

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision : 06.06.2019

(1) CWP No. 19229 of 2018

Joginder Singh & ors.Petitioners

V/s

State of Punjab & ors.Respondents

(2) CWP No. 19173 of 2018

Chamkaur Singh & anr.Petitioners

V/s

State of Punjab & ors.Respondents

(3) CWP No. 3746 of 2019

Ranjit SinghPetitioner

V/s

State of Punjab & ors.Respondents

(4) CWP No. 4521 of 2019

Bhola Singh & ors.Petitioners

V/s

State of Punjab & ors.Respondents

(5) CWP No. 4539 of 2019

Jaswant Singh & ors.Petitioners

V/s

State of Punjab & ors.Respondents

(6) CWP No. 5906 of 2019

Gurpal SinghPetitioner

V/s

State of Punjab & ors.

....Respondents

(7) CWP No. 5948 of 2019

Swaran Singh

....Petitioner

V/s

State of Punjab & ors.

....Respondents

(8) CWP No. 5950 of 2019

Pal Singh & ors.

....Petitioners

V/s

State of Punjab & ors.

....Respondents

(9) CWP No. 5954 of 2019

Balbir Singh

....Petitioner

V/s

State of Punjab & ors.

....Respondents

(10) CWP No. 10492 of 2019

Dalbara Singh & ors.

....Petitioners

V/s

State of Punjab & ors.

....Respondents

(11) CWP No. 10599 of 2019

Jaswinder Singh & ors.

....Petitioners

V/s

State of Punjab & ors.

....Respondents

(12) CWP No. 11496 of 2019

Kulwant Singh & anr.

....Petitioners

V/s

State of Punjab & ors.

....Respondents

(13) CWP No. 11804 of 2019

Major Singh & ors.	Petitioners
V/s	
State of Punjab & ors.	Respondents

(14) CWP No. 12968 of 2019

Amardeep	Petitioner
V/s	
State of Punjab & ors.	Respondents

(15) CWP No. 13263 of 2019

Harpal Singh	Petitioner
V/s	
State of Punjab & ors.	Respondents

(16) CWP No. 13291 of 2019

Bhajan Singh	Petitioner
V/s	
State of Punjab & ors.	Respondents

(17) CWP No. 13327 of 2019

Jagraj Singh	Petitioner
V/s	
State of Punjab & ors.	Respondents

(18) CWP No. 19268 of 2019

Gurjant Singh & anr.	Petitioners
V/s	
State of Punjab & ors.	Respondents

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. Jagraj Singh Khiva, Advocate for the petitioners.

Ms. Anu Chatrath, Addl. A.G. Punjab with
Ms. Ambika Bedi, AAG Punjab.

RAJAN GUPTA J.

This common order shall dispose of bunch of writ petitions wherein identical issues have been raised. For brevity, facts are extracted from CWP No. 19229 of 2018.

Petitioners were inducted as Home Guard Volunteers in the year 1988-89. Thereafter, they were sent for drill training. On completion thereof, they were assigned duties. They continued as such till the year 1992 when they were discharged from services on the ground that they had absented from duty. Petitioners claim that during the period of 1992 to 1998, they approached the District Commander number of times who assigned them duties. In the year 2013, certain other Home Guard Volunteers, who were discharged around the same time as the petitioners, were again inducted. On coming to know this, certain other Home Guard Volunteers filed writ petition i.e. CWP No. 23475 of 2015 titled as *Jarnail Singh vs. State of Punjab & ors.* Said writ petition was decided vide order dated 23.02.2017 holding that petitioner(s) (in said case) would be entitled to be recalled for service as Home Guards. However, two other writ petitions (i.e. *CWP No. 18974 of 2018* titled as *Jagraj Singh & ors. vs. State of Punjab & ors.* and *CWP No. 18405 of 2018* titled as *Gajraj Singh & ors. vs. State of Punjab & ors.* were dismissed on 29.10.2018 & 24.09.2018.

It needs to be noticed that petitioners were discharged from duty in the year 1992. Twenty seven years have elapsed since then.

Petitioners were not inducted on regular basis and were paid only fixed duty

allowances. During the course of hearing, it was pointed out by the State counsel that persons who were re-engaged did not absent themselves from duty during the period Punjab faced militancy. Referring to the affidavit filed by Deputy Commandant General, Punjab Home Guards & Deputy Director Civil Defence, Punjab, she submitted that petitioners remained continuously absent during this period. As a result thereof, their names were struck off from the rolls of the department. As per affidavit, Punjab being a sensitive State sharing international border with Pakistan, is volatile from law and order point of view. Punjab Home Guards perform duties alongwith BSF and Army for which good level of physical & mental fitness is a must. Petitioners who deserted 27 years ago cannot be presumed to be fit for active duty nor it would be in public interest to recall them. This court finds force in this stand of the State. It appears that this aspect was not considered in judgment in Jarnail Singh's case (supra). To that extent the judgment is distinguishable. Besides, it appears that in said judgment, Clause 3 of the Punjab Home Guard Act, 1947 and the Punjab Home Guard Rules, 1963 have not been considered. According to which, members of general public enrolled as Volunteers in Punjab Home Guards after brief training may be called for auxiliary police duties on their volition as and when required. They would not be considered permanent, temporary, ad hoc or daily wage employees but only Volunteers. During such period, they would be paid fixed allowances only for the period they are assigned the duties. As per provisions contained in para 14.4 of Compendium of Instructions on Home Guard issued by Government of India, the District Commander can discharge a volunteer from duty at any time if in his opinion the services of such Volunteer are not required.

In view of reasoning given aforesaid, I am considered view that judgment in Jarnail Singh’s case (supra) is not applicable. Petition(s) are without any merit and are hereby dismissed.

June 06, 2019
Ajay

(RAJAN GUPTA)
JUDGE

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