

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

(1)

CWP No. 22640 of 2011.

Date of Decision: 25.01.2018.

Shingara Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

(2)

CWP No. 26480 of 2013.

Ajit Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. G.S. Lalli, Advocate,
for the petitioners (in both the petitions).

Ms. Sudeepti Sharma, Addl. AG, Punjab.

JITENDRA CHAUHAN.J.

This judgment shall dispose of afore-mentioned two civil writ petitions as common questions of law and facts are involved in the present writ petitions.

The petitioners have invoked the writ jurisdiction of this Court seeking issuance of a writ in the nature of mandamus directing the respondents to absorb and re-employ the petitioners as Home Guard Volunteers.

It is contended that the petitioners had been employed as Punjab Home Guards on daily wages from 1990 onwards for different duration. Their services were terminated without following

due procedure. However, the petition is silent with regard to reason for termination.

As per the reply filed on behalf of Divisional Commandant, Punjab Home Guards, Jalandhar, if a Home Guard Volunteer remains absent from duty continuously for three days, he is called-off from duty. In the year 1998 the limit of absence period was increased from three days to six days. The petitioners violated the instructions by remaining absent, therefore, they were called off from the duty. So far as petitioner Nos. 6 to 8 are concerned, they were ordered to join duties but they did not.

It is contended by the learned counsel for the petitioners that petitioner No.1 Shingara Singh was re-called on duty on 12.06.2014 whereas, petitioner No.2 was also re-called on duty on 20.06.2014. It is further contended that the case of petitioner Nos. 3 to 5 and 9 is at par with Shingara Singh and Paramjit Kumar, who have been re-called on duty.

This Court on 19.09.2015 noticed as under:-

“The affidavit has been filed by Shri K.S. Ghumman, Deputy Commandant General, Punjab Home Guards, in pursuance of the order dated 04.05.2015. The relevant portion of the said affidavit reads as under:-

“2. That petitioner No.1 i.e. Shingara Singh has been recalled on duty on 12.06.2014 by the Commandant General (the Competent Authority) on the basis of the report submitted by Dist. Commander, Punjab Home Guard, Gurdaspur.

3. That so far petitioner No.2 and 3 are concerned, no representations were received from them. Regarding petitioner

No.4, 5 and 9, they performed duty only for a small period. As such, there is no question of considering their claim. Petitioner No.6 and 8 were SPOs of Punjab Police. They willingly did not join Home Guards Organization during stipulated period as fixed by the Government in the year 2005. As such, they cannot be taken on duty.

4. That no discrimination has been caused to any petitioner by re-calling Shingara Singh on duty.”

The reasoning given that the petitioners No.2 and 3 had not represented cannot be accepted. Admittedly, the present writ petition has been pending before this Court since the last four years.

Faced with the said situation, counsel for the State submits that the said respondents shall reconsider the issue, so that there is no discrimination qua the petitioners, as such.

The respondents shall reconsider the issue.

Adjourned to 29.10.2015.”

Learned State counsel could not refute the fact that Shingara Singh remained absent from 12.07.1999 to 20.07.1999 whereas, Paramjit Kumar remained absent from 05.07.1996 onwards and they have been recalled on duty on 12.06.2014 and 20.06.2014 respectively. As regards petitioner Nos. 6 to 8, they were ordered to join duties but they did not. So far as the remaining petitioner Nos. 3 to 5 and 9 in CWP No. 22640 of 2011 are concerned, they did not represent to the authorities concerned and that is why their cases have not been considered.

As regards the petitioners in CWP No. 26480 of 2013, they performed duties only for a brief period. Petitioner No.4 did not join duty willingly.

I have heard the learned counsel for the parties and have gone through the case.

The reasoning given by the respondents that the remaining petitioners did not make any representation to the department, therefore, they have not been taken on duty, cannot be accepted. Consequently, the writ petitions are allowed and the respondents are directed to consider the case of petitioner Nos. 3 to 5 and 9 in CWP No. 22640 of 2011 and the petitioners in CWP No. 26480 of 2013 in terms of case of Shingara Singh and Paramjit Kumar (supra). However, the petitioners shall not be entitled to any seniority or back wages.

A photocopy of this order be placed in the file of other connected case(s).

25.01.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No