

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

CWP-13268-2018

Date of decision : 09.02.2023

Amritpal Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Rajeshwar Singh Thakur, Advocate
for the petitioner.

Mr. Sehajbir S. Aulakh, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Petitioner seeks writ in the nature of mandamus directing the respondents to consider the petitioner for promotion to the post of ASI having received injuries in operation in terms of policy dated 29.11.2012 placed at Annexure P-7.

2. The petitioner was part of police party. On 04.07.1986, he alongwith Head Constable Bhim Sain No.1761/Sangrur were fired at the hands of the terrorists. Rukka dated 04.07.1986 was sent on the basis of which DDR No.28 was recorded and the same reads as under:-

“xx xx xxx

Copy of rukka at the skirts of village Bhajoke. The Station House Officer, Police, Station, Bhajoke, Jai Hind. Today I HC alongwith C Kartar Singh 264, constable Amritpal Singh 1869 through government vehicle motor cycle PAS 261, while we were coming from Pakho Kalan towards Bhajoke. When the police party reached near village Bhajoke, then a special informant reaching to me given information. On the basis of the information when we reached in village

Bhajoke at about 7.00 PM. Then watching the police party, one person in the darkness fire on us with the intention to kill us with the 12 bore refile, which hit my right elbow and pallots of bullet hit on my right leg and also hit on his right leg and elbow the person sitting behind me Jagga allies Dohsi accused in FIR under section 18 H.D. PS Act 1985 Police Station Tappa. Further the pellots also hit the leg and back of constable Amritpal Singh sitting rear to him. That parking the motor cycle immediately, in order to save ourselves, the police officials taken police positions and seen hither and thither. No person could be seen due to darkness. After some time, we starting the motor cycle we three officials have reached to Tappa. This fire has been done by some person with the intention to kill us. Action may kindly be initiated.”

3. Petitioner received injuries in the said incident. Medical Legal Report detailing out the injuries suffered by the petitioner has been placed on record as Annexure P-11.

4. Counsel for the petitioner submits that the petitioner having suffered injuries in operation during the days of terrorism ought to have been considered for promotion in terms of policy decision dated 29.11.2012 (Annexure P-7). However, his claim has been declined.

5. Per contra, Mr. Aulakh submits that since FIR No.68 dated 04.07.1986 based upon said DDR was lodged under Section 18 of the NDPS Act 1985, it would not come within the ambit of act of terrorism and it is on this ground that the SSP, Patiala after considering the case of the petitioner rejected the same. Thereafter, again the same was considered and was rejected by SSP, Ropar.

6. I have heard counsel for the parties and have gone through the records of the case.

7. On 04.07.1986, there were two DDRs recorded which have been placed on record as Annexures P-5 and P-6. DDR No.28 dated 04.07.1986 (P-5) relates to the police officials including the petitioner suffering bullet injuries whereas DDR No.31 dated 04.07.1986 placed on record at P-6 deals with offence punishable under the provisions of NDPS Act. So far as the injuries suffered by the petitioner are concerned, the same pertains to FIR No.69/86 (P-12) and injuries suffered by the petitioner are not denied. Admittedly, policy decision does not define the act of terrorism. Be that as it may even as per the policy, the adjudicating authority is in terms of a Committee. The policy prescribes procedure and the manner in which the representations/requests coming from the police officials claiming rights under the policy have to be dealt with. The same reads as under:-

“xx xx xx

This matter has been examined at the headquarters. The representations/personal requests coming from police officials may be dealt with in the following manner.

1. A committee of IG/Hqrs, and DIG/Admn. May immediately study the following categories of cases:-

- i) Officials who were injured in anti-terrorist operations and were not given any service benefit.
- ii) Officials who had lost their family member(s) at the hands of terrorists and who had not been given any service benefit.

In order to maintain uniformity in the matter, the benefits given in the past to such similarly placed officials may be kept as a yardstick. Appropriate benefits in such cases may be immediately awarded.

2. Such police officials whose anti-terrorist work conspicuously stands out, may be recommended for an immediate service benefit commensurate with the good work done by them, by either of the following officers, who are satisfied about the merits of the case:-

- i) ADGP/Admn
- ii) IGP/Hqrs.
- iii) DIG/Admn.

3. Other representations which do not fall in the above mentioned two categories may be sent to the concerned I/C Units for examination. The units may scrutinize all such representations and submit their reasoned recommendations to the office of DIG/Admn. By 31.01.2013.

4. I/c Units may also identify other such officials who may not have given any representation but who have (a) done outstanding anti- terrorist work and (b) have been overlooked for a commensurate benefit in the past and send reasoned recommendations in their cases also. The Incharge Unit may, wherever possible, consult police officers who had worked in that Unit during the period of terrorism and who have personal knowledge of the facts.

All recommendations received as mentioned in Sr. No.3 & 4 above, may be examined by a committee of IGP/Hqrs, and DIG/Admn. who may put up their recommendations for appropriate service benefits. It is desirable to examine all recommendations together after they have been received so that there is uniformity in dealing with them. There cannot be any mechanical yardstick for examining such cases. Broadly, the service benefits recommended by the committee should be along the lines of the benefits given to other similarly placed officials in the past.

However, wherever any case is required to be dealt with by the officers committee constituted by the

Hon'ble High Court, DIG/Admn. shall place the same before the officers committee.”

8. Admittedly, the Committee as prescribed under the policy has not considered and adjudicated upon the claim of the petitioner till date. Resultantly, the present petition is disposed off with the directions to the respondents to place the case of the petitioner before the Committee as contemplated under P-7. The said Committee shall examine the case of the petitioner strictly in terms of policy uninfluenced by the decision already taken by the SSP, Patiala and SSP, Ropar. The exercise as stipulated in the policy and as directed hereinabove be concluded within a period of 12 weeks from the date of receipt of certified copy of the order. In case the petitioner is found to be eligible, the requisite claim of the petitioner be granted in accordance with law within a period of 04 weeks thereafter. However, in case the Committee finds that the claim of the petitioner is not worth acceptance, the same be adjudicated by passing a speaking order within the time period as stipulated hereinabove.

9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

09.02.2023

Dinesh

Whether speaking/reasoned : Yes

Whether Reportable : No