

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.12594 of 2014 (O&M)

Date of Decision: 12.10.2017

Sakattar Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM:- HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. R.K. Girdhar, Advocate for the petitioner.

Mr. Sukhbir Singh, AAG, Punjab.

...

TEJINDER SINGH DHINDSA, J.

Petitioner assails the order dated 13.07.2012 (Annexure P-4) passed by the Director General of Police-cum-Commandant General, Punjab Home Guards and Director Civil Defence Punjab, whereby claim of the petitioner for reinstatement as Home Guard has been declined.

Having heard counsel for the parties at length, this Court is of the considered view that the impugned order cannot sustain and the prayer of the petitioner for reinstatement in service deserves to be accepted.

Petitioner was appointed as a Home Guard on 13.06.1991. In December, 1999, petitioner along with a number of similarly situated Home Guard Volunteers were discharged from service. Such action was taken without passing any specific order and without providing any opportunity of hearing. Some of the other Home Guards, whose services had been terminated, filed CWP-5142-2005 and CWP-5144-2005 but these writ petitions were dismissed by this Court on 11.09.2006. The matter was

carried to the Supreme Court of India through Civil Appeal Nos.7904 and 7905 of 2010 and vide judgment dated 10.09.2010 (Annexure P-3), the Apex Court issued directions to the respondents to reinstate the Home Guards within a stipulated period of four weeks.

It has gone uncontroverted that the present petitioner along with Baldev Singh S/o Dara Singh, Harjit Singh S/o Jaginder Singh and Sukhwinder Singh S/o Sohan Singh filed CWP No.8693 of 2012 in this Court and raised a demand for reinstatement in service. Such writ petition was disposed of on 10.05.2012 in the following terms:

*“Consequently, this writ petition is disposed of with a direction to respondent No.2 to decide the legal notice of the petitioners by passing a speaking order within a period of three months from the receipt of a certified copy of this order, keeping in view the decision of the Hon'ble Supreme Court in **Davinder Singh and others' case (supra).**”*

In purported compliance of the directions issued by this Court, the impugned order dated 13.07.2012 (Annexure P-4) was passed rejecting the claim of the present petitioner as also Baldev Singh, Harjit Singh and Sukhwinder Singh as regards reinstatement as Home Guard Volunteers.

Perusal of the common order at Annexure P-4 would reveal the basis of passing the same i.e. Baldev Singh is stated to have joined the Home Guard Department on 15.06.1988 and having absented duty in the year 2000, Harjit Singh having been recruited on 20.03.1992 and absented from duty w.e.f. 09.12.2003, Sukhwinder Singh having been recruited on 04.06.1991 and absented from duty on 28.05.2002 and the present petitioner, namely, Sakattar Singh having been recruited on 13.06.1991 and having absented w.e.f. June, 1995. As per respondents, since the afore mentioned

Home Guards including the present petitioner had absented from duty of their own accord and without giving any information, Government Instructions dated 27.04.1994 and 17.02.1988 would come into play and as per which, any Home Guard, who continuously remains absent from duty without any information, cannot be taken back on duty.

It has gone undisputed that the other three officials, namely, Baldev Singh, Harjit Singh and Sukhwinder Singh filed CWP No.23803 of 2012 impugning the order dated 13.07.2012 (Annexure P-4) and such writ petition was allowed vide order dated 28.05.2013 in the light of detailed judgment passed in **CWP No.18043 of 2012 titled as Rakesh Kumar Vs. State of Punjab & others**. Resultantly, the order dated 13.07.2012 qua Baldev Singh, Harjit Singh and Sukhwinder Singh was set aside and they were directed to be reinstated in service forthwith. They were, however, held to be not entitled to any back wages and opportunity was granted to the respondents to proceed against the petitioners in accordance with law. The judgment rendered in **CWP No.18043 of 2012 (Rakesh Kumar Vs. State of Punjab & others)** also stands placed on record at Annexure P-5 in the instant petition.

Even a review application preferred at the hands of the State Government i.e. Review Application No.285 of 2013 against judgment dated 28.05.2013 passed in CWP No.23803 of 2013 was declined by this Court vide order dated 16.08.2013. Concededly, Baldev Singh, Harjit Singh and Sukhwinder Singh stand reinstated on duty in terms of order dated 13.12.2013 (Annexure P-7).

No basis is forthcoming at the hands of the State counsel to

distinguish the case of the present petitioner from that of Baldev Singh, Harjit Singh and Sukhwinder Singh, who had also been dealt with and whose claim for reinstatement had also been declined by passing common order i.e. dated 13.07.2012 and which is a subject matter of challenge in the instant petition as well.

Under such circumstances, the impugned order qua the present petitioner is set aside. The petitioner is held entitled to reinstatement in terms of order dated 28.05.2013 passed by Coordinate Bench in **CWP No.23803 of 2012 (Baldev Singh & others Vs. State of Punjab & others)**.

Writ petition is allowed in the aforesaid terms.

12.10.2017*harjeet***(TEJINDER SINGH DHINDSA)
JUDGE**

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| (i) Whether speaking/reasoned? | Yes |
| (ii) Whether Reportable? | No |