

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(1) CWP No.5561 of 2010

Anil Kumar

... Petitioner

Versus

State of Punjab & others

... Respondents

(2) CWP No.9235 of 2012

Surinder Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

Reserved on: 24.05.2016

Decided on : 08.07.2016

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.K.G.Chaudhary, Advocate, for the petitioner
(in CWP-5561-2010).

Mr.Balram Singh, Advocate, for the petitioner
(in CWP-9235-2012).

Mr.G.S.Bal, Sr.Advocate
with Mr.A.D.S.Bal, Advocate, for respondents No.5 & 6
(in CWP-9235-2012).

Mr. L.S.Virk, Addl.AG, Punjab.

G.S. Sandhawalia, J.

This judgment shall dispose of CWP-5561-2010 and 9235-2012, as the questions of law, facts and the relief sought are same. However, to dictate orders, facts have been taken from CWP-5561-2010 titled *Anil Kumar Vs. State of Punjab & others*.

Petitioner is serving as Assistant Sub-Inspector with the Punjab Police, Telecommunication Wing and had joined service on

22.01.1993. Similarly, petitioner, in the connected case, joined in the year 1989 as Assistant Sub-Inspector. Challenge laid is to the orders dated 01.06.2009 (Annexure P3) and 22.12.2009 (Annexure P4) whereby respondents No.4 to 6, namely, Yogesh Narula, Vibhor Kumar and Kuldeep Singh, have been given out of turn promotions as Inspectors. The challenge is based on account of the fact that all the respondents had earlier challenged the orders whereby their out of turn promotions had been recalled and in the case of respondents No.5 & 6, the writ petitions had been dismissed whereas in the case of respondent No.4, he had withdrawn the writ on account of order dated 01.06.2009 being passed.

The controversial issue which arises for consideration before this Court is whether respondent No.2-the Director General of Police had any power of review to recall the earlier orders of reversion of the said respondents and pass the impugned orders, under Rule 13.21 of the Punjab Police Rules, 1934 (for short, the '1934 Rules') in the case of individuals, resulting in nullifying the decision of the Division Bench of this Court reported in **Inspector Kuldip Singh Vs. State of Punjab & others 2009 (1) SCT 3.**

It is not disputed that vide order dated 18.12.2008 (Annexure A1), attached with the supplementary affidavit dated 10.10.2012 of the Deputy Superintendent of Police, Headquarters, Information Technology & Telecommunications, Punjab, the out of turn promotion of respondent No.4 to the rank of Head-Constable, list D-II, List E-II and out of turn promotion as Assistant Sub-Inspector and Sub-Inspector, was withdrawn, to make room for his seniors who were waiting since long, by respondent No.2. The

same was done after issuing proper show cause notice to him and in view of the directions issued by this Court in CWP-1692-1969 decided on 05.05.1970. The relevant part reads as under:

“5. He has not submitted any written reply. However, he was heard in person on 30.10.08. There is no weight in his plea. Accordingly, the out of turn promotion to the rank of Head Constable, list D-II, list E-II, out turn promotion to the rank of ASI and Sub Inspector given to him are hereby withdrawn with immediate effect for making room for his seniors who are awaiting promotion since long.

A copy of this order be supplied to him free of cost under proper receipt.”

Similarly, respondent No.5 was repatriated from the Intelligence Wing to the Wireless Wing, after noting that his transfer from the Wireless Wing to the Intelligence Wing was not justified. It was, accordingly, noticed that his transfer to Patiala Range on 30.11.2000, without repatriation from the Intelligence Wing to the Wireless Wing was not in accordance with the rules. No recommendation had been made by the Wireless Wing to the promotion list E-II (exemptee) and transfer from Wireless Wing to District Police. The relaxation which had been granted under Rule 13.21 should not be in respect of any individual but only in respect of a class or category. The order dated 30.11.2000 of the DGP did not contain any detailed reasoning as required under Rule 13.21. Resultantly, he was directed to be relieved with a direction to report to the IGP Computer & Telecommunications, Punjab, at his new place of posting and that he will get his promotion as per his seniority and merit in his parent cadre, i.e., Wireless Wing. Relevant part of the order reads as under:

“Whereas the following issues in this case have been examined for taking the corrective decision: -

- (i) Revoke transfer order issued vide No. 30865/E-1 dated 30-11-2000 from Intelligence Wing to Distt. Police and repatriate him back to his parent organization i.e. Wireless wing forthwith;
- (ii) Withdraw ORP posting order No.11197/E-6 dated 23-5-2000;
- (iii) Withdraw the promotion order as Offg. Sub Inspector w.e.f. 28-9-2001 issued by DIG PR vide his No. 32004-22/A-1 dated 21-11-2001;
- (iv) Withdraw the orders for the grant of promotion List “F” (Executive) and promotion as Inspr. issued vide No. 12737/E-1 dated 29-4-2003.

In the light of the above stated facts, it is very clear that the orders issued earlier were not in accordance with the Punjab Police Rules/Govt. Instructions. Therefore, the orders issued vide No. 11197/E-6 dated 23-5-2000, No. 30865/E-1 dated 30-11-2000, No.32004-22/A-1 dated 21-11-2001 (issued by DIG PR Patiala) and No. 12734/E-1 dated 29-4-2003 are hereby withdrawn with immediate effect and Insp. Vibhor Kumar 1073/w is placed to his substantive rank of ASI in Wireless wing with immediate effect. He is also repatriated to his parent unit i.e. wireless Wing. He will also get his promotion as per his seniority and merit in his parent cadre i.e., Wireless wing. He may be relieved immediately with the direction to report to IGP Computer & Telecommunications, Punjab, Chandigarh for his new place of posting under intimation to quarters concerned.”

In the case of respondent No.6-Kuldeep Singh, identical order was also passed on 14.10.2004 (Annexure A5), to the same effect, as noted in the case of Vibhor Kumar.

Respondent No.4 challenged the order dated 18.12.2008 in

CWP-292-2009. The State opposed the said writ petition by filing reply through Shri Surinder Mohan Sharma IPS, Additional Director General of Police. It is also to be noticed that the said respondent had been recruited as a constable on 22.03.1995, prior to completing 17 years of service and he would only complete 18 years as on 26.01.1997. In the reply, it was also mentioned that the said respondent had superseded 1130 constables, while being promoted as Head Constable and 566 Head Constables while being promoted as Assistant Sub Inspector and 536 ASIs, while being promoted as Sub-Inspector, on out of turn promotions in the Telecommunication Wing. It was further deposed in the affidavit that the petitioner's father was posted as Private Secretary to the then DGP and it is not disputed that he has remained as such, with various DGPs'.

Respondent No.5 filed CWP-18254-2004, challenging the decision dated 14.10.2004 (Annexure A3) as reproduced above. A Division Bench of this Court noticed that under Rule 13.21 of the 1934 Rules, power of relaxation was provided, only giving power in respect of any class or category of persons. The powers could be exercised by the DGP in respect of any class or any category but not in respect of any individual and valid reasons had to be given for exercising such power. The legal benefits had been granted upon the said respondents and accordingly, in the absence of any reasoning for promoting him, the writ petition was dismissed, by holding that the repatriation order to his parent cadre in a substantive rank of ASI was justified. The relevant part reads as under:

“We now proceed to deal with the rival contentions of the counsel. A perusal of Rule 13.21 of the Punjab Police

Rules shows that the power of relaxation contained in the said Rule can be exercised "with respect to any class or category of persons". This apart, while exercising this power, certain reasons have to be recorded in writing. However, the order passed by the DGP in the present case shows that the power has been exercised not in respect of any class or category but in respect of an individual. Besides, the order passed by the DGP does not specify the reasons for granting the relaxation except that it was in recognition of his outstanding performance. On the other hand, learned counsel for the State has contended that illegal benefit had been conferred upon the petitioner dehors the mandate of statutory rules.

From a perusal of the record it is clear that the petitioner was granted out of turn promotion while on deputation. Rule 13.21 was invoked to grant promotion to the petitioner. However, the order whereby the said rule was invoked, does not give any reasons for exercise of power under the said rule. Needless to say that the DGP could not have invoked rule 13.21 to grant relaxation to the petitioner, at his whim. The order must show valid reasons for exercise of this power for promoting a police official to a higher rank. In the present case, however, no such reason is discernible from a perusal of the impugned order.

XXXX XXXX XXXX XXXX

We are of the considered view that an official, who has been erroneously granted a higher rank while on deputation, does not acquire a vested right to retain the same. He cannot be heard to say that withdrawal of the rank erroneously granted in the department where he was on deputation, would amount to arbitrariness on part of the Government and thus violative of [Article 14](#) of the Constitution of India. We are further of the view that the Government can always correct a bonafide mistake at any stage, though of course in consonance with the principles of natural justice.

In the facts and circumstances of the present case, we

do not find any element of arbitrariness on part of the respondents while repatriating the petitioner to his parent cadre in his substantive rank of ASI. There being no infirmity in the impugned order, we do not find it a fit case to interfere in exercise of jurisdiction under [Article 226](#) of the Constitution of India.

We thus find no merit in the writ petition. No case for quashing the impugned order is made out.

The writ petition is, therefore, dismissed.”

Respondent No.6-Kuldeep Singh also challenged the order dated 14.10.2004 in CWP-17972-2004, which also met the same fate, vide order dated 15.10.2008. Thereafter, the review petition, filed by Kuldeep Singh, was also dismissed vide order dated 09.01.2009. Resultantly, SLP (C) Nos.6818/2009 & 23406/2009 were filed by respondents No.5 & 6.

Before the Apex Court, respondents filed counter-affidavit dated 28.01.2010, wherein they took the plea that the reversion orders had been withdrawn. It was, accordingly, submitted that in view of the impugned orders dated 01.06.2009 and 22.12.2009, the petitioners had been given the necessary benefits and accordingly, the SLPs' were dismissed as infructuous. Resultantly, the impugned orders have, now, been challenged on the ground that the petitioners had been appointed on 22.01.1993 and 1989, as ASI directly and respondents No.4 & 5 were juniors to them. Respondent No.4 had not even passed the Basic Recruit Course, when he was promoted as Sub-Inspector but promotion had been granted to him and the petitioner had wrongly been ignored though even being senior to the respondents.

It is pertinent to mention that in view of the order dated

01.06.2009, respondent No.4 also withdrew his writ petition, CWP-292-2009 on 28.8.2009, which was being opposed by filing reply, as noticed above.

Respondents No.1 to 3, in their reply, took the plea that the petitioner had not exhausted the departmental remedies available to him under Rules 14.5 and 14.6 of the 1934 Rules and the cases of private-respondents had been reviewed and restored by respondent No.2, in view of the factual position and in the interest of justice and fairness.

In the supplementary affidavit filed, the justification has been given that respondent No.2 had reviewed the earlier orders by passing well reasoned speaking order and restored all the ranks to the respondents on the ground that under Rule 1.1 of the 1934 Rules, Telecommunication Branch was a separate cadre and the benefits were to be given to the private-respondents.

Counsel for the private-respondents No.5 &6, on the other hand, justified the promotions and submitted that the petitioner was junior to the respondents in the rank of ASI as they were promoted on 19.02.1991 and 01.09.1988, respectively and therefore, the petitioner could not claim parity with the answering-respondents and the writ petition was misconceived. Counsel has also placed on record the order dated 28.05.2011 (Annexure R6/5) whereby the case of respondent No.5 was reconsidered in view of the directions issued in CWP-566-2010 titled *Ranjit Singh & others Vs. State of Punjab & others*, decided on 04.03.2010 and the orders dated 28.06.2011 (Annexure R6/4), whereby he was further promoted as Deputy Superintendent of Police. Respondent No.4 was

proceeded against *ex parte* on 06.01.2011.

Petitioner, in his replication, took the plea that respondent No.3, while reviving the orders, could not review the orders passed by this Court. Respondents No.4 & 6 had not passed the Basic Recruit Course under Rule 19.2 of the 1934 Rules, which was mandatory for getting promotions to the high rank. The petitioner had been called for personal hearing but on account of no action having been taken, he had been constrained to approach this Court.

Counsel for the petitioner has placed reliance upon the Division Bench judgment of this Court in **Ram Niwas Vs. State of Haryana & others 2006 (3) SCT 834** whereby the power of review could not be exercised unless it is expressly provided by the statute. Reliance is also placed upon the judgment passed by this Court in **Om Prakash, Inspector Vs. State of Haryana & another 2010 (6) SLR 765**, which followed the said view. It is, accordingly, contended that the subsequent orders dated 01.06.2009, recalling the order dated 18.12.2008 in case of respondent No.4 and the orders dated 22.12.2009 (Annexure P4), in the case of respondents No.5 & 6, recalling the orders dated 14.10.2004, were not justified, in the facts and circumstances. The illegality had further been compounded by passing of the orders dated 28.05.2011 (R6/5) and 28.06.2011 (R6/4) as respondent No.5 has further gained promotion on the strength of the illegal orders, at the cost of the petitioners, who were not considered.

Counsel for the private-respondents, on the other hand, justified the said order on the ground that the issue was re-examined by

respondent No.2 and in the facts and circumstances, it was found that the said respondents were entitled for the benefits.

A perusal of the impugned order dated 01.06.2009 (Annexure P3) would go on to show that it was noticed by respondent No.2 that the earlier orders passed dated 18.12.2008 (Annexure A1) had been challenged before this Court in CWP-292-2009, by respondent No.4 and it had been contested on the ground that the exemptions and promotions had been granted to the said respondent who had risen from the rank of Constable to the rank of the Sub-Inspector, in violation of the rules, under the influence of his father who remained posted as a Private Secretary to the then DGP. However, only on the basis of the fact that the said DGP had filed an affidavit dated 28.02.2009 in the said writ petition, defending his stance and granted exemption under Rule 13.21 to the said respondent, for approval of promotion to the post of ASI on out of turn basis, respondent No.2 came to the conclusion that there was no reason to disbelieve the former DGP. Accordingly, by noticing that 536 ASIs could be promoted from List D-II, it was held that all promotions given were within the quota and accordingly, the order dated 18.12.2008 was reviewed. However, a condition was put that it would be subject to the verdict of the High Court on the writ petition of the said respondent. The petitioner, however, on the receipt of the order, withdrew the said writ petition on 28.08.2009, without taking any decision on merits as to whether the said order was justified, in the facts and circumstances. Relevant part of the order reads as under:

“a) There is no reason to disbelieve former DGP when he has placed on record his sworn affidavit in this regard. If the

record is not available in the office, this cannot be a ground that there was no justification with former DGP for granting exemptions and further promotions to C-II Narula. Even in the order dated 28.4.2003 reasons were recorded while granting exemption exercising the powers under Rule 13.21 of the Punjab Police Rules, 1934.

b) Admittedly all promotions given to C-II Narula were within the quota as has been intimated by Addl. DGP/C & T vide his latest communication being Memo No.15274/E-1 dated 20.5.2009.

12. I have given a thorough consideration to this case. From the factual position as has been narrated above, order dated 18.12.2008 needs to be reviewed in the interest of justice and fairness. The order would be subject to the verdict of the Hon'ble High Court on the writ petition.

Hence, I hereby review the order dated 18.12.2008 and restore all the ranks to C-II Yogesh Narula so withdrawn. This order will be subjected to the verdict of the Hon'ble High Court on his writ petition.

A copy of this order be supplied to him free of cost.”

Similarly, in the case of respondents No.5 & 6, it was noticed that the writ petition of the said respondents had been dismissed on 15.10.2008. However, the matter was re-examined and it was held that they had got promotions to the rank of ASI, on their turn. Accordingly, it was held that as per Rule 1.1 of the 1934 Rules, Telecommunication Branch is a separate cadre and the official recruit in this cadre cannot be absorbed in any other cadre of the Police Department. Resultantly, the benefits of exemption of List E-II and List F-III, given earlier on 30.11.2000 and 29.04.2003, were restored. Accordingly, it was directed that a formal promotion order as Officiating Sub-Inspector and Inspector, be issued and his name be brought in the promotion list “F” (Wireless Wing) (Operators)

w.e.f. 29.04.2003 and his promotion be ordered as Inspector of Police. It was further directed that in case there were no vacancies, the junior-most Sub-Inspector and Inspector be reverted, following due process, to adjust him. Relevant part of the order dated 22.12.2009 (Annexure P4) reads as under:

“3. According to Rule 1.1 of Punjab Police Rules 1934 telecommunication branch is a separate cadre and the official recruited in this cadre can not be absorbed in another cadre of the 'Police Department.

4. In view of above, it has been decided by the CPO, Punjab vide Memo. No.8202/E-1(1) dated 14.10.09 that the benefits of list E-II and List “F” which were granted on 30.11.2000 & 29.04.2003 respectively, should be given to him in Wireless Wing. Accordingly, directions have been issued by the CPO-, Punjab to this office that the name of the names of ASI Vibhor Kumar No.1073/W be brought on list E-11 w.e.f. 30.11.2000 and his formal promotion order as offg. Sub-Inspector of Police be issued. His name is also brought on promotion list “F” (Wireless Wing) (Operators) w.e.f. 29.04.03 and his promotion order as Inspector of Police also be issued. In case the vacancy in the rank of Sub-Inspector and Inspector is not available, the junior most SI and Inspector be reverted following due process to adjust him.

In compliance with the directions of the DGP, Punjab, the name of ASI Vibhor Kumar No. 1073/W is hereby brought on E-11 w.e.f. 30.11.2000 and promoted to the rank of offg. Sub-Inspector w.e.f. 28.09.01 i.e. The date when his name has been approved for promotion as offg. Sub-Inspector by the CPO, Punjab vide order No. 25713/E-8 dated 28.09.01 against the existing vacancies of Sub-Inspector in Wireless Wing. Further, his name is brought/on promotion list “F” (Wireless Wing) (Operators) and- he is hereby promoted to the rank of Inspector of Police w.e.f. 29.04.2003. The name of Inspector

Vibhor Kumar No. 1073/W will fall in final seniority of Inspectors (Operators) circulated vide this office memo. No. 6536-99/E-1 dated 02.03.2009 at Sr. No. 52-B below Insp. Kuldip Singh No. 725/W and above Inspector Balbir Singh No. 222/W.”

Similarly, an identical order was passed in the case of respondent No.6, by Shri S.M.Sharma, IPS, Additional Director General of Police, in compliance of the directions issued by respondent No.2, which would be clear from the above. The said order does not, in any manner, take into consideration the fact that the Division Bench of this Court had specifically come to the conclusion that respondent No.2 could not grant any benefit under Rule 13.21, which gave the power of relaxation only in respect of a class or category but not in respect of an individual and that valid reasons had to be given for exercising such power.

State had earlier defended the order of recalling the earlier promotions granted and had justified the reversions which were done on 14.10.2004. In spite of the observations of the Division Bench, respondent No.2 has again further issued directions to give the benefits to the petitioners in the Telecommunication Branch on the strength that it is a separate cadre under Rule 1.1.

The issue of exemption was also subject matter of consideration in **Balbir Singh, Constable & others Vs. State of Punjab & others 1983 (1) SLR 109**. The question that weighed with this Court was that whether the power is to the extent of virtual abolition and to relax any provision contained in Chapter XIII of the 1934 Rules. It was, accordingly, held that the said power, which is derived from Section 12 of the Police

Act, 1861, is to be exercised for reasons to be recorded in writing and in respect of any class or category of persons. It was further held that it is a measure to serve the exigencies of service and the different purposes of the Act. The relevant part of the observations read as under:

“17. Reliance was placed on ***B. S. Bansal v. The State of Punjab and another, 1978 (2) Services Law Reporter 553 (D.B.)*** to contend that power to relax a rule can be exercised by the Government only if the operation of any rule is causing any undue hardship to any particular individual, and not to meet a general situation, in order to deal with that case in a just and equitable manner. That was in the context of rule 22 of the Punjab Service of Engineers Class I, P. W. D. (Buildings and Roads Branch) Rules, 1960. Similarly, ***Shervinder Kaur v. The State of Punjab and another, 1980 (1) Services Law Reporter 174 (D. B.)***, was pressed into service that general relaxation of rules was not permissible. That was in the context of rule 14 of the Punjab Educational Service Class III (School Cadre) Rules, 1955. And in the ***same strain, O. P. Gupta v. The State of Haryana and others, 1980 (1) Services Law Reporter 304 (S. B.)***, was cited to contend that relaxation can only be done in any particular case and not generally. This was in the context of rule 16 of the Punjab Economic and Statistical Organisation (State Service Class I) Rules, 1963. These three -precedents are from this Court. In addition thereto, ***Harish Chandra Misra v. Hon'ble Railway Minister, Union of India, 1979 (1) Services Law Reporter 222***, was cited to reinforce the same principle in the context of rule 157 of the Railway Establishment Code. The principle enunciated in the aforesaid precedents are good in the context of the rules involved therein. Individual reading of those rules and these precedents clearly bring out that each provision was meant to cover up an individual situation and there was no power therein to grant relaxation generally. These authorities can have no applicability to the case in hand, for here the power to relax Rules under rule 13.21 is not meant to

confine to individual cases but rather the provisions of the Chapter are required to be relaxed with respect to any class or category of persons. In other words, they are meant to operate generally in a restricted sense.

18. Thus having held that rule 13.7 is not that mandatory and cannot remain mandatory due to the power of relaxation available in rule 13.21, as also due to the workability of rule 13.20, the conclusion is inescapable that by virtue of order, Annexure P. 2, the I. G. P. had the power to relax rule 13.7 to the extent of abolishing the parade test altogether for the year 1982 with respect to the class and category of persons competing for the test to be held in January, 1982. Thus, the question posed at the very outset is answered in the affirmative holding that the power of relaxation under rule 13.21 vested in the I. G. P. goes to the extent of abolishing a particular rule virtually, but for reasons to be recorded in writing and in respect of any class or category of persons. And the exercise of this power is not in the nature of amendment to the Rules, but as a measure to serve the exigencies of service so as to carry out purposes of the Act. It is not a fraud on the Rules either.”

In the present case, the purpose of the Act or specific category or class of persons is not being promoted, in any manner. It is only an individual who has been given the benefits, which mitigates against the very purpose of the 1934 Rules. The Division Bench had dismissed the challenge which had been raised to the earlier order of reversion. In spite of that, the said order has been repeated, despite noting further the fact that it was pending consideration before the Apex Court. Instead of getting a legal stamp upon their promotions, in their favour, the private respondents chose to withdraw the petition and thus, for all effects and purposes, the orders of the Division Bench remained in force. The Special Leave Petitions were dismissed as infructuous and therefore, the order of the Division Bench

continued to hold force, *inter se* the parties, as such. The subsequent orders which have been passed amount to setting aside the findings recorded by the Division Bench of this Court, which cannot be approved, in any manner. The respondents cannot be permitted to conduct themselves in such manner which is against the provisions of the statute and the rules which govern them. The State has not been able to justify as to what were the extraordinary reasons which continues to weigh with them to grant the extraordinary benefits to these three private-respondents, for whom, the rules have been bent and respondent No.2 is bending backwards to accommodate them at their original posts. An effort had been made to clean the stable earlier by orders dated 14.10.2004 and 18.12.2008 but the same was nullified in spite of the fact that the orders of the Division Bench had approved the said act.

It is also to be noticed that the Officers Committee made the recommendations on 03.02.2011 that persons who had been given out of turn promotions, their orders should be withdrawn and the relaxation cannot be granted under Rule 13.21. Relevant part of the observations read as under:

“As regards promotions made in exercise of rule 13.21 of PPR, wherever promotions have been made or exemptions have been granted from various promotional courses (Lower/Intermediate/Upper School Courses), without passing speaking orders, specifically showing as to how the person in whose favour the power is being exercised falls within a class or category of persons stipulated in the said rule and/or without giving reasons as to on what basis such person falls within such category has to be granted relaxation under Rule 13.21, the said order would be treated to be not in exercise of

such power and should be withdrawn. However, since promotions have been made in exercise of such power for too many years now and immediate reversion may entail genuinely deserving officials also being reverted, therefore, this committee recommends all such cases of serving personnel be reviewed, within a period of three months, so that non deserving persons do not occupy cadre posts thus blocking regular channel of promotions of genuinely deserving officials.

This recommendation of this committee is also in terms of the judgment of Hon'ble High Court in CWP No.2232/2004 wherein this issue has also been dealt with."

In spite of the said recommendations, respondents No.2, without giving any details as to the contributions of respondent No.5, passed the order dated 28.05.2011, rejecting the recommendations of the Committee, by giving out of turn promotions to respondent No.5. Relevant part of the order dated 25.05.2011 reads as under:

"Whereas the order No. 12737/E-I dated 29.04.03 and the service record of Inspector Vibhore Kumar No. 1073/W has been perused. He has been also granted a personal hearing. Whereas on the basis of the service record and the plea submitted by him during the personal hearing I am satisfied that the promotion awarded by order No. 12737/E-I dated 29.04.03 was granted for cogent reasons as the officer had made extraordinary contribution in the line of his duty, the details of which could not be spelt out in the order under review for reasons of confidentiality of the nature of the task performed and also for reasons of the security of the concerned official and his other colleagues involved in the operation.

Therefore I do not find any reason to recall the order vide which he was given the out of turn promotion.

A copy of this order be given to him free of cost."

On the basis of the same, a month later, the said respondent was granted promotion as DSP vide order dated 24.06.2011 (Annexure R6/4). A perusal of the same would go on to show that it was subject to the decision of the CWP-4913-2010 titled *Satavtar Singh Vs. State of Punjab & others*, decided on 14.10.2010. In the said case, this Court had gone on to hold that the stand of the State that the Telecommunication Wing is a separate cadre, is not justified and persons recruited to this cadre cannot seek promotion on this ground. The said view was not accepted and it was held that the State Police is one integral unit and did not consist of separate and individual units. In such circumstances, the reasoning given in the orders dated 22.12.2009 also, cannot be held to be justified, in any manner wherein, by holding out that on account of separate cadre, the private-respondents have been given benefits.

In such circumstances, the petitioners have validly contended that the said action was arbitrary and they having legitimate grouse, have rightly approached this Court against the out of turn benefits which have been awarded to respondents No.4 to 6, at their costs. Resultantly, it has to be held that respondent No.2 could not nullify the decision of the Division Bench by recalling the earlier orders of reversion of respondents No.4 to 6, without the same having been set aside by the Apex Court.

Keeping in view the above discussion, the present writ petitions are allowed, the orders dated 01.06.2009 (Annexure P3) and 22.12.2009 (Annexure P4), passed in favour of respondents No.4 to 6, are set aside. The subsequent orders of promotion dated 28.05.2011 (Annexure R6/5) and 24.06.2011 (Annexure R6/4), during the pendency of the case,

necessarily, in favour of respondent No.5, will also be quashed. Resultantly, the orders dated 14.10.2004 and 18.12.2008 are restored, qua them. The petitioners alongwith similarly situated persons will be considered for promotion, as per their seniority, against the vacancies which have, thus, arisen within 3 months. Costs are assessed at Rs.20,000/- in each case in favour of the petitioners.

JULY 8th, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE