

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.20467 OF 2018
DECIDED ON: AUGUST 20, 2018

DARSHAN SINGH MEHMI

.....PETITIONER..

VERSUS

STATE OF PUNJAB AND ORS.

.....RESPONDENTS..

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

Present: Ms. Ritu Punj, Advocate,
for the petitioner.

JASPAL SINGH, J.

Through instant petition preferred under Article 226/227 of the Constitution of India, petitioner has sought issuance of a writ particularly in the nature of mandamus directing the respondents to enhance the pension and other benefits by treating the petitioner as Commandant General-cum-Director Civil Defence, Punjab w.e.f. February 2009 along with interest @ 18% per annum as per the judgment passed by Full Bench of this Court in AS Randhawa's case as the junior to petitioner has been promoted after the retirement of the petitioner and he was declined the benefit vide order dated 29.01.2015 (P-16).

2. The contention of learned counsel for the petitioner is that the petitioner joined the services as District Commandant in Punjab Home Guards

on 29.02.1980 and promoted as Battalion Commander on 19.09.1990. Thereafter, he was further promoted to the post of Divisional Commandant on 27.12.2000.

3. Learned counsel for the petitioner vehemently argued that though petitioner was entitled to be promoted and posted as Commandant General, Punjab Home Guards-cum-Director Civil Defence and was eligible for the said post but the same was illegally and unlawfully declined to him vide order dated 29.01.2015 (P-16) simply on the ground that the post of Commandant General was meant for only Indian Police Service Cadre and that there exist no such vacancy. The petitioner retired on 29.02.2016 but subsequent thereto, Mr. Kultaran Singh Ghuman, a junior to the petitioner was promoted and posted as Commandant General, Punjab Home Guards-cum-Director Civil Defence vide order dated 18.10.2017, who is neither IPS cadre officer nor was senior to him, rather, petitioner was not promoted during his service with malafide intention. Order dated 18.10.2017 also cannot be said to be in accordance with instructions issued by Government of Punjab dated 06.01.1988. Since, petitioner was also eligible for the post of Commandant General, Punjab Home Guards but was not promoted, order dated 29.01.2015 (P-16) is invalid and can be said to be against the settled rules and instructions issued by Government of Punjab.

4. This Court has given meticulous thought to the aforesaid submissions made by learned counsel for the petitioner and finds that a junior to the petitioner was promoted and posted as Commandant General after the retirement of the petitioner and further that there was no distinction in between the eligibility of Mr. Kultaran Singh Ghuman, who was promoted on

18.10.2017 with that of the eligibility petitioner possessed even at the time, he was declined the benefit of promotion.

5. Learned counsel for the petitioner further contends that constrained against the discriminatory treatment of the respondents, petitioner moved representations dated 20.12.2017 and 06.03.2018 to the respondents but till date neither any response has been received from any of the respondents nor any conscious decision has been taken thereof. Further learned counsel for the petitioner submits that petitioner feels satisfied in case direction is issued to respondent(s) to reconsider the claim of the petitioner for promotion as set out in representation dated 06.03.2018 (P-21), within a stipulated period.

6. In the light of aforesaid facts and circumstances but without expressing any opinion on the merits of the case, instant petition is disposed of with the direction to respondent(s) to reconsider the claim of the petitioner put forth by him in representation (P-21) and take a conscious decision, in accordance with law, rules and instructions issued by government from time to time, within a period of three months from the date of receipt of certified copy of this order. In case the concerned authority comes to the conclusion that petitioner is entitled to the relief claimed, to disburse the same, within a period of next one month. As far as grant of interest on delayed payment is concerned that shall also be considered in view of the observations made by Full Bench of this Court in case captioned as ***“R.S. Randhawa vs. State of Punjab, 1997 (3) RSJ 318*** as well as Punjab Govt. Instructions No.1/15/90IFPIII/4226, dated 10.05.1990.

7. However, if the petitioner still feels aggrieved against any of the

order passed by the concerned authority, he shall be at liberty to approach this Court as well as to have recourse to the other remedies available under law.

AUGUST 20, 2018
sonika

(JASPAL SINGH)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>Yes/No</i>