

(2025) 07 DEL CK 0822

In the Delhi High Court

Case No : Writ Petition (C) No. 3649 Of 2022

Sita Ram Meena

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 04-07-2025

Acts Referred:

Railway Protection Force Rules, 1987 — Rule 70, 71(3), 72

Citation : (2025) 07 DEL CK 0822

Hon'ble Judges : C. Hari Shankar, J;Ajay Digpaul, J

Bench : Division Bench

Advocate : Abhishek Usha Singh, Deeksha Saggi, Rituparn Uniyal, Vikrant N. Goyal, Sumit Goswami, Arun Kumar

Final Decision : Allowed

Judgement

C. Hari Shankar, J

1. The petitioner was promoted as Head Constable, consequent to his placement on select list dated 21 February 2011, by letter dated 22 July 2011 issued from the Office of the Principal Chief Security Commissioner "PCSC" /RPF.

2. More than nine years after that order was passed, during which period the petitioner served as Head Constable, the petitioner was issued the following notice dated 17 December 2020 by the Office of the PCSC:

"File No. WR-HQORPF(SESM)/238/2020-00 CSC/WR/HQ

WESTERN RAILWAY

Office of the

Principal Chief Security Commissioner/RPF

Churchgate, Mumbai-400020

No. SFE 93/3/11 Vol. XV

Date: 17.12.2020

Shri Sitaram Meena, WR0000055

Head Constable, Mehsana RPF Post,

Ahmedabad Division.

(Through Sr. DSC/ADI)

Sub: Selection for promotion to the rank of Head Constable under Rule 72 of RPF Rules, 1987

Ref: This office letters No. SFE 93/3/11 Vol. XII dt. 21.02.2011 & No. SFE 76/2/3 Vol. IX dt. 22.07.2011

In terms of Schedule IV of RPF Rules, 1987, Constables who have put in 8 years of service in the Force are eligible to appear in the selection for the post of Head Constable (Exe.) under Rule 72 of RPF Rules, 1987.

You are appointed as Constable (Water Carrier) in RPSF on 24.08.2000 and further selected/appointed as Constable (Exe.) w.e.f. 01.11.2007 in RPSF, not eligible to appear in the selection of Head Constable held in the year 2011 as you have not completed 8 years of service in the rank of Constable (Exe.).

Though you were not eligible to appear in the selection, you are allowed inadvertently and placed on select list vide this office letter No. SFE 93/3/11 Vol. XII dt. 21.02.2011 for promotion to the rank of Head Constable under Rule 72 and promoted as such vide this office letter No. SFE 76/2/3 Vol. IX dt. 22.07.2011

Therefore, you are hereby directed to inform this office within 15 days from the date of receipt of this letter as to why the Head constable promotion given to you inadvertently in violation of RPF Rules, 1987 should not be withdrawn

This has the approval of competent authority.

Signed by Shaik

Rahamatullah

Date: 17-12-2020 11:07:12

Staff Officer to PCSC"

(Emphasis supplied)

3. The petitioner responded to the aforesaid notice. Pursuant thereto, the following Memorandum came to be issued by Office of the PCSC on 10 August 2021:

"File No. WR-HQORPF(SESME)/238/2020-0/% CSC/WR/HQ

1/138298/2021

Western Railway

Office of the

Principal Chief Security Commissioner/RPF

Churchgate, Mumbai-400 020.

No. SFE 93/3/11 Vol. XV Date: 10.08.2021

MEMORANDUM

Sub:- Selection for promotion to the rank of Head Constable under Rule 72 of RPF Rules, 1987

Ref: This office letter of even No. dt. 16.12.2020

In response to the notification issued vide this office letter No. SFE 93/3/11 Vol. XI dt. 23.11.2010 for filling up the post of Head Constable under Rule 72 of RPF Rules, 1987 Shri Sitaram Meena, then Constable, WR0000055 appeared in the selection of Head Constable under Rule 72 of RPF Rules, 1987 held in January 2011 and promoted as such vide this office letter No. SFE 76/2/3 Vol. IX dt. 22.07.2011

Subsequently, it has come to light that he was allowed to appear inadvertently in the selection of Head Constable under Rule 72, held in the year 2011 as he has not completed 8 years of service as Constable (Exe.). As such, he was issued with a show cause notice vide letter under reference.

In response to show cause notice, Head Constable Sitaram Meena has submitted that

1. He has completed 10 year service, when applications were invited to appear in the Head Constable selection under Rule 72.
2. It was not mentioned that services of Ancillary period was not to be counted towards reckoning eligibility.
3. His batch-mates namely Shri Ashok Kumar Dogra, HC, Unnao Post, Ambala Divn. Shri Obhiram Shama. HC Jalandhar Post & Shri Hansaraj Sharma, HC Pathankot of Northern Railway were promoted as Head Constable after completion of 3 years service as Constable (Exe.).
4. Constables appointed in the Year 2015 in RPSF have been promoted as Head Constable in the Year 2018.

In terms of Schedule IV of RPF Rules, 1987, Constables who have put in 8 years of service in the Force are eligible to appear in the selection for the post of Head Constable (Exe.) under Rule 72 of RPF Rules 1987 and Shri Sitaram Meena was appointed as Constable (Water Carrier) i.e. 'Ancillary Staff' in RPSF on

24.08.2000, appointed as Constable (Exe.) w.e.f. 01.11.2007 in RPSF. Thus, not completed 8 years service as Constable as on date of notification of Head Constable Selection under Rule 72.

However, further it has also been clarified from Northern Railway & Railway Board that the names of the Constables mentioned in the aforesaid representation was promoted as Head Constable under Rule 70 but not under Rule 72. Thereby the contention of the representation is found false.

In view of the above, Shri Sitaram Meena, WR0000055, Head Constable, Level-4 (VII CPC Pay Matrix) is hereby reverted to the rank of Constable (Exe.), Level-3 (VII CPC Pay Matrix) as he was not eligible to appear in the selection test in terms of Schedule IV of RPF Rules, 1987.

This has the approval of competent authority.

Signed by Shaik

Rahamatullah

Date: 10-08-2021 10:29:07

PCSC

Copy forwarded for necessary action to:

1. Shri Sitaram Meena, WR0000055, Head Constable, Mehsana Post, ADI division. (Through Sr.DSC/ADI)
2. Sr.DSC/ADI & Sr.DFM/ADI
3. Master File Nos. (i) SFE 95/1 (ii) SFE 95/3/2 (iv) SFE 76/2/3"
4. Aggrieved by the aforesaid Memorandum, the petitioner has filed the present petition, seeking quashing of the order dated 10 August 2021 and revival of his promotion as Head Constable.
5. We have heard Mr. Abhishek Usha Singh for the petitioner and Mr. Vikrant Goyal, learned Senior Penal Counsel, at some length.
6. Mr. Goyal has taken us to his counter affidavit in which it is sought to be averred that the petitioner was only ancillary staff as Constable (Water Carrier) and that he was, therefore, not eligible for promotion as Head Constable on the date when he was considered by the concerned Selection Committee. Mr. Goyal submits that his qualifying service of eight years for promotion as Head Constable would commence only from the date when he was appointed as Constable (Exe.), which was 1 November 2007 as he had erroneously been considered and promoted as Head Constable, the decision had to be reversed.
7. In order to test the correctness of the submission, we have also gone through Schedule IV of RPF Rules, 1987.

8. Mr. Abhishek Usha Singh has handed over, across the Bar, a copy of the RPF Rules. Schedule IV thereof, to the extent it deals with the post of Head Constable, reads thus:

S. No.

Description

Head Constable (Executive)

1.

No. of posts.

As may be decided from time to time

2.

Selection post/non-selection post

Seventy five percent- Non selection, twenty five percent-selection[++]

3.

Method of recruitment

Seventy five percent by promotion on the basis of seniority subject to rejection of unfit and twenty five percent by promotion in accordance with the provisions of rule 72 [++] [***]

4.

In case of recruitment by promotion, deputation or transfer, grades from which promotion, deputation or transfer to be made.

Promotion:

(i) Non selection-Constables who have completed probation. [++] [**]

(ii) Under Rules 72-Constables who have put in 8 years service in the Force on the date of notification. (four chances + to be given for promotion under this rule) [**]

9. Rule 72 of the RPF Rules to which Schedule IV makes reference, reads thus:

"72. Guidelines for holding limited departmental competition.

72.1 Applications from eligible candidates for appearing in the limited departmental competition to the rank of Head Constable and Assistant Sub-Inspector shall be invited thirty days in advance of the proposed date of holding the said competition.

72.2 The procedure for holding the said competition shall be the same as

provided in rules 70 and 71 except sub-rule(3) of the said rules.

72.3 A panel shall be drawn from amongst the candidates securing sixty percent marks or more in the order of merit.”

10. Rule 72, quite clearly, only sets out the guidelines for Limited Departmental Competition and is not relevant so far as eligibility for qualification for promotion are concerned. In so far as Schedule IV is concerned, it specifically states that “Constables who have put in 8 years of service in the force on the date of notification” would be eligible for promotion as Head Constable.

11. The notice dated 17 December 2020 and the order dated 10 August 2021 both acknowledge that the petitioner was appointed Constable (Water Carrier) on 24 August 2000. The Schedule IV to the RPF Rules does not restrict the feeder cadre for promotion to the post of Head Constable (Exe.) only to Constables (Exe). The word used is “Constables”. So long as the rules remain as they are, every Constable would be entitled to be considered for such promotion.

12. Despite queries from the Court, Mr. Goyal was unable to state that a separate cadre of Constable (Water Carrier) was in existence, or that Constables (Water Carrier) had any other avenues of promotion. Nor is it the respondents’ case that the post of Constable (Water Carrier) is a feeder grade, or otherwise hierarchically subordinate, to the post of Constable (Exe).

13. In any event, the respondents themselves apparently understood Schedule IV to the RPF Rules as entitling all Constables, who had completed eight years as Constable, to be eligible for promotion as Head Constable (Exe), when they considered the petitioner for promotion in 2011 and promoted him as Head Constable. That, in fact, is what the Schedule itself specifically provides.

14. We are of the opinion that it was ex facie unconscionable for the respondents, having promoted the petitioner as Head Constable and having extracted work from the petitioner as Head Constable for over nine years, to suddenly have a change of perception and reconsider the petitioner’s eligibility for promotion as Head Constable – an exercise which had taken place nine years prior thereto. Even in equity, therefore, the petitioner would clearly be entitled to relief.

15. Accordingly, for all these reasons, we are unable to sustain the decision to revisit the promotion of the petitioner as Head Constable in 2011, as late as on 10 August 2021.

16. We, accordingly, quash and set aside the impugned memorandum dated 10 August 2021 as well as the notice dated 17 December 2020 following which it had been issued.

17. The petitioner shall forthwith be restored to the post of Head Constable.

18. Unfortunately, as there was no stay granted by this Court, and the petitioner has not discharged any duties as Head Constable, we are not in a position to

grant any arrears of pay to the petitioner, applying the “no work no pay” principle.

19. The petitioner would, however, be entitled to notional fixation of his pay as Head Constable from the date on which he had originally been promoted as Head Constable in 2011 and to have his future pay and emoluments re-fixed on that basis. The petitioner would not, however, be entitled to any back wages or arrears of pay.

20. The petitioner would also be entitled to continuity of service, consequent to the restoration, by this judgment, of his original promotion as Head Constable (Exe) in 2011.

21. Given the fact that the petitioner has unnecessarily had to come to this Court and litigate for three years, and keeping in view the fact that we are not in a position to grant any back wages to the petitioner, we are of the opinion that he is at least entitled to costs, which we conservatively assess as ₹ 15,000/-, to be paid to the petitioner within a period of two weeks from today.

22. Let a compliance affidavit be filed with the Registry of this Court immediately thereafter.

23. The writ petition stands allowed in the aforesaid terms.