CGHC010513182025 2026:CGHC:34392-DB

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HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 13626 of 2025

Order reserved on 22/07/2026

Order delivered on 06/08/2026

Mohan Lal Ratre S/o Kaliram Ratre Aged About 37 Years Working As Forest Guard, R/o Bhaneshar Mission, Post - Jairamnagar, Tahsil - Masturi, District - Bilaspur (C.G.)

--- **Petitioner**

versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (C.G.)

2 - The Principal Conservator Of Forest Aranya Bhawan, Medical College Road, Raipur, District - Raipur (C.G.)

3 - The Chief Conservator Of Forest Bilaspur Circle, District - Bilaspur (C.G.)

4 - The Divisional Forest Officer Bilaspur, District - Bilaspur (C.G.)

--- **Respondents**

WPS No. 34 of 2026

1 - Khem Singh Rajput S/o Hazari Rajput, Aged About 33 Years R/o Village And Post Sardha, Tahsil Lormi, District- Mungeli (C.G.)

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2 - Ramawtar Tiwari S/o Keshav Prasad Tiwari Aged About 53 Years R/o Lig - 122 Deendayal Colony, Parsada (Bharni) P.O. Bharni District- Bilaspur (C.G.)

3 - Tukesh Kumar Sahu S/o Devcharan Sahu Aged About 36 Years R/o Village Saber Post Sel, Tahsil Kasdol, District- Balodabazar- Bhatapara (C.G.)

4 - Bhagat Singh Markam S/o Kejuram Markam Aged About 33 Years R/o Village Dawanpur, Tahsil Kota, District- Bilaspur (C.G.)

5 - Ravindra Kumar Mahilange S/o Shivkumar Mahilange Aged About 33 Years R/o A-12 Nature City, Uslapur, District- Bilaspur (C.G.)

---**Petitioners**

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Mantralaya Naya Raipur District- Raipur (C.G.)

2 - The Principal Conservator Of Forest Aranya Bhawan, Medical College Road, Raipur, District- Raipur (C.G.)

3 - The Chief Conservator Of Forest Bilaspur Circle, District- Bilaspur (C.G.)

4 - The Deputy Director Achanakmar Tiger Reserve Mungeli District- Mungeli (C.G.)

5 - The Divisional Forest Officer Bilaspur, District- Bilaspur (C.G.)

6 - The Divisional Forest Officer Forest Division Katghora, District- Korba (C.G.)

7 - The Divisional Forest Officer Research And Extension Forest Division Bilaspur, District- Bilaspur (C.G.)

--- **Respondents**

WPS No. 1105 of 2026

Vinod Kumar Raj S/o Budhwar Singh Aged About 34 Years Resident Of Village- Nawapara, Police Station- Katghora, District- Korba (C.G.)

---**Petitioner**

Versus

1 - State Of Chhattisgarh Through The Secretary, Department Of Forest, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur (C.G.)

2 - The Principal Conservator Of Forest Aranya Bhawan, Medical College Road, Raipur, District- Raipur (C.G.)

3 - The Chief Conservator Of Forest Bilaspur Circle, District- Bilaspur (C.G.)

4 - The Divisional Forest Officer Katghora, District- Korba (C.G.)

... Respondents

(Cause title taken from Case Information System)

For Petitioners	:	Mr. Goutam Khetrapal, Advocate
For Respondents/State	:	Mr. Prasun Bhaduri, Deputy A.G.

Hon'ble Shri Ramesh Sinha, Chief Justice
Hon'ble Shri Ravindra Kumar Agrawal, Judge

C.A.V. Order

Per Ramesh Sinha, Chief Justice

1. In WPS No. 13626 of 2025, the petitioner has sought the following reliefs:

> “a) This Hon'ble Court may kindly be pleased to Quash and set aside the circular dated 31.07.2014 issued by the Respondent, as being arbitrary, unconstitutional, and ultra vires to the provisions of Rules 14 and 15 read with Schedule IV of the Chhattisgarh Forest Service Recruitment Rules, 2012.
>
> b) Quash the impugned order dated 25.09.2025 passed by the Chief Conservator of Forests, Bilaspur Circle, rejecting the Petitioner's representation dated 18.09.2025.

> c) Direct the respondents to prepare fresh gradation list of Forest Guard placing the petitioner at appropriate place on the basis of his merit, in accordance with the statutory governing Rules 14 and 15 read with Schedule IV of the Chhattisgarh Forest Service Recruitment Rules, 2012.
>
> d) pass any other order(s) that may be deemed fit and just in the facts and circumstances of the case including awarding of the costs to the petitioner."

2. In this WPS No. 13626 of 2025, the petitioner was appointed as a Forest Guard on 05.01.2013 through a regular recruitment process conducted under the Chhattisgarh Class III Forest Service Recruitment Rules, 2012 (in short Recruitment Rules 2012), and was initially posted in Udanti Forest Division, Gariaband. Subsequently, on administrative grounds, he was transferred on 23.08.2019 to Bilaspur circle and joined his duties on 05.12.2019.

3. In WPS No. 34 of 2026, the petitioners have sought the following reliefs:

> "a) That, the Hon'ble Court may kindly be pleased to quash and set aside the circular dated 31.07.2014 issued by the Respondent, as being arbitrary, unconstitutional, and ultra vires to the provisions of Rules 14 and 15 read with Schedule IV of the Chhattisgarh Forest Service Recruitment Rules, 2012.
>
> b) That, the Hon'ble Court may kindly be pleased to quash the impugned order dated 25.09.2025 passed by the Chief Conservator of Forests,

Bilaspur Circle, rejecting the Petitioners' representation.

c) That, the Hon'ble Court may kindly be pleased to direct the respondents to prepare fresh gradation list of Forest Guard placing the petitioners at appropriate place on the basis of their merit, in accordance with the statutory governing Rules 14 and 15 read with Schedule IV of the Chhattisgarh Forest Service Recruitment Rules, 2012.

d) That, the Hon'ble Court may kindly be pleased to pass any other order(s) that may be deemed fit and just in the facts and circumstances of the case including awarding of the costs to the petitioners."

In this WPS No. 34 of 2026, all the petitioners were initially appointed on 05.01.2013 and were posted at Udanti Forest Division, Gariaband. Subsequently, on administrative grounds, the petitioners No. 1 to 4 were transferred on 14.08.2017 and their place of transfer are as follows:-

The petitioner No.1 Khem Singh Rajput was transferred from Bhoramdeo Range, Wildlife Sanctuary Forest Division, Kawardha to Lormi Buffer Range, Achanakmar Tiger Reserve, Lormi.

The petitioner No.2 Ramawtar Tiwari was transferred from Baloda Bazar Range, Forest Division, Baloda Bazar to Kanan Pendari, Mini Zoo, Bilaspur.

The petitioner No.3 Tukesh Kumar Sahu was transferred from Bhanwartonk Beat, Bhoramdeo Range, Forest Division, Kawardha to Forest Research and Development Division, Bilaspur, Akaltara Unit.

The petitioner No.4 Bharat Singh Markam was transferred from Bhoramdeo Range, Wildlife Sanctuary, Forest Division, Kawardha to Lormi Buffer Range, Achanakmar Tiger Reserve, Lormi.

The petitioner No.5 Ravindra Kumar Mahilange was transferred on 08.11.2019 from Devtidand Beat, Devgarh Range, Forest Division, Koriya to Bilaspur Forest Division.

5. In WPS No. 1105 of 2026, the petitioner has sought the following reliefs:

> “a) That, the Hon'ble Court may kindly be pleased to quash and set aside the circular dated 31.07.2014 issued by the Respondent, as being arbitrary, unconstitutional, and ultra vires to the provisions of Rules 14 and 15 read with Schedule IV of the Chhattisgarh Forest Service Recruitment Rules, 2012.
>
> b) That, the Hon'ble Court may kindly be pleased to quash the impugned order dated 25.09.2025 passed by the Chief Conservator of Forests, Bilaspur Circle, rejecting the Petitioner's request for assigning proper seniority.
>
> c) That, the Hon'ble Court may kindly be pleased to direct the respondents to prepare fresh gradation list of Forest Guard placing the petitioner at appropriate place on the basis of his merit, in accordance with the statutory governing Rules 14

> and 15 read with Schedule IV of the Chhattisgarh Forest Service Recruitment Rules, 2012.
>
> d) That, the Hon'ble Court may kindly be pleased to pass any other order(s) that may be deemed fit and just in the facts and circumstances of the case including awarding of the costs to the petitioner."

6. In this WPS No. 1105 of 2026, the petitioner was appointed as a Forest Guard on 05.01.2013 through a regular recruitment process conducted under the Chhattisgarh Class III Forest Service Recruitment Rules, 2012 (in short Recruitment Rules 2012), and was initially posted in Udanti Forest Division, Gariaband. Subsequently, on administrative grounds, he was transferred on 30.07.2016 to Katghora Forest circle.

7. According to the petitioners, under Rules 14 and 15 of the Recruitment Rules, 2012, seniority and eligibility for promotion are required to be determined on the basis of merit, suitability and the statutory criteria prescribed therein, and not on account of an administrative transfer. It is the petitioners case that although the Principal Chief Conservator of Forests had directed preparation of a consolidated merit list of newly appointed Forest Guards on the basis of marks obtained in the recruitment examination, their marks were not reflected in the gradation lists published from the year 2021 onwards, resulting in an incorrect fixation of their seniority. Upon verification initiated by the Bilaspur Division, the Gariaband Division eventually forwarded the petitioners respective recruitment marks. Despite the availability of the said records, the gradation list published as on 01.09.2025 continued to place the petitioners at a

lower position with the remark that they had been transferred from another circle, allegedly ignoring their original merit position.

8. Aggrieved thereby, the petitioners submitted detailed representation seeking correction of their seniority in accordance with the Recruitment Rules, 2012. However, the said representations came to be rejected on 25.09.2025 by placing reliance upon the Government circular dated 31.07.2014, which provides that an employee transferred from one circle to another shall be placed at the bottom of the seniority list in the transferee circle. The petitioners stand is that the said executive circular cannot override the statutory provisions of the Recruitment Rules, 2012, and that the impugned orders rejecting their claim for correction of seniority is arbitrary, illegal and liable to be quashed.

9. In rejoinder, the petitioners denied the stand taken by the respondents and reiterated that the impugned action is founded solely on an executive circular dated 31.07.2014, which cannot override the statutory provisions of the Recruitment Rules, 2012. It has been averred that the petitioners, being direct recruits transferred only on administrative grounds, cannot be treated as transferee recruits so as to be placed at the bottom of the seniority list. The petitioners have further averred that their recruitment merit has already been verified by the competent authority and that the alteration of their seniority solely on account of transfer is arbitrary, violative of the statutory scheme governing seniority and promotion, and prejudicial to their promotional prospects. It has, therefore, been prayed that the impugned circular dated 31.07.2014 and the

consequential order dated 25.09.2025 rejecting their representations be quashed.

10. The respondents/state have opposed the writ petitions with the averments that the petitioners representations were rightly rejected in terms of Clause 5 of the Government Circular dated 31.07.2014, which governs inter-circle transfers of Forest Department employees. It has been averred in the return that the said circular, issued in continuation of the earlier circular dated 10.09.1986, provides that an employee transferred from one forest circle to another, whether on administrative, mutual or voluntary grounds, shall have his seniority determined in accordance with Rule 12(2)(b) of the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961, and shall consequently be placed below all direct recruits and promotees selected on the same occasion in the transferee circle. According to the respondents/state, the petitioners, having been transferred from Gariaband Circle to Bilaspur Circle on administrative grounds in the year 2019, have rightly been assigned seniority in accordance with the aforesaid circular and the applicable service rules.

11. The respondents have further pleaded that the petitioners have misconstrued the scope of the Recruitment Rules, 2012. According to the respondents, the 2012 Rules deal exclusively with recruitment and do not regulate inter-circle transfers or fixation of seniority upon transfer. It has been submitted that Rules 14 and 15 of the 2012 Rules pertain to preparation of the promotion/selection list for the post of Forester and cannot be relied upon to determine the seniority of a transferred Forest Guard. Placing reliance upon Rule 3 of the

2012 Rules, it has been argued that the said Rules operate subject to the provisions of the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961, and therefore the impugned circular dated 31.07.2014 is consistent with the statutory framework. On the aforesaid grounds, the respondents have prayed for dismissal of the writ petitions.

12. Learned counsel for the petitioners would submit that the petitioners were appointed as a Forest Guards on 05.01.2013 through a regular process of direct recruitment under the Recruitment Rules, 2012 and were initially posted in Udanti Forest Division, Gariaband. Thereafter, on administrative grounds,they were transferred to Bilaspur Circle by order dated 23.08.2019 without any fault attributable to them. It is argued that the Principal Chief Conservator of Forests, by circular dated 29.05.2013, had directed preparation of a consolidated merit list of all newly appointed Forest Guards at the Circle level on the basis of marks secured in the recruitment process. Although the petitioners recruitment marks were subsequently verified by the competent authority and communicated by the Divisional Forest Officer, Gariaband, vide letter dated 08.09.2025 showing their respective recruitment marks, the respondents failed to accord them seniority in accordance with their merit. Instead, while publishing the gradation list as on 01.09.2025, the respondents placed the petitioners at Serial No. 321 with the remark "अन्य वृत्त से स्थानांतरण", solely because they had been transferred from another Circle. The petitioners representation dated 18.09.2025 seeking correction of their seniority was rejected on 25.09.2025 by placing exclusive reliance on Clause 5 of the Government circular dated 31.07.2014,

without considering the statutory Recruitment Rules, the verified recruitment marks of the petitioners or the earlier circular dated 29.05.2013.

13. Learned counsel would further argued that Clause 5 of the circular dated 31.07.2014, which mandates that an employee transferred from one Circle to another, even on administrative grounds, shall be placed below all direct recruits and promotees of the relevant year in the transferee Circle, is contrary to the statutory scheme contained in Rules 14 and 15 read with Schedule IV of the Chhattisgarh Class III Forest Service Recruitment Rules, 2012. It is argued that the Recruitment Rules, having been framed under the proviso to Article 309 of the Constitution, have statutory force and cannot be overridden by an executive circular. Once the merit position of a directly recruited Forest Guards has been determined in the selection process and a consolidated merit list has been directed to be maintained by the circular dated 29.05.2013, such merit cannot be nullified merely because of an administrative transfer, which is an incident of service. It is, therefore, submitted that the impugned circular dated 31.07.2014, to the extent it places transferred employees at the bottom of the seniority list, is arbitrary and violative of Articles 14 and 16 of the Constitution of India, and consequently the order dated 25.09.2025 rejecting the petitioner's representation is unsustainable in law and deserves to be quashed with a consequential direction to re-fix the petitioner's seniority on the basis of their recruitment merit.

14. Per contra, learned State counsel would support the impugned orders and submit that the petitioners representation has been rightly rejected in terms of Clause 5 of the Government circular dated 31.07.2014, which uniformly governs the fixation of seniority of employees transferred from one Forest Circle to another, whether on administrative, mutual or voluntary grounds. It is argued that the petitioners, though initially appointed in Gariaband Circle on 05.01.2013, were transferred to Bilaspur Circle on administrative grounds by order dated 23.08.2019 and, therefore, their seniority in the transferee Circle is required to be determined in accordance with Rule 12(2)(b) of the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961, as specifically incorporated by the aforesaid circular. Learned State counsel would further submit that the Recruitment Rules, 2012 regulate only the process of recruitment and do not govern fixation of seniority upon inter-circle transfer. Rules 14 and 15 of the 2012 Rules pertain to preparation of the selection list for promotion to the post of Forester and have no application to the petitioners claim. It is, therefore, argued that the petitioners have misread the statutory provisions; the circular dated 31.07.2014 is consistent with the applicable service rules and has been uniformly implemented to maintain administrative consistency, and consequently the writ petitions, being devoid of merit, deserve to be dismissed.

15. We have heard learned counsel for the parties and perused the material annexed with the petition and gone through their pleadings.

16. Having considered the rival submissions and upon perusal of the record, the main question which falls for consideration is whether employees who have been appointed by way of direct recruitment and whose inter se merit has been determined in accordance with the statutory Recruitment Rules can be relegated to the bottom of the seniority list in the transferee Circle merely because they have been transferred on administrative grounds by invoking Clause 5 of the Government Circular dated 31.07.2014. The petitioners were admittedly appointed as Forest Guards through a regular recruitment process under the Chhattisgarh Class III Forest Service Recruitment Rules, 2012. It is equally undisputed that their transfer from Gariaband Circle to Bilaspur Circle was not on account of any misconduct or at their own volition, but on administrative grounds. It is also not in dispute that their respective recruitment marks were subsequently verified by the competent authority and communicated to the Bilaspur Division. Despite the said verification, their placement in the gradation list has been determined solely on the basis of the impugned circular, treating them as transferred employees and not on the basis of their merit determined at the time of recruitment.

17. The method of recruitment is provided in Rule 6 of the Rules of 2012, which is necessary to be reproduced here:-

> **“6. Method of Recruitment.-**
>
> (1) Recruitment to the Service, after the commencement of these rules, shall be made by the following methods, namely:-

(a) By direct recruitment on the basis of competitive examination or by selection on the basis of merit and interview;

(b) By promotion of the members of the Service as specified in column (3) of Schedule IV;

(c) By transfer/Deputation of persons, who hold in substantive/substitutive capacity, such posts in such services as may be specified in this behalf."

18. Rule 14 provides the conditions of eligibility for promotion and Rule 15 provides preparation of list of suitable candidates, which reads as under:-

"14. Conditions of Eligibility for Promotion.-

The committee shall consider the cases of all persons who on the 1st day of January of that year had completed such number of years of the service (Whether officiating or substantive) in the posts from which promotion is to be made or any other post or posts declared equivalent thereto by the Government, as specified in column (5) of Schedule-IV and are within the zone of consideration in accordance with the provisions of sub-rule (2).

Explanation-

(1) *Manner of computation for eligibility for promotion* - The calculation of period of qualifying service on 1st January of the relevant year in which Departmental Promotion Committee/ Screening Committee is convened shall be counted from the Calendar year in which the public servant has joined the feeding cadre/part of

the service/pay scale of the post and not from the date of joining of the cadre/part of the service/pay scale of post.

(2) The reservation in promotion shall be made in accordance with the provision of Chhattisgarh Lok Seva (Padonnati) Niyam, 2003.

(3) Promotion shall be made as per Reservation Roster prescribed by the Government.

(4) The Foresters who have successfully completed prescribed training for Forester from training school of the state will be eligible for the promotion on the post of Deputy Ranger.

15. Preparation of list of suitable candidate.-

(1) The Departmental Promotion Committee shall prepare a list of such persons who satisfy the conditions prescribed in rule 14 above and as are held by the Committee to be suitable for promotion to the service, the list shall be sufficient to cover the anticipated vacancies on account of retirement and promotion during the course of one year from the date of preparation of the Select list.

(2) The selection for inclusion in such list shall be based on merit and suitability (seniority subject to fitness) in all respects.

(3) The names of employees included in the list shall be arranged in order of seniority in the service or posts as specified in column (3) of Schedule-IV at the time of preparation of select list as per Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961.

Explanation- The person whose name is included in a select list but who is not promoted during the

validity of the list, shall have no claim to seniority over those persons considered in a subsequent selection merely by the fact of his earlier selection."

19. It is also necessary to take notice of the circular dated 31.07.2014, which provided the method of placement of the names of the employees after their transfer at the transferee place, which is as under:-

छत्तीसगढ़ शासन

वन विभाग

"मंत्रालय"

महानदी भवन, रायपुर-492002

क्रमांक/एफ 11-01/2013/10-1/वन, नया रायपुर, दिनांक 31/07/2014

प्रति,

प्रधान मुख्य वन संरक्षक,

छत्तीसगढ़ रायपुर।

विषय :- कर्मचारियों का एक क्षेत्र से दूसरे क्षेत्र (मैदानी से मैदानी एवं मैदानी से मुख्यालय संवर्ग) में स्थानांतरण किए जाने पर उसकी वरिष्ठता के निर्धारण के संबंध में दिशा-निर्देश।

संदर्भ :- इस विभाग का पत्र क्रमांक 6961/10-1/86 दिनांक 10/09/1986

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वन विभाग के अंतर्गत वन मुख्यालय एवं मैदानी कार्यालय (वनवृत्तों/वनमंडलों के लिये) के लिए पृथक सेटअप स्वीकृत हैं। अलिपिक संवर्ग में वनपाल तक की वरीयता एवं लिपिक वर्गीय संवर्ग में लेखापाल/सहायक ग्रेड-2 तक की वरीयता पृथक रूप से मुख्यालय/वृत्त स्तर पर संधारित की जाती है। मैदानी सेटअप में एक वृत्त से दूसरे वृत्त में स्थानांतरण किये जाने पर उनकी वरीयता निर्धारण के संबंध में वन विभाग के ज्ञापन क्रमांक 6961/10-1/86 दिनांक 10.09.1986 द्वारा जारी दिशा-निर्देश के अनुवृत्ति में निम्नानुसार दिशा-निर्देश दिये जाते हैं :-

(1) यदि दो कर्मचारी अपना पारस्परिक स्थानांतर एक स्थान से दूसरे स्थान पर करवाता है तो, इसे स्वेच्छा से स्थानांतर माना जाकर ऐसे कर्मचारी से वरिष्ठता छोड़ने के संबंध में स्वीकृति या तो आवेदन पत्र के साथ ही ले ली जाय या उसे कार्यमुक्त करने से पूर्व उसकी सहमति ली जाय कि ऐसे कर्मचारी अपने नए स्थान पर उस संवर्ग में कनिष्ठतम स्थान पर रखे जाएंगे।

(2) यदि यह पारस्परिक स्थानांतर का प्रकरण नहीं है तथा किसी अन्य किसी कारण से उक्त कर्मचारी को एक स्थान से दूसरे स्थान पर स्थानांतर किया जाता है तथा उसका संवर्ग भिन्न हो जाता है तो ऐसी परिस्थिति में स्थानांतरण आदेश जारी करने से पूर्व अपनी वरिष्ठता त्यागने के संबंध में कर्मचारी की सहमति ली जाय एवं तत्पश्चात् ही उसे उसका स्थानांतर आदेश जारी किया जाय तथा ऐसे कर्मचारी को नए संवर्ग में कनिष्ठतम स्थान दिया जाय।

(3) ऐसे प्रकरणों में जहां कानून एवं व्यवस्था अथवा साम्प्रदायिक तनाव की स्थिति उत्पन्न होने की परिस्थिति में किसी कर्मचारी को एक स्थान से दूसरे स्थान पर स्थानांतर करने का निर्णय प्रशासकीय कारणों से लिया जाता तो ऐसी स्थिति में वरिष्ठता के संबंध में शासन स्तर से आदेश दिये जाये तथा शासन स्तर से स्पष्ट आदेश होने पर ही उस कर्मचारी को नये स्थान की संवर्ग में उपयुक्त वरिष्ठता दी जा सकेगी।

(4) पूर्व में यदि कुछ स्थानान्तर हो गए हो तथा वरिष्ठता के संबंध में विवाद हो तो उपर्युक्त निर्देशों का पालन करते हुए संबंधित कर्मचारी की वरीयता छोड़ने की सहमति ली जाये एवं उसकी वरिष्ठता का निर्धारण किया जाये अथवा कर्मचारी द्वारा सहमति न देने की दशा में जिस स्थान से उसका स्थानांतर किया गया है, उसे उसी स्थान पर वापस पदस्थ करने की कार्यवाही की जाये, जिससे वरिष्ठता संबंधी विवादों का अंतिम रूप से निराकरण हो सके।

(5) यदि किसी कर्मचारी का स्थानांतरण (चाहे प्रशासनिक/आपसी/स्वैच्छिक दृष्टि से हो) मैदानी संवर्ग के अंतर्गत एक वृत्त से दूसरे वृत्त में किया जाता है, तो उसकी वरीयता छ.ग. सिविल सेवा (सेवा की सामान्य शर्तें) नियम-1961 के उप नियम-12(2) (ख) के अनुसार निर्धारित होगी, अर्थात् एक ही अवसर (वर्ष) पर चयनित सभी सीधी भर्ती/पदोन्नत कर्मचारियों से नीचे की श्रेणी में रखा जावेगा।

(6) प्रशासकीय हित में यह निर्णय लिया गया है कि, सामान्यतः 05 वर्ष की सेवा अवधि पूर्व करने के पश्चात् ही किसी कर्मचारी को भिन्न संवर्ग वाले कार्य क्षेत्र में स्थानांतरित किया जावेगा, इससे पूर्व नहीं।

Sd/-
(आर.पी. मण्डल)
प्रमुख सचिव,
छत्तीसगढ़ शासन, वन विभाग"

20. Rule 12(2)(b) of the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961 provides that:-

> "**12. Seniority**.
>
> The seniority of the members of a service or a distinct branch or group of posts of that service shall be determined in accordance with the following principles, viz.,-
>
> (1) xxxxx
>
> (2) Seniority of Transferees. -
>
> (a) xxxxx
>
> (b) Where a person is appointed by transfer in accordance with the provisions in the Recruitment Rules, providing for such transfer in the event of non availability of suitable candidates by direct recruitment or promotion, such transferee shall be grouped with direct recruits or promotees, as the case may be, and he shall be ranked below all direct recruits or promotees, as the case may be, selected on the same occasion."

21. Seniority is an important service right having a direct bearing upon promotional avenues and other service benefits. Though no employee can claim an indefeasible right to serve at a particular place, transfer is undoubtedly an incidence of service and, by itself, cannot ordinarily visit an employee with adverse civil consequences unless such consequence is specifically sanctioned by a valid statutory provision. A transfer made in public interest or on administrative exigency is an act of the employer and not of the employee. Therefore, if the employees are compelled to forfeit their accrued seniority solely because they have obeyed orders of transfer passed by the employer, such consequence would, in substance, operate as a penalty without there being any misconduct or disciplinary proceedings against them. Such a consequence, in the considered opinion of this Court, would be manifestly arbitrary and offend the guarantee of fairness embodied in Articles 14 and 16 of the Constitution of India.

22. The stand of the respondents is founded upon Rule 12(2)(b) of the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961 read with Clause 5 of the circular dated 31.07.2014. However, a plain reading of Rule 12(2)(b) would indicate that it deals with cases where appointment is made by transfer as a mode of recruitment in accordance with the Recruitment Rules. The petitioners are admittedly not persons appointed by transfer as a source of recruitment. They entered service by direct recruitment and were subsequently transferred during the course of their service on administrative grounds. Prima facie, therefore, the applicability of Rule 12(2)(b) to such a situation appears to be misplaced. Even

otherwise, an executive circular cannot travel beyond the statutory rules or create consequences which are otherwise not contemplated by the governing service rules.

23. This Court is also unable to persuade itself to accept the proposition that merely because the service is organized Circle-wise, the employer can, by way of an executive instruction, reduce regularly recruited employees to the lowest position in the gradation list whenever they are transferred from one Circle to another. Acceptance of such a proposition would vest an uncanalised and arbitrary power in the administration. An authority, by directing transfer of employees from one Circle to another, would effectively be in a position to deprive them of their accrued seniority and consequently postpone or even frustrate their chances of promotion. Such an interpretation would expose employees to arbitrary exercise of power and would be susceptible to misuse, particularly where transfers are effected on administrative grounds over which the employees have no control. Service jurisprudence does not countenance a situation where an incidence of service is converted into a source of civil disability.

24. At the same time, this Court is conscious of the fact that the gradation list presently operating in the Bilaspur Circle may have remained in force for a considerable period and several employees who are not parties to the present proceedings may have arranged their affairs on the basis thereof. The petitioners have challenged the rejection of their respective representations and the consequential application of Clause 5 of the circular to their cases. Therefore, while this Court

finds merit in the grievance raised by the petitioners, it is neither necessary nor appropriate, in the facts of the present case, to unsettle the entire gradation list or disturb the seniority of other employees who have not been impleaded before this Court.

25. On a conjoint reading of the Chhattisgarh Class III Forest Service Recruitment Rules, 2012, particularly Rules 6, 14 and 15 read with Schedule IV, and Rule 12(2)(b) of the Chhattisgarh Civil Services (General Conditions of Service) Rules, 1961, this Court is of the considered opinion that Clause 5 of the circular dated 31.07.2014, insofar as it mandates that Forest Guards, who have been appointed by direct recruitment and are subsequently transferred from one Circle to another on administrative, mutual or voluntary grounds, shall invariably be placed below all direct recruits and promotees of the corresponding year in the transferee Circle, is manifestly arbitrary and dehors the statutory scheme governing the service. The said executive instruction has the effect of depriving such employees of the benefit of the merit determined at the time of recruitment and inflicts adverse civil consequences upon them without any statutory sanction or misconduct on their part. It also travels beyond the scope of Rule 12(2)(b) of the Rules, 1961, which deals with appointment by transfer as a mode of recruitment and has no application to cases where direct recruits are merely transferred during service. An executive circular cannot supplement, amend or override statutory rules framed under the proviso to Article 309 of the Constitution.

26. Consequently, Clause 5 of the circular dated 31.07.2014, to the aforesaid extent, being violative of Articles 14 and 16 of the

Constitution of India and inconsistent with the statutory Rules of 2012 and the Rules of 1961, is declared *ultra vires* and is hereby struck down to that limited extent.

27. As a fall out, the impugned orders dated 25.09.2025 rejecting the petitioners representations cannot be sustained and are hereby quashed. The respondents are directed to reconsider the petitioners' claims for fixation of their seniority by ignoring the stipulation contained in Clause 5 of the circular dated 31.07.2014 insofar as it has been applied to the petitioners, and to determine their placement on the basis of their original merit in the recruitment process and the applicable statutory rules. Such exercise shall be completed within a period of ninety (90) days from the date of receipt of a certified copy of this order.

28. It is, however, made clear that this declaration shall operate prospectively and shall not automatically unsettle the seniority already assigned to other employees who are not parties to the present proceedings, leaving it open to the competent authority to take consequential action in accordance with law after complying with the principles of natural justice wherever the rights of third parties are likely to be affected.

29. It is clarified that this order shall operate only qua the petitioners and shall not, by itself, result in disturbance of the existing seniority of other employees. If, upon reconsideration, any consequential modification affecting the rights of any other employee becomes necessary, the competent authority shall proceed strictly in

accordance with law after affording due opportunity of hearing to the persons likely to be affected.

30. With the aforesaid observations and directions, the present writ petitions are **allowed**.

Sd/-
(Ravindra Kumar Agrawal)
Judge

Sd/-
(Ramesh Sinha)
Chief Justice

ved

HEAD NOTE

An employee cannot be deprived of accrued seniority merely because of an administrative transfer, in the absence of any statutory provision authorising such consequence.