

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

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CWP-24419-2016

Date of decision: 25.04.2024

BALWINDER SINGH**....PETITIONER****Vs.****STATE OF PUNJAB AND OTHERS****...RESPONDENTS****CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL**

Present: Mr. C.L. Pawar, Advocate
for the petitioner

Mr. Aman Dhir, DAG, Punjab.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking direction to respondents to extend him promotion to the post of Head Constable w.e.f. 09.10.1992 and include his name in the promotion List D-II' and promote him to the post of ASI on regular basis w.e.f. 15.10.2013.

2. The petitioner joined Punjab Police as Constable on 07.11.1989. He participated in Anti-Terrorist Encounters. He suffered a bullet injury in one such encounter. On account of his good service, the Competent Authority vide order dated 10.09.1992 (Annexure P-1) approved his name for entry into Promotion List C-II (exemptee). Senior Superintendent of Police, Jalandhar vide communication dated 15.01.1994 (Annexure P-2) recommended his name for out of turn promotion as Head Constable. The respondent vide order dated 06.06.1996 approved his promotion to the rank of Head Constable (O.R.P.). The respondent by order dated 15.07.2013 (Annexure P-6) further extended him local rank of Assistant Sub-Inspector.

3. Mr. C.L. Pawar, Advocate submits that name of petitioner was entered in C-II List w.e.f. 12.08.1992, however, he was not granted substantive rank with effect from the said date whereas there are many officials who have been granted substantive rank from the date, their names were recorded in C-II List. The act of respondent amounts to discrimination.

4. Per contra, Mr. Aman Dhir, DAG, Punjab submits that petitioner concededly had suffered a bullet injury in an operation against terrorists, however, he cannot claim substantive rank as per his terms and conditions. The State has framed policy dated 29.11.2012 for the purpose of granting benefit to police officials who had suffered injuries at the hands of terrorists. In the policy, the benefits to be extended to deserving police officials have been notified. The petitioner, at the first instance, was extended benefit of entry in C-II List and thereafter he was granted rank of Head Constable (O.R.P.). He was further granted local rank of ASI, thus, he cannot claim that he has not been awarded service benefits in terms of the policy. The Director General of Police in exercise of powers conferred by Rule 13.21 has granted substantive promotion to few officials from the date of recording of their name in C-II list. The benefit has been granted by Director General of Police on the basis of outstanding performance. The petitioner as a matter of right cannot claim substantive promotion from the date of recording of his name in C-II list.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. From the perusal of record, it comes out that respondent with intent to grant service benefits to officials who were injured in anti-terrorists operations has framed policy dated 29.11.2012. Indubitably, the petitioner falls in the said policy. In the policy, the benefits which can be extended to police

officials have been notified. The relevant extracts of the policy are reproduced as below:-

“5. In order to avoid administrative complications it would be desirable that the committee recommends one or more out of the following benefits:-

- i) Grant of promotion list C-II, D-II or E-II (Exemptee)*
- ii) Grant of next higher local rank.*
- iii) Placement in the next higher rank where the official may draw the salary of next higher rank without any gain in the seniority.*
- iv) In rare deserving cases a promotion with Seniority using the provisions of PPR 13.21 may be recommended.”*

7. From the perusal of above quoted paragraph, it can be gleaned that an employee may be extended one or more benefits out of above mentioned benefits. The petitioner at the first instance was granted benefit of entry in list C-II (exemptee). He was then out of turn granted rank of Head Constable (O.R.P.). He was further out of turn granted local rank of Assistant Sub-Inspector. In other words, the petitioner has already been granted benefits as contemplated by aforesaid policy. The petitioner is claiming substantive promotion from the date of recording his name in C-II list. The benefit of out of turn promotion can be granted by Director General of Police in terms of Rule 13.21 of Punjab Police Rules, 1934. The said Rule is reproduced as below:-

“13.21 Power of Relaxation:- Where the Inspector-General of Police is of the opinion that it is necessary or expedient so to do, he may by order for reasons to be recorded in writing relax any of the provision of this Chapter with respect of any class or category.”

8. A conspectus of aforesaid Rule reveals that it is discretion of DGP to grant out of turn promotion to any police officer/official. The discretion cannot be exercised in an arbitrary or unreasonable manner. It is a settled

proposition of law that every discretionary power should be exercised in a reasonable and equitable manner. The respondent has extended to petitioner benefits contemplated at Sr. No. I to III, however, his case was never considered for the purpose of benefit contemplated at Sr. No. IV. The petitioner cannot claim said benefit as absolute, vested or fundamental right, however, authorities are also bound to consider his case especially when in the reply it has been conceded that he had participated in multiple anti-terrorist operations and he had suffered a bullet injury.

9. In the wake of above discussion and findings, the present petition is disposed of with a direction to respondents to consider case of petitioner in terms of paragraph 5(iv) of policy dated 29.11.2012 framed by Director General of Police, Punjab. Let needful be done within 6 months’ from today.

10. It is made clear that this order shall not create right in favour of petitioner, however, the respondent shall exercise its power in a judicious manner.

25.04.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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