

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

RSA No.3776 of 2016 (O&M)

Date of decision: 20.04.2017

Harpreet Singh

.... Appellant

VS

State of Punjab and others

.... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Subhash Chand, Advocate for
Mr. Vaibhav Narang, Advocate
for the appellant.

Mr. Ajaib Singh, Addl. AG, Punjab.

RAJIV NARAIN RAINA, J. (ORAL)

On 26.09.2016, brother P. B. Bajanthri, J. passed an order asking counsel to verify whether the present appellant's case is similar to that of Satwant Singh vs. State of Punjab and others (CWP No.3842 of 2013) decided on 24.09.2015.

From the High Court Website, it is revealed that COCP No.104 of 2016 was filed by Satwant Singh in which in which proceeding a statement was made that the judgment and order dated 24.09.2015 has been complied with and order stands implemented by the State and accordingly the contempt petition was taken up on board and the petitioner therein was permitted to withdraw the petition. This means that Satwant Singh has been reinstated to service.

The case of *Satwant Singh* and *Harpreet Singh* are indeed identical and rest on the same facts and episode and the protection of the

police inquiry report dated May 07, 2012 showing exoneration of the charge that both demanded money from one Avtar Singh @ Romi of Gill Medical Store. The only difference is that Satwant Singh approached this Court in a writ petition after the Civil Court remitted the matter for enquiry through which he was removed by an order which he challenged in the aforesaid writ petition, while the appellant Harpreet Singh approached the Civil Court and lost and is now in second appeal where both the Courts are against him. Not only did Harpreet Singh opt for the Civil Court claiming relief pressing his case for setting aside his removal from service till the dismissal of his first appeal but has approached this Court after a huge delay of 1248 days in presenting the appeal. He has made the judgment passed in co-delinquent/accused SPO Satwant Singh's case as ground to claim parity of treatment. In his application, he says that having lost in two courts, he lost hope that he will be allowed to work in the department ever again.

Though the delay may be extraordinary but the demand of equal protection and similar treatment has desirably to be given although judgment does not constitute the basis of even discrimination under Article 14 of the Constitution of India but still, we have to do substantial justice and act to avoid miscarriage of justice. It would be heartbreaking for the appellant that two persons similarly situated in identical role accused of offences/misconduct with one securing favourable order and the other being denied, while both are in the same boat. The enquiry report prepared by the ACP (Traffic) Amritsar City was true and held good for both the SPOs. They were found not guilty of the accusation of extortion of money from

Avtar Singh who later had migrated to Australia.

However, the crucial enquiry report on which fate hung was not communicated to the Satwant Singh and Harpreet Singh on which their freedom and livelihood rested. The favourable report alas saw the light of day only due to the interim orders of Court in *Satwant Singh's* case. This report was not available to the appellant during the trial and appeal proceedings. Satwant Singh was declared innocent of the accusation in a report with the victim of dismissal from service sadly remaining unknown to him and which report was revealed during the proceedings in CWP No.3842 of 2013 only due to Court intervention almost like a miracle, with one good police officer speaking the truth and saving the case from subversion of justice. In Satwant Singh's case I had observed:

“An inquiry was conducted by the Assistant Commissioner of Police, Traffic, Amritsar recording in his report dated May 07, 2012 that the petitioner was not guilty of the alleged misconduct of extortion of money. The inquiry officer held that the charge levelled was not proven and the petitioner was freed of the serious charge levelled against him. The inquiry officer noted that Avtar Singh @ Romi owner of Gill Medical Store near Guru Ramdas Hospital or his partner Palwinder Singh had made no written complaint against the petitioner and this fact was admitted by a witness Vikram Sharma, Incharge CIA Staff during the cross-examination that no written complaint was filed against the petitioner by the owner of Gill Medical Store that money was extorted from him on the pain of registration of a criminal case.”

And further;

“A grave tragedy may have occurred if the petition had been

dismissed off hand but the worst have been averted with the production of the inquiry report. The inquiry report was obviously not known to the petitioner for him to have produced the same as it was not communicated to him. It is another matter it was in his favour.”

And still further;

“Kuljit Singh, PPS, Additional Deputy Commissioner of Police, Headquarters Amritsar City has apparently deflected the administration of justice left, right and centre in suppressing and mulling over facts and documents and has not represented the State before this court with clean hands, clean motive, clean mind and clean heart. It may be noted that the additional affidavit dated August 27, 2015 filed under the directions of this Court is by Dhruman H. Nimbale IPS, Additional Deputy Commissioner of Police, Headquarters Police Commissionerate, Amritsar on behalf of the respondents where truth is spoken for the first time since 2013 when the writ was filed. Had the true position been made known or brought out candidly the case could have been resolved long ago. It is he who has placed on record the inquiry report dated May 07, 2012 which has been kept in the shadows throughout the present proceedings.”

For the foregoing reasons I allow this appeal by setting aside the judgment and decree in appeal by declaring that the rights of SPO Harpreet Singh are equal to the rights to SPO Satwant Singh determined in his case (*supra*) which covers this case, while both the SPOs were involved in the same incident. They must then bear the same stamp of Court of equal protection.

As a result, the suit is decreed in terms of the judgment and

orders in *Satwant Singh's* case which case will constitute the reasons for the decree to be drawn in this case. Despite having lost in two Courts, the termination order is quashed. The appellant is reinstated to service since the judgment in *Satwant Singh's* case stands implemented and both cases manifestly stand on the same footing.

Just as in *Satwant Singh's* case, the monetary benefits in this appeal will be payable from May 07, 2012 when the appellant was exonerated from the charge alleged against him and found innocent.

(RAJIV NARAIN RAINA)
JUDGE

20.04.2017

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| 1. Whether speaking/non-speaking? | Yes |
| 2. Whether reportable/non-reportable? | No |