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

+ W.P.(C) 4345/2025 & CM APPL. 20076/2025

SUDHANSHU AND ORSPetitioners

Through: Mr. Rajat Arora, Mr. Niraj
Kumar and Mr. Sourabh Mahla, Advs.

versus

UNION OF INDIA AND ANRRespondents

Through: Mr. Bhagwan Swaroop Shukla,
CGSC with Mr. Gokul Sharma, G.P. and
Mr. Satyam Singh, Adv. for
respondents/UI.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

% **04.04.2025**

C. HARI SHANKAR, J.

1. The DIG, Special Security Group¹, Central Industrial Security Force², *vide* Office order dated 19 August 2024, notified the process for selecting candidates against vacancies of SI/Exe., HC/GD, CT/GD and CT and CT/Cook at HCI Dhaka, AHCI Chittagong, AHCI Rajshahi, AHCI Khulna and AHCI Sylhet. Para 2 of the Office Order clearly stated that the selection of personnel would be made in accordance with the SOP³ issued in that regard and the age criteria

¹ "SSG" hereinafter

² "CISF" hereinafter

³ Standard Operating Procedure



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circulated *vide* PHQ letter dated 20 December 2019. The age criteria and educational qualifications, which a candidate was required to fulfil to be eligible for deployment as a replacement for the aforesaid posts, were contained in para 3 (a) of the Office Order. The eligible personnel of SSG were directed to submit their applications, expressing their willingness to undergo selection, on or before 22 August 2024.

2. As the petitioners satisfied the eligibility criteria envisaged in the aforesaid Office Order dated 19 August 2024, they applied in response thereto, for deployment as replacement for the aforesaid posts in Dhaka, Chittagong, Rajshahi, Khulna and Sylhet. They underwent the selection process successfully.

3. However, on 15 November 2024 an Office Order came to be passed by the DIG, SSG, CISF, in which directions were issued that the names of persons who would come within the zone of consideration for promotion within next two years i.e. period from 27 March 2025 to 4 April 2027 be not subjected to the selection process for being forwarded for consideration for re-deployment in terms of the Office Order dated 16 August 2024. Para 2 of the said Office Order reads thus:

“02. Keeping in the above, selection for 27CTs/GD with 10CT/GD reserve as following directions:-

- In order to select 27CTs/GD with 10CTs/GD as reserve, it is requested to first verify from Estt. Directorate as whether the nominated personnel are affected for PCC/ZOC of otherwise during the deployment period from 27.03.2025 to 04.04.2027 and then only the eligible personnel (excluding the affected personnel for PCC/ZOC during the deployment period) may be



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put through the selection process and provide list of qualified candidates to this Directorate as per proforma.

➤ Nominations of those already figured in the qualified list may not be considered for the selection process again.”

4. It is not in dispute that, because of the fact that the petitioners were likely to be detailed to attend the PCC/PPC⁴, during the period 27 March 2025 to 4 April 2027, their names were not forwarded for re-deployment in accordance with the Office Order dated 19 August 2024 *supra*.

5. Aggrieved thereby, the petitioners approached this Court by means of WP (C) 2327/2025, challenging the decision to reject their case for re-deployment abroad against the aforesaid posts solely on the ground that they were likely to be detailed for consideration by the PCC/PPC for promotion during the period of deployment between 27 March 2025 to 4 April 2027.

6. This Court, by order dated 24 February 2025, disposed of the said writ petition. We deem it appropriate to re-produce the order *in extenso*:

“1. This petition has been filed by the petitioners, praying for the following relief:

“(a) Pass a writ Mandamus or any other appropriate Writ/ Orders/Directions to the Respondents to consider the name of the petitioners in the list of Shortlisted Candidates in terms of the Office Order dated 19.08.2024 for the deployment at HCI Dhaka, AHCI Chittangong, AHCI Rajshahi, AHCI Khulna & AHCI Sylhet and issue a Writ of Certiorari to quash clause 4 b (x) of the Office Order dated

⁴ Promotion Cadre Course



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15.11.2024.”

2. It is the case of the petitioners that the petitioners are not being considered for deployment at the High Commission of India, Dhaka, AHCI Chittagong, AHCI Rajshahi, and AHCI Sylhet from 27.03.2025 to 04.04.2027 only for the reason that they are in the promotion zone and are likely to be detailed to attend the PCC/PPC during their deployment abroad.

3. Clause 04(b)(x) of the Office Order dated 15.11.2024, on the basis of which the petitioners are not being shortlisted for deployment, and of which the petitioners are aggrieved by, is reproduced hereinunder:

“04. Further, it has been directed that while preparing the selection list of personnel for deployment at HCJ Dhaka, the recommendations vide letter No. DAC/SW/TS/20181222 dated 18.07.2018 may be kept in mind

a. xxxxx

b. The common Criteria as circulated vide FHQ letter No. (446) dt 09.04.2014, No. (511) dt. 12.05.2016, (334) dt 04.05.2017 & (446) dated 24.05.2018 is as follows:

xxxx

x. Officers/personnel who are in the promotion zone/ZOC are likely to be detailed to attend PCCIPPC during their deployment abroad may also not be shortlisted. In this regard action will be taken by Pers. Branch in respect of COs & Estt. Branch in respect of NGOs to scrutinize their records.”

4. The learned counsel for the petitioners, on instructions, submits that the petitioners are willing to provide an undertaking to the respondents and to this Court, stating that they will not claim any right to promotion due to their not being able to attend the PCC/PPC Course at the time of their deployment.

5. Keeping in view the above submission, *prima facie*, we are of the view that once the petitioners are willing to forgo their right of promotion, there can be no reason for the respondents to still insist that they be not considered for their deployment abroad only for the reason that they are within the promotion zone and may



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have to be detailed to attend the PCC/PPC. It is for the petitioners to decide what would be the best course for their career progression.

6. Keeping in view the above, we direct the respondents to consider the case of the petitioners afresh. However, with the consent of the learned counsel for the petitioners, who states that he has instructions to state so, we make it clear that in case the petitioners are to be detailed for the deployment abroad, they shall have to forgo their right to promotion and shall not claim any equity for not being able to attend the PCC/PPC during the period of their deployment abroad. They shall also not be entitled to any leave or additional benefit in case they later decide to attend the PCC/PPC. In fact, they shall not be detailed for this Course during the period of their deployment.

7. The decision on the above shall be taken by the respondents within a period of two weeks from today and be communicated the same to the petitioners.

8. It is made clear that we have not expressed any opinion on the claim of the petitioners for being detailed for posting abroad, and it shall be considered by the respondents on their own merits.

9. The petition along with the pending application is disposed of with the above directions.”

7. In accordance with the directions contained in the aforesaid order dated 24 February 2025 passed by this Court, the respondent has issued order dated 1 April 2025, which reads as under:

“महानिदेशालय
केन्द्रीय औद्योगिक सुरक्षा बल
(गृह मंत्रालय)

ब्लाक 13, सीजीओ काम्पलेक्स,
लोधी रोड, नई दिल्ली-110003

सं० ई-16015/HCI-AHCI BANGLADESH/2024/कार्मिक-2/614

दिनांक: 01/04/2025

ORDER



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WHEREAS, 55 Personnel (SI/Exe-05, HC/GD-02, CT/GD-43 and CT/Cook-05) presently deployed at HCI Dhaka and other places in Bangladesh are completing their tenure by 26.03.2025 and 04.04.2025. In order to replace the 55 personnel in due time, directions were issued to ADG (APS) to provide rank-wise merit list of 55 personnel (SI/Exe-05, HC/GD-02, CT/GD-43 and CT/Cook-05) with reserve list of 30 personnel (SI/Exe-03, HC/GD-02, CT/GD-22 and CT/Cook-03). Accordingly, APS HQrs has forwarded the merit list of 55 personnel (SI/Exe-05, HC/GD-02, CT/GD-43 and CT/Cook-05), 31 reserve personnel (SI/Exe-04, HC/GD-02, CT/GD-22 and CT/Cook-03) and 39 qualified personnel (SI/Exe-13, HC/GD-05, CT/GD-16 and CT/Cook-05). Your name also figured in the merit list of 55 candidates.

2. AND WHEREAS, as per the directions of Ministry of External Affairs issued vide UO Note No.Q/BS/813/1/2009 dated 25.06.2009, CISF is required to select only those personnel for posts at Indian Stations abroad, who are not in the promotion zone (or) are not required to appear in internal CISF training/Tests during the deemed tenure of two years at the Mission/Post. Accordingly, SOP was issued mentioning the said clause at para 2 (1) (j) that, Officers/ personnel who are in the promotion zone/ZOC and likely to be detailed to attend PCC/PPC during their deployment abroad may also not be shortlisted in the scenario that, MEA, does not consider the promotion of the personnel during the deployment period of two years at Indian Mission abroad.

3. AND WHEREAS, considering the administrative difficulties experienced due to deployment of personnel likely to be affected for PCC (or) ZOC during the deployment period, it was decided with the approval of DG, CISF during the year 2023 that personnel likely to be affected either in PCC (or) in ZOC during the deployment years may not be deployed.

4. AND WHEREAS, after checking the eligibility as per SOP, Estt. branch of this Directorate has endorsed the following remarks as mentioned against each and therefore, these 04 personnel (petitioners in the case) who are affected either in PCC (or) in ZOC during the deployment years were not selected for deployment at Indian Mission abroad:

S. No.	CISF No.	Rank	Name	Remark
1.	094390285	CT/GD	V Murali Krishna	He may be affected for ZOC for the vacancy year 2025



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2.	130602413	CT/GD	Sudhanshu	He may be affected for detailment in PCC during the year 2026
3.	094700349	CT/GD	Tejpal Singh	He may be affected for ZOC for the vacancy year 2025
4.	104471434	CT/GD	Abhishek Sharma	He may be affected for ZOC for the vacancy year 2025

5. AND WHEREAS, SDG, APS HQrs has forwarded your representation regarding accepting of unwillingness for PCC/ZOC from CT/GD to HC/GD during deployment period at HCI Dhaka. In response, this Directorate has requested SDG, APS HQrs, New Delhi to take necessary action according to SOP issued vide letter No.(511) dated 12.05.2016.

6. AND WHEREAS, being aggrieved, CT/GD Sudhanshu + 3 have filed the WP No. 2327/2025 in the Hon'ble High Court of Delhi with the following prayer:-

"Pass a writ Mandamus or any other appropriate Writ/Orders/Directions to the Respondents to consider the name of the petitioners in the list of shortlisted candidates in terms of the Office Order dated 19.08.2024 for the deployment at HCI Dhaka, AHCI Chittangong, AHCI Rajshahi, AHCI Khulna & AHCI Sylhet and issue a Writ Certiorari to quash clause 4 b (x) of the Office Order dated 15.11.2024".

7. AND WHEREAS, the Hon'ble Court finally heard and disposed of the WP on 24.02.2025. The operative part of the JO is as follows:-

- "6. Keeping in view of the above, we direct the respondents to consider the case of the petitioners afresh. However, with the consent of the learned counsel for the petitioners, who states that he has Instructions to state so, we make it clear that in case the petitioners are to be detailed for the deployment abroad, they shall have to forgo



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then right to promotion and shall not claim any equity for not being able to attend the PCC/PPC during the period of their deployment abroad. They shall also not be entitled to any leave or additional benefit in case they later decide to attend the PCC/PPC. In fact, they shall not be detailed for this Course during the period of their deployment.

- 7. The decision on the above shall be taken by the respondents within a period of two weeks from today and be communicated the same to the petitioners.
- 8. It is clear that we have not expressed any opinion on the claim of the petitioners for being detailed for posting abroad, and it shall be considered by the respondents on their own merits"
- 9. The petition along with the pending application is disposed of with the above directions".

8. NOW, THEREFORE, in compliance of the judgment dated 24.02.2025 of the Hon'ble Delhi High Court in WP on 24.02.2025, cases of the 04 petitioners have been examined by CISF Directorate afresh. However, in view of the rule position explained at para 2, 3 and the facts mentioned at para 4 above, their requests for deployment at HCI Dhaka, AHCI Chittangong, AHCI Rajshahi, AHCI Khulna & AHCI Sylhet in terms of the Office Order dated 19.08.2024 could not be acceded to.

9. All the 04 petitioners in this case shall acknowledge receipt of this order.

(Dharmveer Yadav)
Asstt. Inspector General/Pers
CISF HOrs., New Delhi.

To

1. No. 094390285,, CT/GD,

V Murali Krishna-

Through DIG, CISF Unit, SSG
Noida with a request to serve the
order to the concerned individual and
forward acknowledged copy of order
to this Directorate for records, please.

2. No. 130602413, CT/GD

Sudhanshu

-do-



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3. No. 094700349 CT/GD
Tejpal Singh -do-
4. No. 104471434, CT/GD
Abhishek Sharma -do-”

8. Aggrieved thereby, the petitioners have re-approached this Court by means of present writ petition.

9. We have heard Mr. Rajat Arora, learned Counsel for the petitioners and Mr. Bhagwan Swarup Shukla, learned CGSC for the respondents.

10. Learned Counsel for the petitioner submits that, in view of the observations contained in the order dated 24 February 2025 passed by this Court in WP (C) 2327/2025, it was not open to the respondents to reject the petitioners case for re-deployment abroad pursuant to the Office Order dated 19 August 2024, solely on the ground that they were likely to be detailed for consideration for promotion within the next two years during the deployment period. He submits that there is no other ground on which the petitioners have been found unsuitable for deployment abroad. He also submits that there are other candidates whose cases have been favourably considered, though they were similarly situated. He further submits that once the petitioners have undertaken to forgo their promotion, there was no justification for taking a decision against them solely because they were likely to be considered for promotion in the next two years.

11. Mr. Bhagwan Swarup Shukla, learned CGSC who appears for



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the respondents, submits that, out of a total of 81 candidates who had applied and whose cases have been considered for deployment to the post of constable pursuant to Office Order dated 19 August 2024, 65 candidates had been rejected on the ground that they were likely to be detailed for promotion as they fell within the zone of promotion during the next two years. He submits that only 10 candidates have approached this Court.

12. He also submits that 16 candidates who were selected are in the process of being re-deployed and the entire exercise towards that end is already complete. The remaining 16 officers who were to be re-deployed to the post of constable as well as 39 other officers who were being re-deployed in other ranks have been cleared and they are in the process of being sent.

Analysis

13. Having heard learned Counsel for the parties, we are of the opinion that there is no enforceable right that can be claimed by the petitioners so as to justify issuance of a writ of mandamus.

14. We say so for the following reasons:

- (i) Clearly, there is no fundamental right in any officer for redeployment as replacement for the aforesaid posts, pursuant to the Office Order dated 19 August 2024. As such, it cannot



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be said that, by not being sent under the said Office Order, any fundamental right of the petitioners is being violated.

(ii) The respondents have acted strictly in accordance with the UO Note dated 25 June 2009, issued by the Ministry of External Affairs to which reference is contained in para 2 of the impugned order dated 1 April 2025. This Note is of 16 years vintage as on date, and is not under challenge in the present proceedings. The Note clearly states that candidates who were likely to fall within the zone of consideration for promotion during the next two years, which would be the deployment period abroad, should not be considered for selection for such deployment. The decision is clearly not arbitrary, as it is founded on the principle that if a candidate is sent aboard, it would become difficult to consider his case in the PPC/PCC for promotion within the period when he is serving abroad.

(iii) Though the petitioners have undertaken to forego their right for promotion during the next two years, we are of the opinion that it is not open to the petitioners to extend this offer contrary to the terms of the UO note dated 25 June 2009. The decision not to send candidates abroad during the period when they will be liable to be considered for promotion is a policy decision. Policy decisions are, axiomatically, largely immune from judicial interference, unless they smack of patent arbitrariness. This would be all the more so in the case of policy decisions involving armed or paramilitary forces. The Court is required to give considerable latitude to the Executive



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to take decision in such matters, regarding redeployment and other service conditions of officers.

(iv) Though the Coordinate Bench of this Court, in its order dated 24 February 2025, has voiced a *prima facie* opinion that, if the petitioners were willing to forgo their right to promotion, there would be no reason for the respondents to insist to refuse to sent them for deployment abroad, the Division Bench has been cautious to clarify, in para 8 of its order, that it was not expressing any opinion on the claim of the petitioners in that regard and that the claim of the petitioners would be considered by the respondents on its own merit.

(v) Besides, we note that the attention of the Division Bench was not invited, on that occasion, to the UO Note dated 25 June 2009 issued by the Ministry of External Affairs, which clearly proscribes sending of personnel abroad for deployment where they are likely to be detailed for promotion during the period of deployment aboard. Had this UO Note been before the Division Bench, we have our doubts whether the Division Bench would even have expressed the *prima facie* view that it did, in paras 5 and 6 of the order dated 24 February 2025.

(vi) In any event, in view of para 8 of its order, the Division Bench left the field wide open to the respondents to take a decision on the petitioner's entitlement to be posted abroad. That decision has now been taken by the order dated 1 April 2025. The decision is in sync with the UO Note issued as far



back as 25 June 2009. The UO Note is not under challenge. Even if it had been challenged, we are sanguine that no case would have existed to interfere, as the instruction is purely a matter of executive policy and founded on public interest, keeping in mind the difficulty in considering persons for promotion when they are posted abroad.

(vii) We are also of the view that the petitioners cannot seek to bargain with the Executive in such matters by undertaking to forego their right for promotion in exchange for relaxation of the conditions in UO Note dated 25 June 2009. Of course, if the respondents had themselves agreed to the suggestion, the matter may have been different. The respondents have not done so and, inasmuch as the respondents have acted in accordance with the UO Note dated 25 June 2009, no case for interference can be said to exist.

(viii) We are also not impressed by Mr. Arora's submission that there may be other officers who were sent abroad. The said officers have not been made parties before us. Besides, it is settled law, in case after case, notably in *State of Haryana v Ram Kumar Maan*⁵, that Articles 14 and 16 of the Constitution of India do not incorporate a principle of negative equality. Para 3 of the said decision reads:

“3. ... In a converse case, in the first instance, one may be wrong but the wrong order cannot be the foundation for claiming equality for enforcement of the same order. As

⁵ (1997) 3 SCC 321



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stated earlier, his right must be founded upon enforceable right to entitle him to the equality treatment for enforcement thereof. A wrong decision by the Government does not give a right to enforce the wrong order and claim parity or equality. Two wrongs can never make a right. Under these circumstances, the High Court was clearly wrong in directing reinstatement of the respondent by a mandamus with all consequential benefits.

(ix) A party who comes to the Court seeking a mandamus has to establish an enforceable right. This follows from the adage *ubi jus ibi remediem*. We are of the opinion that no enforceable right has been made out by the petitioners, for being deployed abroad in the teeth of the instructions contained in UO Note dated 25 June 2009 of the Ministry of External Affairs, on which the basis of which an SOP had been issued to the effect that candidates who were likely to be detailed for promotion within the next two years should not be considered for deployment abroad.

15. We, therefore, regret our inability to come to the aid of the petitioners.

16. The writ petition is accordingly dismissed in *limine*.

C. HARI SHANKAR, J.

AJAY DIGPAUL, J.

APRIL 4, 2025/dsn

[Click here to check corrigendum, if any](#)