

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.25077 of 2013

Joginder Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CWP No.11612 of 2013

Balwinder Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

Decided on : 23.04.2016

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

Present : Mr.G.P.S.Bal, Advocate, for the petitioner(s).

Mr.Nilesh Bhardwaj, AAG, Punjab.

G.S. Sandhawalia, J. (Oral)

This judgment shall dispose of 2 cases, bearing CWP-25077 & 11612-2013, involving common questions of law and facts and the impugned order dated 21.07.2013 (Annexure P7) being common. However, to dictate orders, facts have been taken from CWP-25077-2013 titled *Joginder Singh Vs. State of Punjab & others*.

Petitioner challenges the order dated 21.02.2013 of the Officer's Committee wherein their request for grant of local rank of

ASI has been rejected. The ground for rejection is that the extension was not granted of the local rank to ASI Jagdish Singh, Tajinder Singh, Charanjit Singh, Baljinder Singh and Mohan Singh and the same stood discontinued after the completion of 6 months, automatically. It was noticed that only Kashmir Singh was extended the benefit of local rank as ASI, which was to expire on 21.03.2013. Two of the juniors, namely, Gurdeep Singh and Iqbal Singh were found to have been given promotions as Head Constables, contrary to the judgment of this Court in CWP-13788-1997 titled *SI Swarn Singh Vs. State of Punjab*. Accordingly, it was held that further grant of promotion to list D-II of the said persons should be withdrawn as the same was contrary to the judgment passed by this Court. Regarding the case of ASI Sukhdev Singh, it was found that he had been promoted under Rule 13.21 of the Punjab Police Rules, 1934, in the promotion list D-II as ASI (Exemptee) and the DGP was fully competent to grant such promotions and therefore, the petitioner had no cause of action against the said junior.

The petitioners, admittedly, had approached this Court in an earlier round of litigation whereby they had got directions on 11.01.2012 that their grievances be looked into. Their grouse was that local rank had been given to their juniors and also that some of them had been brought in the list D-II (Exemptee) ignoring their claim. The finding which has, thus, been recorded by the Officer's

Committee does not seem to be suffering from any such infirmity which can be interfered with, under Article 226 of the Constitution of India. The grouse of the petitioners against their juniors, who were granted the benefit of local rank, no longer survives as noticed by the Committee in the cases of ASI Jagdish Singh, Tajinder Singh, Charanjit Singh, Baljinder Singh and Mohan Singh. Regarding the rank of Kashmir Singh, it was to expire on 28.08.2011. Regarding the other junior, namely, ASI Sukhdev Singh, as per the provisions of Rule 13.21, the Inspector General of Police is authorized to relax any of the provisions, for reasons to be recorded in writing where he finds it necessary and expedient to do so. Petitioner had not laid any challenge to the relaxation which has been granted to Sukhdev Singh, as such and therefore, the reasoning which has been given by the Officer's Committee, as such, cannot be faulted.

Counsel for the petitioner, however, submits that in the meantime, after passing of the order dated 11.01.2012, the case of petitioner Joginder Singh had been recommended on 18.01.2013 (Annexure P11) on account of the fact that he had been injured in FIR No.30 dated 17.05.1991 lodged at P.S. Sadar Kotkapura, during his posting in District Faridkot, in an encounter with the terrorists. Reference is made to the details appended along with Annexure P11. It is, accordingly, submitted that the petitioner's case has not been examined from this aspect, as per the policy

dated 29.11.2012 (Annexure P10).

State, in its reply also, in para 3, has taken the plea that the case of Joginder Singh was not considered in this aspect, as his case was not recommended by the SSP, Muktsar in the case of bullet injury or any family member killed and therefore, he was not granted the benefit. Relevant portion of the reply reads as under:

“It is further submitted that while considering his case for promotion along with other officials in view of Policy dated 29.11.12 (Annexure P-10), his case was not recommended by SSP Mukatsar in the category of Bullet injury or family member killed, so, he was not granted any service benefit.”

Resultantly, this Court is of the opinion that the case of petitioner-Joginder Singh needs to be reconsidered, in case the SSP, Muktsar puts forward the case to the Officer's Committee under the said category.

Similarly, in the case of Balwinder Singh, the grouse of the petitioner, now, agitated before this Court is that he was a member of the police party in FIR No.126 dated 15.10.1999 (Annexure P16) under Sections 307, 411, 34 IPC and Sections 25, 54 & 59 of the Arms Act, registered at PS Sadar, Muktsar, where there was encounter with 3 accused who were nabbed, at that point of time. It is the case of the petitioner that undue benefit was given to one Constable Bikramjit Singh, who subsequently came to the spot along with SP (Detective), Muktsar. It is, accordingly,

submitted that in view of the policy dated 29.11.2012, the SSP had already recommended his case on 17.01.2013 (Annexure P11) on account of participation in anti-terrorist operations and therefore, he was also entitled for the benefit under the heading of 'Good Work Against the Terrorists'. A perusal of the policy dated 29.11.2012 would go on to show that the officials who were injured in the anti-terrorist operations and those whose anti-terrorist work conspicuously stands out, commensurate with good work, provided the officers were satisfied with their work, were to be given the benefit. Relevant provisions of the instructions read as under:

“a. A committee of IGP/Hqrs. and DIG/Admn. may immediately study the following categories of cases:-

- i) Officials who were injured in anti-terrorist operations and were not given any service benefit.
- ii) Officials who had lost their family member(s) at the hands of terrorists and who had not been given any service benefit.

In order to maintain uniformity in the matter, the benefits given in the past to such similarly placed officials may be kept as a yardstick. Appropriate benefits in such cases may be immediately awarded.

b. Such police officials whose anti-terrorist work conspicuously stands out, may be recommended for an immediate service benefit commensurate with the good work done by them, by either of the following officers, who are satisfied about the merits of the case:-

- i) ADGP/Admn.
- ii) IGP/Hqrs.
- iv) DIG/Admn.”

Accordingly, this Court is of the opinion that counsel for

the petitioner has been able to demonstrate that both Joginder Singh's and Balwinder Singh's case requires a fresh look by the Committee.

Accordingly, the present writ petitions are disposed of, with a direction that the case of the petitioners be re-considered, within a period of 6 months from the receipt of the certified copy of this order.

APRIL 23, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE