

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

LPA No. 2524 of 2016 (O & M)

Date of Decision: 17.02.2023

Major Singh

.....Appellant(s)

Versus

Union of India and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. B.R. Rana, Advocate,
for the appellant.

Mr. Vipul Aggarwal, Sr. Panel Counsel,
for respondent No.1-Union of India.

Ms. Deepali Puri, Addl. A.G., Punjab,
for respondent Nos.2 to 4.

G.S.SANDHAWALIA, J. (Oral)

1. Consideration in the present Letters Patent Appeal is to the order dated 02.09.2016 passed by the learned Single Judge in CWP No. 8651 of 2016. The learned Single Judge has dismissed the writ petition while noting that it was a stale claim and there was no error in the impugned order. It was also noticed that there were instructions dated 04.04.2011 issued by the Government of India, Ministry of Home Affairs in respect of the recommendations for the Ashoka Chakra series of Gallantry awards. Clause 5(iv) of the instructions was also referred to that recommendations were to be made within a period of two calendar years from the date of the performance of the gallantry act and recommendations be made accordingly and forwarded to the Ministry. Noticing the fact that the alleged action, on the basis of which the claim was based, had occurred in the year 1989-190, it was held

P-16).

2. A perusal of the writ petition would go on to show that the case was based upon the incidents which had taken place during the relevant time in the state of Punjab. There were attacks on the house of the petitioner on 14.09.1989, 20.01.1990 and 24.12.1990 and the same had been repelled by the petitioner and his family, who had opened fire upon the terrorist in defence. The necessary DDRs and FIRs had also been lodged and recommendation had been made on 19.08.1997 (Annexure P-3) and even Delhi Doordarshan had shown a TV film about the said incident in the year 1991. It has also been mentioned as such that the appellant, alongwith his family members, had stopped people from migrating from the said area of then Bhihkhwind town and being a civilian had confronted the terrorists with bravery. The said recommendation had also been forwarded to the Director General of Police by the Senior Superintendent of Police, Tarn Taran on 19.10.1997. Apparently, the case was never processed by the office of the Deputy Commissioner and the the matter kept pending for verifications of weapons used in the three incidents. The Deputy Commissioner kept on raising objections and eventually, vide order dated 31.03.2010 (Annexure P-16), the case was rejected on the ground that the case was not covered under the instructions of the Government and the incidents should have occurred within a period of 2 years and the case was of 1989-90.

3. Though, apparently it was a valid case as such which the State Government should have recommended on its own keeping in view the nature of incidents which had happened and the fact that the petitioner and his family members had repelled the terrorists' attacks. This could be clear from

Rapat No.11 dated 24.12.1990 (Annexure P-2), which would go on to show

that the firing continued for about 1-1/2 hours and 313 bullets were used. Amongst them, 90 bullets were of SLR and 71 bullets of 303 and stea gun of 9mm. A perusal of the record of ammunition dated 02.09.1998 (Annexure P-6) would go on to show that the police had provided arms and ammunities and a detailed report as such regarding the bullets which were used from the three rifles and the SLR have also been mentioned.

It is, thus, apparent that that the act of bravery of the petitioner and his family should have been recognized by the State Government but apparently, no active steps were taken by the concerned district administration on its own level and it had not recommended the case in the manner it should have been done keeping in view the troubled time the State was facing during the early 1990s. The representation, thus, was filed by the petitioners in the year 1997 and, thus, delay has occurred. Thereafter, the matter was pushed from one table to the other regarding the verification aspect and eventually, the impugned order was passed after 13 years rejecting the claim on the ground of delay as provided for in the instructions at the National Level.

4. In such circumstances, we are of the considered opinion that though the claim of the petitioner for any award at the national level may not be permissible in view of the strict instructions, however, a case is made out for issuance of directions to the State Government to consider the case of the petitioner for State level award for bravery within a period of 3 months from today. In case no award is granted, cash reward of Rs.1,00,000/- shall become payable.

5. Appeal stands disposed of in the abovesaid terms.

(G.S. SANDHAWALIA)
JUDGE

17.02.2023
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(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes