

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

CWP No. 3548 of 2015

Date of Decision: 13.08.2018

Laxman Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Kartar Singh Malik, Advocate
for the petitioner.

Mr. Harish Rathee, Senior DAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. The petitioner was promoted to the rank of Head Constable w.e.f. 18.09.1989 on *ad hoc* basis by office order of even date passed by Superintendent of Police, Kurukshetra. It was stipulated in the order that the *ad hoc* promotion will not give rise to claim for seniority. The promotee will be liable for reversion without any notice.

2. In this petition brought in the year 2015, the petitioner claims benefit of *ad hoc* service spent as Head Constable w.e.f. 18.09.1989 to 01.08.1992 which prayer apparently suffers from inordinate delay and laches in approaching court. He claims seniority and other benefits for the period of ad hoc service by referring to the policy of regularization of ad hoc promotions of enrolled police officers in Haryana Police vide notification dated 21.11.2013. The two pre-

conditions in the policy for ad hoc promotions made to prior 1999 of police personnel was; (1) if the promotion on ad hoc basis granted on the basis of bravery of the kind shown in anti-terrorist operations or; (2) on their outstanding performance in sports. Since there were no specific rules for such promotion, the ad hoc promotions were not regularized. Some of the officials who were promoted on ad hoc basis feeling aggrieved filed writ petition in this Court in CWP No. 14844 of 1997 decided on 12.04.2009 and in the appeal carried to Supreme Court in case of SI Paras Kumar, the Court decided that the rules providing for regularization of 10% of vacancies cannot be made available by the Director General of Police. However, he could forge some methods under Section 12 of the Police Act, 1861 to encourage efficient officers who did yeomen service in anti-terrorist front or who brought laurels to the police department. Their ad hoc promotions could be treated as one such method to improve the efficiency of the police force by according special status for meritorious officers. The Supreme Court did not pass any specific order regarding regularization of other officials/officers but it also did not place any bar on regularization of such ad hoc promotions. This is how the promotion of Krishan Kumar, ASI, Anoop Singh No. 412/RR and ASI Rajbir Singh No. 417/RR who were earlier promoted on ad hoc basis were regularized from the date of ad hoc promotion on the basis of their performance in the field of sports or for acts of bravery.

3. Post 1999, came the policy Own Rank & Pay (ORP) with which we are not concerned in this case. Learned counsel for the petitioners draws the attention to the commendation certificate-Class I with cash award of Rs. 3,000/- granted to the petitioner on 05.10.1985 for displaying courage and bravery of the highest order and devotion to duty in apprehending terrorists and recovering huge quantity of arms and ammunition from them in case FIR No. 325, dated 18.09.1989 under Sections 307/148/148/332/353/120-B IPC and 3/4/5/6 TAD (P) Act and 25/27/54/59 of Arms Act, registered in Police Station, Guhla District Kurukshetra. The commendation certificate is issued by the Director General of Police, Haryana. It is worthwhile noting, that while commendation certificate was issued on 05.10.1989, the ad hoc promotion was granted earlier on 18.09.1989.

4. The order of *ad hoc* promotion obviously does not mention a word of apprehending terrorist etc. The policy itself is clear enough inasmuch as the exemption is only for bravery in an anti terrorist operation. Every act of bravery of policemen does not qualify as successful and active participation in anti-terrorist operations. Besides, the policy is in the nature of executive instructions which are prospective in nature. If relief is granted to the petitioner, it will unsettle the rights of police cadres and result in administrative chaos where the petitioner would be stepping over the settled seniorities and other service benefits of promotions etc. to so many police officials who are

not parties to this petition.

5. If any retrospective benefits have been given under the policy to some persons, that will not come in aid of the petitioner by reason of the humongous delay and laches. If the petitioner files a suit for the same relief and cause of action, it would be barred by limitation decades ago. If suit is barred, it will be prudent for the writ Court not to interfere in the discretionary jurisdiction under Art. 226 as explained by the Supreme Court in State of Madhya Pradesh Vs. Bhailal Bhai and others, 1964 SCR (6) 621.

6. Learned counsel for the petitioner also relies on the judgment of this Court in CWP No. 10659 of 1994, Satyavir Singh Vs. The State of Haryana and others decided on 13.01.2016. Counsel claims that his client's case is covered by this decision. The petition was filed in the year 1994 seeking quashing of an order dated 01.08.1994 by which his seniority (of Satyavir Singh) has been refixed for the post of Constable. The Court took into consideration subsequent events of adverse order passed against Satyavir Singh in the years 2003 and 2011, and, therefore there was no delay in that case.

7. For these reasons, I find no case for interference in the matter and hereby dismiss the petition.

(RAJIV NARAIN RAINA)
JUDGE

13.08.2018

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