

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

**CWP-11750-2016
Reserved on : 19.05.2023
Pronounced on : 17.07.2023**

Vikrant and others

..... Petitioners

versus

State of Punjab and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Vikas Kuthiala, Advocate
for the petitioners.

Mr. Inderpreet Singh Kang, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

By way of present writ petition, the petitioners are seeking mandate to the respondents directing them to relieve the petitioners from their posting/assignment with the Special Weapons and Tactics (for brevity referred to as 'SWAT') in terms of executive instructions in the form of standing order No.6 of 2010 issued by respondent No.2. The petitioners further prayed for posting of their choice in the District cadre of Punjab Police and also for release of special risk and compensatory allowance @ 50% of the basic pay and salary again in terms of standing order No.6 of 2010. In the long and short, the petitioners are claiming to be covered under standing order No.6 of 2010 and pray for implementation thereof qua them.

2. Keeping in view the challenges being faced by Punjab being a border State, Punjab Ordinance No.4 of 2010 was promulgated on 21.05.2010 with an objective to provide for the constitution and

regulation of an armed force of the State of Punjab for combating anti-national forces and for providing proximate security to the highly threatened persons and the members of their immediate families including the matters connected therewith or incidental thereto. The ordinance provided that there shall be an armed force of the State of Punjab to be called the 'Special Security Group' for the aforesaid purpose and that every member of such special group shall be subject to the provisions of the ordinance. The ordinance further provided that the terms and conditions of the services of the members of the Group, shall be such, as may be prescribed. It empowered the Director General of State Police to make regulations in respect of induction, structure, weaponry, administration wing, technical wing, transfer wing, training, uniform, incentives and verification of character and antecedents of the members of the group in consultation with the Government. It is claimed that in order to meet the requirements of the ordinance, standing order No.6 of 2010 was issued by the Director General of Police i.e. respondent No.2 which provided for the structure and organization of the special security group, its duties/functions, composition, tenure, special allowances, insurance, training, secret service point, uniform allowance.

3. The petitioners' claimed in the present writ petition that since they were recruited from armed cadre of Punjab Police to constitute SWAT in terms of ordinance No.4 of 2010 read with the standing order No.6 of 2010. They need to be relieved in terms thereof and be granted incentives in terms of standing order No.6 of 2010 which has a statutory force having been issued exercising power under

standing order No.6 of 2010 ordinance.

4. Counsel for the petitioners further submits that the State is conscious of the right of the petitioners and other persons constituting Special Operation Groups and the same is evident from amendment carried out in the amended provision of Section 4 of the Punjab Police Act, 2007 which provides for an exception qua the officers of subordinate rank working in a Special Operation Groups to be transferred to district police after successful completion of fixed tenure in Special Operation Group as specified by the Government.

5. Right of the petitioners for seeking implementation of standing order No.6 of 2010 is being resisted by State of Punjab claiming that the petitioners belong to SWAT. The SWAT team is working under the supervision of ADGP (Operation), Punjab cum SOG and Commando Punjab, Bahadurgarh, Patiala and they do not form part of Special Operation Group and thus would not be covered under standing order No.6 of 2010. The relevant stand of the State as spelled out in the affidavit filed on their behalf dated 03.09.2020 reads as under:-

“xx xx xx

1. That the above noted case was fixed for hearing on 21.1.2020 when the Hon'ble Court was pleased to pass the following order:-

“Learned State counsel is directed to file a specific affidavit clarifying as to whether the petitioners herein are members of the Special Security Group (SSG) Special Operation Group (SOG) or special Weapons and Tactics (SWAT). Pursuant to identifying the group to which the petitioners belong the affidavit would further clarify the extent to tenure of such group as per Policy framed by the State.

The requisite affidavit be fed within a period of four weeks. List on 07.05.2020.”

2. That ADGP/operation Punjab-cum SOG & Commando, Punjab, Bhadurgarh Patiala has intimated vide letter dated 3.2.2020 (Annexure R-1) that the petitioners belong to Special Weapon and Tactics Team (SWAT) The SWAT team is working under the supervision of ADGP/operation Punjab-cum SOG & Commando, Punjab, Bhadurgarh Patiala and they are separate from Special Operation Group.

3. That, the State Government had issued a notification dated 01.03.2018 (Annexure R-2) vide which Section 4-(B) of Punjab Police ACT 2007 has been amended and Subordinate rank of special operation Group (SOG) have been allowed for transfer to District Police. The operative part of notification dated 1.3.2018 is as under:-

"However, the official office of subordinate rank working in special operation group may be transferred to District Police after the successful completion of the fixed tenure in special operation of group as specified by the Government. In case an officer of subordinate rank rendered completely or partially disabled during operations or training the period of fixed tenure can be relaxed by the Director General of Police for purpose of transfer to district Police. The subordinate rank officer who opt for transfer to district Police. The subordinate rank officer who opt for transfer to District Police. If transferred his seniority shall be placed at the bottom of the officers holding the same rank in the District Police."

4. The petitioners of CWP do not belong to Special Operation Group (SOG) and therefore they are not entitled for transfer to District Police Cadre.”

6. On 20.01.2023, after hearing the matter in part, following order was passed:-

“State counsel is directed to file an affidavit of Director General of Police, Punjab specifying the person, personnels who constitute the Special Security Group (SSG), how they were recruited and how the petitioners were posted in Special Weapons and Tactics (SWAT)

and what are the standing orders related to SWAT.
Adjourned to 20.02.2023.”

7. Pursuant to the aforesaid order, Director General of Police
has filed affidavit dated 12.05.2023, wherein the stand taken is that:-

“XX XX XX

5. In compliance of the above orders, a point wise information
has been received from the office of Addl. Director General of
Police, SPU-cum-Director SSG, Punjab, which is as under:-
Query Point 01. To give details of number of personnel who are
working in SSG Group or Special Operation Group and under
which cadre do they belong to. It has been explicitly directed by
this Hon'ble Court to give a list of personnel falling under SSG
group.

Reply to Point No.011

(i) Number of personnel (Constable to Inspector) working in
SSG/SPU (CM Security)(Which provide security to Governor and
Chief Minister, Punjab) as on 21-03-2023:-

CADRE	RANK					
(A) POSTED AGAINST SANCTIONED POSTS OF SSG	INSP	SI	ASI	HC	CT	TOTAL
ARMED CADRE	45	31	42	161	495	774
DISTRICT CADRE	13	01	09	10	14	47
TSS CADRE – Deputation from IT & T Wing	-	-	-	01	-	01
DEPUTATION FROM CISF	-	01	-	-	-	01
Total Posted against sanctioned Posts of SSG	58	33	51	172	509	823
(B) TEMPORARY ATTACHED						
ARMED CADRE	26	12	64	85	329	506
DISTRICT CADRE	1	2	26	35	27	91
Total Posted	27	14	80	120	356	597
TOTAL POSTED IN SSG/SPU (CM Sec.) (A+B)	85	47	131	292	865	1420

As detailed above out of total 823 personnel (Constable to
Inspector) posted in SSG/SPU(H.E Governor and Hon'ble C.M
Security) against sanctioned posts, 774 personnel belong to Armed
Cadre, 47 personnel belong to District Cadre, 01 personnel belong
to T.S.S Cadre and 01 personnel belongs to C.I.S.F. and 597
officials police personnel are temporarily attached with SPU from
various other police units. Such official are attached and detached
with S.P.U on administrative grounds as per requirement. They

draw their salaries from their respective units.

(ii) Number of personnel (Constable to Inspector) working in Special Operations Group (SOG)(raised for anti-terrorist operations) are as follows:

DETAIL	RANK					
	INS P	SI	AS I	HC	CT	TOTA L
Armed Cadre	-	-	21	15	155	191
District Cadre	-	-	-	-	04	04
Total	-	-	21	15	159	195

Special Operation Group (SOG) has been raised vide State Government notification No. 2/34/2017-5H4/148, dated 08-01-2018 (**Annexure R-1**) and subsequent amendment in Police Act 2007 (**Annexure R-2**). By-Name list of 195 S.O.G personnel is attached at (**Annexure R-3**). The Special Operations Group (S.O.G) has six teams deployed in Punjab and supporting administrative staff also.

Out of 195 subordinate rank personnel (Inspector to Constable) posted in S.O.G, 191 personnel belong to Armed Cadre. 04 personnel were recruited in Armed Cadre but later allotted District Cadre as per directions of Hon’ble High Court of Punjab & Haryana order dated 05-07-2021 passed in CWP 22985 of 2016. Refer to respondent No.02 letter No.6681/E-1(4) dated 17-06-2022 and Special DGP State Armed Police letter No. 8680-8708/CB-PC dated 23-06-2022 in this regard.

Query point No.02: To give out clarification as to how the Constables personnel were recruited in SSG Group.

Reply to Point No.02:

The mode of induction/ recruitment/ posting/ selection of personnel (Constables) performing duty in Special Security Group also termed as Special Protection Unit in the year 2013 (H.E Governor & Hon’ble C.M Security) is as follows please:-

The Punjab Government issued notification dated 21 May 2010 vide Punjab Special Security Group Ordinance No. 4 of 2010 and further regarding SSG instructions/standing order no. 6 of 2010 by office of respondent No.02 were issued vide memo no. 10916-32/E-1(6) dated 16-08-2010 for creating SSG. Before creation of SSG, all personnel posted in Governor and CM Security were on deputation or on temporary attachment from other wings of Punjab Police. Recruitment in SSG out of ex-SPG

personnel (Constables) happened in three phases, where in 35 constables were recruited in phase I (2014), 10 constables were recruited in phase II (2016) and 16 constables were recruited in phase III (2021). Direct Recruitment of constables for SSG vide standing order No. 11 of 2016 was undertaken, wherein 155 constables were recruited.

Sr.No.	Mode of Recruitment in SSG/SPU			No. of Police Personnel
	POSTED AGAINST SANCTIONED POSTS OF SSG			
1.	Directly recruited for SSG vide Standing Order No.11 of 2016 in Constable rank			155
2.	Recruited for SSG out of Ex-SPG personnel (Constables)	Phase-I (2014)	35	61
		Phase-II (2016)	10	
		Phase-III (2021)	16	
	TOTAL			216

Above mentioned total 216 personnel (Armed Cadre) are including the strength of SSC/SPU i.e. total strength 1420. All these 216 police constables were recruited in Armed cadre. Other than these, other SSG/SPU police personnel have been attached or on deputation.

Query point Ne.03:

How were the personnel/Constables under SWAT recruited and under which provision were they recruited and how are they distinguished from Special Security Group.

Reply to Point No. 03:

As per the records available in this office, no personnel has ever been recruited exclusively for SWAT. The office of respondent No.02 vide office order No. 1240-45/Training-1, dated 16-02-2010 constituted a Committee under the chairmanship of Sh. Sham Lal Gakhar, IPS, DIG/CDO/BHG/Patiala having two members Sh. Paramjit Singh Grewal, IPS,DIG/IRB/Patiala and Sh. Tulsi Ram, PPS, Commandant 7th IRB Kapurthala, for selection of personnel for SWAT. The Constables already recruited in Armed Cadre were selected by the Committee and were posted in SWAT. The SWAT team is deployed in Punjab to counter any kind of terrorist attack.

The SSG is responsible for the protection of H.E Governor and Hon’ble Chief Minister Punjab and their family members who face continuous threat due to the position they occupy whereas the

SWAT team was formed out of already recruited Punjab Police personnel to fight terrorism and to counter a terrorist attack.”

8. The issue that arise before this Court is:-

(i) Whether the petitioners being members of SWAT are the members of Special Security Group as formed under the provisions of Punjab Ordinance No.4 of 2010 read with standing order No.6 of 2010 and are thus entitled to be treated as per provisions thereof?

9. The relevant provisions of 2010 ordinance read as under:-

“XX XX XX

3. Every member of the Group shall be subject to the provisions of this Ordinance, wherever he may be.

4(1) There shall be an armed force of the State of Punjab, to be called the Special Security Group, for combating anti-national forces and for providing proximate security to the highly threatened persons and the members of their immediate families:

Provided that any highly threatened person or any member of his immediate family, may decline such proximate security.

(2) Subject to the provisions of this Ordinance-

(a) the Group shall be constituted in such manner, as may be prescribed; and

(b) the terms and conditions of service of the members of the Group, shall be such, as may be prescribed.

(3) Notwithstanding anything contained in this section, any member of police force of the State of Punjab or any member of the Central Para-military Forces, allocated to the State of Punjab, may be posted to the Group by the competent authority by a general or special order, for such period, as may be specified in such order, and the person, so posted shall, during the period of his posting, be deemed to be a member of the Group.

5.(1) The general superintendence, direction and control of the Group shall vest in, and be exercised by the Director General, and subject thereto and to the provisions of this Ordinance and the rules framed there-under, the command and supervision of the Group, shall vest in an officer of the rank of Additional Director General of Police or Inspector General of Police, as the case may

be, to be appointed by the Government on the recommendation of the Director General, as Director.

(2) The Director shall, in the discharge of his duties under this Ordinance, be assisted by such number of officers and officials, as may be posted by the Government.

6. The Director General may, in consultation with the Government, make regulations in respect of induction, structure, weaponry, administration wing, technical wing, transport wing, training, uniform, incentives and verification of character and antecedents of the members of the Group.

7. Every member of the Group shall be liable to serve in any part of the State of Punjab or in any part of India or out of India.”

10. Exercising powers under clause 6 of the ordinance, respondent No.2 has issued standing order No.6 of 2010. The relevant provisions thereof read as under:-

“xx xx xx

The structure of Special Security Group (S.S.G.) shall comprise of

a) **Anti-Terrorist Force (ATF)**

b) **Special Security Force (SSF)**

1. The task of **Anti-Terrorist Force (ATF) of SSG** shall be to carry out anti-terrorist anti-naxalite, anti-hijacking, hostage crisis and other specialized operations across the state, whenever the situation warrants, in order to neutralize the anti-national elements who try to vitiate law & order situation in the state by perpetuating terrorism supported by Intelligence agencies of other hostile countries. The six police ranges in the state will also have SWAT (Special Weapon and Tactics) teams being trained by **SSG** to carry out regular operations. Each SWAT team will be of a company strength drawn from the existing manpower of these ranges.

2 & 3. xx xx xx

4. **Anti-Terrorist Force (ATF)** - The Anti-Terrorist Force shall comprise of two highly trained operational teams/crack commandos stationed at SSG Headquarters. Each team shall be headed by a physically fit Superintendent of Police/Deputy Superintendent of Police below the age of 45 years. These teams will only be used for specialized operations on the specific orders of the Director General of Police, Punjab and the Additional

Director General of Police, Intelligence, Punjab. Simultaneously, each range will also have a SWAT team being headed by a Deputy Superintendent of Police below the age of 45. The tenure of the personnel of these SWAT teams upto the rank of NGOs shall be of three years extendable upto five years depending on their physical fitness. These SWAT teams shall be under the control of the Range DIGP and shall be acting on his orders. These SWAT teams will be separate from ATF and will only be imparted training by the SSG.

Organization of Anti-Terrorist Force (ATF)

1 to 4. xx xx xx

5. The tenure of all personnel of Anti-Terrorist Force (ATF) shall be of three years extendable upto 5 years after which they will be given a posting of their choice.”

11. It is clear from perusal of the afore reproduced provisions contained in standing order No.6 of 2010, that the SWAT teams though constituted to aid Special Security Group comprising of Anti Terrorist Force and Special Security Force are not part of Special Security Group. It has its own structure. It has an independent control under the aegis of range DIGP. Rather the standing order clearly and categorically provides that the SWAT team will be separate from ATF and will only be imparted training by SSG. Stand taken by the respondent-State is in consonance thereof. Respondent No.2 is categoric in his affidavit dated 12.05.2023 that as per the records available, no person has ever been recruited exclusively for SWAT. The constables already recruited in armed cadres were selected by the Committee and posted with SWAT.

12. In view of the above, this Court does not find any reason to hold that the petitioners either are part of Special Security Groups constituted under ordinance No.4 of 2010 read with standing order No.6 of 2010 or deserve to be treated at par with the employees posted in

Special Security Groups.

13. However, it needs to be noticed that the only provision related to SWAT in Standing Order No.6 of 2010 is categorical to the following effect:-

“4. Anti-Terrorist Force (ATF) - The Anti-Terrorist Force shall comprise of two highly trained operational teams/crack commandos stationed at SSG Headquarters. Each team shall be headed by a physically fit Superintendent of Police/Deputy Superintendent of Police below the age of 45 years. These teams will only be used for specialized operations on the specific orders of the Director General of Police, Punjab and the Additional Director General of Police, Intelligence, Punjab. Simultaneously, each range will also have a SWAT team being headed by a Deputy Superintendent of Police below the age of 45. The tenure of the personnel of these SWAT teams upto the rank of NGOs shall be of three years extendable upto five years depending on their physical fitness. These SWAT teams shall be under the control of the Range DIGP and shall be acting on his orders. These SWAT teams will be separate from ATF and will only be imparted training by the SSG.”

14. In view of above, respondent No.2 is directed to take decision w.r.t. reliving SWAT members who have served beyond five years within a period of eight weeks from the date of receipt of certified copy of this order. However, the prayer for posting in District Cadre and for special allowance as per Standing Order No.6 of 2010 is declined.

15. Consequently, the present writ petition is disposed off accordingly.

(PANKAJ JAIN)
JUDGE

17.07.2023
Dinesh

Whether speaking/reasoned :	Yes
Whether Reportable :	Yes