holding in that particular station or location. In other words, whatever post or posts the employee was holding in a particular location, it is the extent or length of the stay of the employee in that particular location which renders him liable for transfer when once he has completed the minimum period of three years of stay in any capacity in that particular station, as provided in sub-clause (b) of Clause 11 of the Transfer Policy.

13. The contention of the writ petitioners that there was a classification among the employees who were promoted from Category 'C' to Category 'B' and the direct recruits who have directly joined Category 'B' posts, and the said classification is not rational having no nexus or bearing to the purpose and the objectives of the Transfer Policy, is untenable. Firstly, the employees who were promoted from Category 'C' to Category 'B' totally stand on different footing from the direct recruits who were recruited to the posts in Category 'B'. There was no question of the direct recruits to Category 'B' posts having any tenure of service in any lesser cadre because they were direct recruits to Category 'B' post only. They become liable for transfer after completion of minimum period of three years in the said post pertaining to Category 'B'. So far as the other employees like the writ

petitioners who are promoted from Category 'C' to Category 'B' are concerned, they joined the Organisation in Category 'C' and they have put in long years of service in Category 'C' and subsequently they were promoted to Category 'B' and in that category also, they have put in a couple of years in the present station and their total tenure in both Category 'C' and Category 'B' was clubbed for the limited purpose of ascertaining the length of stay at a particular station in the context of making the transfer, which has nothing to do with the *inter se* seniority among Category 'B' employees between the promotees and direct recruits. The clubbing of the tenure of services in Category 'C' with that of Category 'B' is only for the limited purpose of effecting transfers on account of the length of service in a particular station and therefore, it cannot be said that the said clubbing of service in Category 'B' and Category 'C' is either irrational or irrelevant.

14. As otherwise, if the contention of the learned Counsel for the writ petitioners is to be accepted, it may lead to a far reaching proposition wherein no employee can be transferred irrespective of his length of service in a particular station except on administrative grounds and the Transfer Policy which enunciated the purposes

and objectives of the transfers, which are extracted above would be defeated. When the transfers are proposed to be effected for achieving the avowed objectives of the Transfer Policy, the writ petitioners have no right to question the same on the ground that their transfers are arbitrary. In fact, there is no element of arbitrariness either in the Transfer Policy or in the relevant clauses, which are under challenge because the interest of the employees is also duly taken care of by providing that a minimum period of three years at a location shall be maintained as far as possible in order to avoid hardship to the employees. When the transfer is sought to be effected for the purpose of rotational redeployment of the personnel from sensitive posts or over other grounds and also to provide opportunities to work in different disciplines and also due to requirements of filing up of posts, meeting staff requirements at tenure/hard tenure/unpopular/difficult stations and also for matching employee's skills with job requirement, it cannot be contended that the Transfer Policy is vitiated by any arbitrariness or unreasonableness.

15. It is well settled that transfer of an employee is an incidence of service, as pointed out by the learned single Judge himself and it is not the case of the writ

petitioners that they were arbitrarily picked out for effecting transfers. It is well settled that when the Transfer Policy is evolved to achieve certain avowed objectives as stated in the policy itself, the employees cannot question the same unless it is demonstrably shown that there are *mala fides* or lack of jurisdiction or apparent arbitrariness, which would cause hardship to the employees. None of the said elements is existing in the present case and it is not shown by the writ petitioners that the proposed transfer in pursuance of the guidelines contained in the Transfer Policy caused any prejudice or hardship to any one of them, or that the proposed transfers are being effected on account of any *mala fides* on the part of the Organisation. The tagging of tenure of service in Category 'C' with the tenure of service in Category 'B' cannot therefore be found fault with, inasmuch as, such clubbing is intended to serve the stated purpose and objectives of the Transfer Policy. The fact that the service of Category 'B' employees is not tagged on to any other service in the lesser category does not simply arise because Category 'B' employees are directly recruited to the posts in the said category and therefore, the question of their serving in any lesser category does not simply arise. The writ petitioners

cannot therefore seek to compare themselves with the direct recruits of Category 'B'.

16. However, the Transfer Policy is totally within the domain of the appellant Organisation and unless and until the said Policy is demonstrated as wholly arbitrary or irrational, this Court will not, in normal course, interfere with the said Policy. Interference with such policies by the Court, when they are not found to be arbitrary, would only amount to substituting its own policy, which is totally unwarranted. On this score also, this Court cannot interfere with the Transfer Policy.

17. The arbitrariness, which has been pointed out by the learned single Judge, in our considered view, cannot, in fact, be treated as arbitrary or irrational. As a matter of fact, if the policy of the appellants is deviated, it would lead to far reaching consequences, viz., when the transfers are to be effected after completion of a particular tenure at a particular place, the direct recruits, who have been serving at a particular place, may have to be transferred only after completion of the service rendered by the other categories of employees, to which the writ petitioners belong.

18. In other words, even the direct recruits, in spite of their completion of service for the prescribed tenure, cannot be transferred or for that matter, they may have to be transferred after completion of two years or three years contrary to the prescribed service at a particular station. These are only illustrative possibilities that are likely to occur. In that view of the matter, we are of the opinion that the leaned single Judge erred in terming the Transfer Policy or particular clauses dealing with the transfers as arbitrary. The arbitrariness, in our considered view, should be palpable and cannot be imaginary. When the appellants-BSNL had categorically stated in the policy document itself about the purpose and objectives of the Transfer Policy, it is incumbent upon the writ petitioners to demonstrate categorically the arbitrariness that is imminently likely to occur. We do not find any such situation in the present case.

19. Having regard to the nature of duties and conditions of service of the employees of the present day, what is relevant is -- length of service of the employee at a particular station or particular location, which decides eligibility or otherwise of the employee for transfer but not the nature of duties or the post he was holding.

20. Therefore, for the above reasons, we cannot find fault with the Transfer Policy.

21. In the result, the impugned common order passed by the learned single Judge in the writ petitions is set aside and the appeals are allowed.

SD/-S. VARALAKSHMI
JOINT REGISTRAR

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HIGH COURT

Dated: 04/11/2009

COMMON JUDGMENT

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