driver (ii) must have passed the Auto Fitters Course. For further promotion from Naik Driver to Head Constable Driver, the personnel must have put in three year satisfactory service as Naik Driver and must pass promotion test as per appendix "E" attached to P-1. As per the seniority list of Naik/ Driver at Divisional level Himachal Pradesh as on 1986/87 (Annexure P-2) one Laxmi Singh was senior to the Petitioner whereas Respondent No. 4-Gurmuikh Ram Sharma, Respondent No. 5-Sawaran Singh, Respondent No. 6-Parkash Chand and Respondent No. 7-Amar Singh were below him. The Directorate General of Security, Office of the Director, SSB, New Delhi vide memorandum dated August 1, 1988 issued by Deputy Inspector General (E), has said that the Cabinet Secretariat order No. A-11013/18/87/DO.I dated 21.4.1988 accorded sanction for raising of four Group Centres, two in Mizoram and one each in Rajasthan and Gujarat. The Group Centre Head quarters of Rajasthan and Gujarat are placed at Jaisalmer and Jamnagar. The details of the posts for each service company with head quarters element was given as 145 posts to be provided for existing Group Centre. For Group Centre Jamnagar one company with supporting element was to be transferred from Group Centre, Dharampur and for Group Centre Jaisalmer one company was to be transferred from

Himachal Pradesh Division and the name of the Group Centre was to be intimated lateron. As per the terms of the said memorandum, the company with head quarter element in full, i.e. all the 145 posts alongwith incumbents were permanently transferred to the respective Group Centre immediately. It was emphasized that no repeat no vacant post will be transferred. It was also made clear that the personnel so transferred will be on permanent basis and they will be borne on the strength of New Group Centre for all purposes including seniority and future promotion etc. Further it was stated that the personnel were however entitled for seniority in the new Group Centre from the date they are holding their present rank and they will not have any lien etc. in the Unit from which they are being transferred to new unit. The period within which the entire process of transfer of company was to be completed within one month's time from the date of receipt of the said memo. It was emphasized that the time factor was very important and maybe adhered strictly. Pursuant to the said memorandum the services of the Petitioner were transferred by the Commandant Group Centre, Dharampur vide order dated 10.9.1988 directing him to report for duty at new Group Centre, Jamnagar at Gujarat. The Petitioner joined on 18.10.1988 without making any grievance against his transfer. It was only on 13.2.1989 that he made representation (Annexure P-3) saying that the transfer order was meant for Head Constable Driver and instead of transferring Head Constable Driver the Commandant Group Centre, Dharampur had ordered his transfer and when he had already completed seven years of service as Naik/Driver at SSB. Group Centre, Dharampur where he was at serial No. 2 in the seniority list. His transfer to newly raised SSB. Group Centre at Jamnagar had deprived his further promotion to the rank of Head Constable (Driver) as in the said Division the vacancy was meant for SC/ST candidates. He requested for his re-transfer. The transfer of the Petitioner as per the conditions contained in the memorandum (Annexure-A) was on permanent basis along with other similar situate persons and his services would be borne on the strength of new Group Centre for all purposes including seniority and future promotion etc. His lien at Group Centre, Dharampur stood abolished. In this view of the matter once the Petitioner has accepted his transfer to newly created Group Centre, Jamnagar, he cannot be permitted to say that his transfer was arbitrary nor he can claim that his transfer was without consent or willingness. As per the Respondents one Head Constable senior to the Petitioner was available for transfer from SSB. Group Centre, Dharampur but he was not transferred for the reason that he was due for further promotion. The Petitioner could not be promoted to the rank of Head Constable Driver in Group Centre, Jamnagar because as per 40 point roster the first post was to be filled up by a Scheduled Caste candidate. Due to the non-availability of Schedule Caste candidate in Group Centre Jamnagar the case for de-reservation of the post was taken up with SSB Directorate by Divisional head quarters Rajasthan and Gujarat, the Directorate conveyed their approval for de-reservation for the post and thereafter the Petitioner was promoted as Head Constable Driver w.e.f. 14.5.1994. Though the Respondents have not controverted the averments of the Petitioner that there were four vacancies

available at Group Centre Jamnagar against which the Petitioner could have been promoted, yet the Respondents have categorically stated that the first post was reserved for the Schedule Caste candidate as per 40 point roster which was later on de-reserved against which the Petitioner has been accordingly promoted. The transfer of the Petitioner was in the public interest as per the provision of the CRPC Act and Rules framed thereunder. It was fortuitous circumstance that the Petitioner being senior at Group Centre, Dharampur lost his lien at his parent Division as per the terms and conditions of memorandum dated August 1, 1988 (Annexure A). As a result of his transfer his junior who retained their lien at parent Division were promoted according to their seniority maintained at the Divisional level. The ratio of the decisions relied upon by the Petitioner challenging his transfer, in my view, will not be applicable in the facts and circumstances of the present case. In *Prem Parveen v. Union of India and Ors.* 1973 (2) SLR 659, the learned Single Judge of the Delhi High Court has held that a Government servant who is recruited to a particular cadre cannot be compelled to serve outside his cadre. In *Bhagwati Prasad Gordhandas Bhatt v. The State of Gujarat and Ors.* 1977 (2) SLR 551, it was held that Bombay Police Act, 1951 and Civil Defence Act, 1968 are different Acts. The officials governed by Police Act cannot be transferred against posts under Civil Defence Act and the transfer of Sub-Inspector Police appointed against his will as Inspector in Civil Defence Department was found illegal. In *Prakash R. Borkar v. Union of India and Ors.* 1983 (3) SLR 725, the learned Judges of the Bombay High Court have held that the transfer of a temporary employee from one cadre to another cadre was considered to have been sent on deputation and such transfer without his consent was not permissible. In *General Officer Commanding-in-Chief and Another Vs. Dr. Subhash Chandra Yadav and Another*, the transfer of the employees of one autonomous body to another when services of the employees are neither of centralized nor of State level was held illegal as the Rules enabling the transfer of one Cantonment Board's employee to another could not be framed under Cantonments Act, 1924 (after amendment by Act 15 of 1983). In *Jawaharlal Nehru University Vs. Dr. K.S. Jawatkar and Others*, the Teacher was appointed by the University at a special Centre established by it. The Respondent in that case was found to be an employee of the Jawaharlal Nehru University as per the contract of service entered into by him with the University. The transfer of the members of the faculties of the Centre to the Manipur University without the consent of the Teacher was found to be illegal as the transfer of the Centre could not result in automatic transfer of the teachers service. In *Ayudhia Nath C-134 and Ors. v. State of Punjab and Anr.* 1989 (2) SLR 342, the transfer of Conductors from one depot to another in violation of policy decision of the State Government was held to be invalid by the learned Single Judge of the Punjab and Haryana High Court.

12. As noticed above, in the present case it was not an individual single transfer of the Petitioner from Group Centre, Dharampur to Group Centre Jamnagar but one company with supporting element was transferred to Jamnagar whereas the

second company from Himachal Pradesh Division was ordered to be transferred to Group Centre, Jaisalmer as per the decision of the Cabinet.

13. The Respondents have explained that S/Shri Manao Singh, Benu Ram and Subal Chandra Kaleta belonged to Group Centre, Imphal Manipur of Nagaland Division and Group Centre Bassar of Arunachal Pradesh Division. Those persons were promoted as Naik Drivers before promulgation of promotion rule after undergoing Auto Fitter Course whereas the Petitioner was promoted to the rank of Head Constable Driver w.e.f. 14th May, 1994 after he had qualified Auto Fitter Course on 31st July, 1991. Between 1991 and 1994 as per the Respondents there was no vacant post against which the Petitioner could have been promoted at Group Centre, Jamnagar of Rajasthan and Gujarat Division. Thus, the claim of the Petitioner that his promotion was delayed at Group Centre Jamnagar for period of about three years does not merit acceptance.

14. The contentions of the learned Additional Central Government Standing Counsel that the present writ petition deserves to be dismissed as it suffers from delay and laches, non-joinder of necessary party and lack of territorial jurisdiction cannot be accepted. The Petitioner joined at Jamnagar on 18.10.1988 and thereafter he filed his representation dated 13.2.1989 (Annexure P-3) against his transfer. The Petitioner has not claimed any relief against the personnel promoted at Group Centre Jamnagar but his claim is against the promotion of Respondents 4 to 9 who were junior to him at Group Centre, Dharampur, Himachal Pradesh. In that view of the matter, the writ petition cannot be dismissed on the grounds of delay and laches, non-joinder of necessary parties as well as the territorial jurisdiction of this Court. However, as the transfer of the Petitioner for the afore stated reasons has been found in the public interest and exigencies of the service and not on the basis of arbitrariness or mala fide, therefore, the reliefs sought for by the Petitioner cannot be accepted.

15. No other point was urged by the learned Counsel for the parties.

16. In the result, for the above stated reasons, there is no merit in this writ petition and it is accordingly dismissed. The parties are left to bear their own costs.