

2023:PHHC:040598

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

CWP-34969-2019

Date of decision : 16.03.2023

Inderjit Singh

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. J.S. Mohri, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.

PANKAJ JAIN, J. (Oral)

Present petition has been filed seeking writ in the nature of certiorari for quashing of order dated 14.06.2019 (Annexure P-11) vide which the claim of the petitioner allowing him to join the services as Home Guard Volunteer w.e.f. 03.08.2012 has been rejected.

2. The petitioner was working as Special Police Officer with the Punjab Police. As per the decision taken by State Government, cadre of Special Police Officers was merged in police department and the SPOs who were not fulfilling the condition for absorption in the police department were ordered to be merged in Punjab Home Guards Department. Departmental Screening Committee was constituted for taking such SPOs as volunteers in Punjab Home Guards vide letter dated 18.04.2012. Vide office letter dated 07.05.2012, the petitioner alongwith other SPOs were ordered to be taken as Punjab Home Guards and were asked to join duty. In reference to the aforesaid order dated 07.05.2012, District Commander,

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Punjab Home Guard, Ludhiana posted the petitioner alongwith other Home Guards in the office of District Commander, Punjab Home Guard, Ludhiana on law and order duty. Petitioner did not report which led to the passing of the impugned order dated 14.06.2019 (P-11).

3. Counsel for the petitioner submits that during the said period, the petitioner was posted under the Commissioner of Police, Ludhiana, Punjab. He was relieved therefrom only w.e.f. 03.08.2012. After getting relieving order, he immediately reported on 03.08.2012 itself in the office of District Commander, Punjab Home Guard, Ludhiana. Thus, delay in reporting cannot be attributed to him and his claim for joining as Home Guard ought not have been rejected.

4. Mr. Kang is not in a position to dispute the factual assertions. However, he submits that owing to delayed reporting, the petitioner has been non-suited.

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

6. The petitioner admittedly was working under the Police Commissioner, Ludhiana and could report as Home Guard pursuant to order dated 07.05.2012 only after he was relieved on 03.08.2012. Surprisingly, in the impugned order dated 14.06.2019, Commandant General in a contemptuous manner recorded as under:-

“As far as delay in relieving the petitioner by police department is concerned then the police department is responsible for the same this department has no concern with the same.”

7. Thereafter, petitioner has approached this Court. In the considered opinion of this Court, the observation as recorded herein on part

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of Commandant General is not only arbitrary, but shows complete lack of sense of responsibility. The authority ought to have been alive of the fact that the petitioner was merely working as SPO under the Commissioner of Police. Definitely, he could report only after having been relieved. To say that the delay on behalf of police department has nothing to do with the department of Home Guards shows non application of mind and needs to be deprecated.

8. Resultantly, present writ petition is allowed. Order dated 14.06.2019 (P-11) is set aside. Petitioner shall be allowed to join as Home Guard Volunteer and the same shall relate back to the date when he reported for the same after having been relieved from the police department i.e. w.e.f. 03.08.2012. Petitioner shall also be entitled for all consequential benefits including monetary benefits. In normal circumstance, this Court ought have denied the monetary benefits on the principle of 'no work no pay'. However, keeping in view that the petitioner has been kept out of job owing to irresponsible approach of Commandant General, the petitioner is held entitled for all monetary benefits alongwith interest @ 6% per annum.

9. Ordered accordingly.

(PANKAJ JAIN)
JUDGE

16.03.2023

Dinesh

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No