

**CWP-20661-2023 (O&M)****-1-**

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

246

**CWP-20661-2023 (O&M)
Date of Decision: 04.09.2025**

Sonam Kamboj

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. Vijay Lath, Advocate for the petitioner
Mr. Aman Dhir, Deputy Advocate General, Punjab
Mr. Harmanpreet Singh Mander, Advocate
for Mr. Harpreet Singh Multani, Advocate for respondent No.4
Mr. Parveen Kumar Garg, Advocate for respondent No.6

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of selection to the extent respondent Nos.4 and 6 have been selected. She is further seeking direction to respondents to issue her appointment letter.

2. The petitioner, pursuant to Advertisement No.1 of 2021 dated 06.07.2021, applied for the post of Intelligence Officer (Intelligence Cadre), Sub-Inspector (Punjab Armed Police), Sub-Inspector (District Police) and Sub-Inspector (Investigation Cadre). She filed application on 21.07.2021 along with certificate of wards of police personnel issued by Deputy Inspector General of Police ('DIG'), Patiala Range, Patiala. The certificate



issued by DIG, Patiala was dated 20.07.2021. The respondent-State rejected claim of the petitioner on the ground that as per opinion of Committee of Officers constituted by Director General of Police, Punjab, father of the petitioner did not participate in three anti-terrorist operations. His name is appearing in three FIRs, however, no encounter had taken place in case of one out of three FIRs.

3. Learned counsel for the petitioner submits that as per policy dated 12.09.2016, family members are entitled to certificate of wards of police personnel if police officer had taken part in at least three encounters with terrorists. There is no dispute with respect to two encounters. In the third case, participation is not disputed, however, respondent is claiming that it was not encounter though four terrorists were apprehended.

4. *Per contra*, counsel for respondent Nos.4 and 6 submit that petitioner submitted certificate of wards of police personnel dated 20.07.2021. The said certificate seems to be ante-dated.

5. Learned State counsel submits that DIG, Patiala was not competent authority to issue certificate because on 23.07.2021, a committee was constituted to examine case of all the police personnel. The committee twice considered case of the petitioner and rejected her claim on the ground that her father participated in two encounters whereas benefit is available in case of three encounters. In case of FIR No.90 dated 01.06.1991 under Sections 302, 307, 148, 149, 212, 216A of Indian Penal Code, 1860 (for short 'IPC') and Sections 3, 4 and 5 of Terrorist and Disruptive Activities (Prevention) Act, 1987 (for short 'TADA Act') registered at Police Station Malerkotla (now Police Station Sandaur), no gun fire took place and there



was no casualty, thus, arrest of terrorists cannot be called as encounter with terrorists. As committee was constituted on 23.07.2021, certificate issued by DIG, Patiala lost its significance.

6. On the objection of State counsel that petitioner was not possessing requisite qualifications for Intelligence Officer, learned counsel for the petitioner submitted that petitioner waives her claim *qua* said post and she may be considered for the other cadres.

7. I have heard the arguments of learned counsel for both sides and perused the record with their able assistance.

8. The entire dispute revolves around interpretation of policy dated 12.09.2016. The relevant extracts of the policy read as: -

“2. The Governor of Punjab is pleased to accord sanction to reserve 2% posts for the wards of deserving policemen for recruitment as Constables, Asstt. Sub-Inspectors and Inspectors out of direct recruitment quota only in respect of active field posts, which were previously meant for handicapped persons:-

The term "deserving" will cover wards of the following police personnel:-

1) Who have suffered casualties of one or more of the following relatives:-

a. Father

b. Mother

c. Sister/Brother

d. Son/daughter

e. Any other dependent family member:

OR

ii) Who has suffered permanent disability on account of action against terrorists or attack by terrorists.



OR

iii) Who has been awarded president's Police Medal For Gallantry or police Medal for Gallantry for showing bravery in actions against terrorists.

OR

(iv) Who has taken part in atleast 3 encounters with terrorists.

OR

(v) Who otherwise in the opinion of the Director General of Police has been in the forefront of the fight against terrorism.

The "Wards" proposed to be covered would be dependent son, dependent daughter, dependent brother, dependent sister or any other dependent family member."

9. From the perusal of Clause (iv) of the aforesaid policy, it is evident that benefit of reservation is available if Police Personnel has taken part in at least three encounters with terrorists. The documents placed on record indicate that petitioner's father was Assistant Sub-Inspector. He, undisputedly, participated in two encounters with terrorists. The dispute is confined to participation in the third encounter. There is no dispute that FIR No.90 dated 01.06.1991 under Sections 302, 307, 148, 149, 212, 216A IPC and Sections 3, 4 and 5 of TADA Act was registered at Police Station Malerkotla (now Police Station Sandaur). No casualty is noted in the said FIR, however, it is underscored that four terrorists were arrested and FIR was registered under Sections 302, 307, 148, 149, 212, 216A of IPC and Sections 3, 4 and 5 of TADA Act. The relevant extracts of FIR are reproduced as below: -

"Officer-in-charge at police station Malerkotla through an informer today I came to know that, Ramesh Kumar, the



owner of the brick kiln at village Hakimpur Khatde, has been shown and read a threat letter and demanding money and today on dated 31.05.1991 between 7 to 9 pm near Bhatta he has been asked to bring money on the road. However, I along with ASI Gurbakhsh Singh, ASI Des Raj, HC Jatinder Singh 582, C Jagdev Singh 532, C Baldev Singh 201, C Jaibar Singh 1922, C Bhajan Singh 1617, C Jaswinder Singh 716 and driver Rajinder Singh 1886. Under the command of Sh. Jasvir Singh Sandhu S. P. Sahib Operation Sangrur and his security staff Kulwant Singh 1145, Arur Singh 174, Baljit Singh 2219, Nirmal Singh 2225, Nazir Hussain 2231, Baljinder Singh 113, Jaspal Singh 1985, Surinder Singh 817, Jagrup Singh 2069, and 2 sections BSF. On Malerkotla side made nakabandi near Bhatta of village Hakimpur Khatda when the time was around 8:45 at night then a motorcycle number PB10-0955 on which four men were seen coming. Whom I and S.P. Sahib operation signaled with our torches and search light to stop, but the persons riding the motorcycle tried to turn the motorcycle back but with the help of the accompanying staff, they were surrounded and apprehended. When asked the motorcyclist driver told his name Satnam Singh s/o Tehil Singh Musand resident of Sarod and the person sitting behind him told his name Didar Singh @ Chota s/o Inder Singh Jatt resident of Hakimpur Khatde, and the third person sitting told his name Harful Singh. @ Phula s/o Ram Singh Musand r/o Sarod and lastly told his name Manjit Singh s/o Gobindar Singh Jat resident of Naudhrani. On asking Satnam Singh could not produce any proof of ownership of the above motorcycle brand. On search of Didar Singh a 12-bore loaded pistol recovered from the right pocket of the pajama. Which he was wearing, and when unloaded it, one 12-bore cartridge came out alive and another one from the right pocket of the kurta which he was wearing. Deedar Singh could not produce any license to keep them in his possession. And from the outer pocket of the shirt Manjit Singh was wearing a threatening letter with words "Raj Karega Khalsa Panth ki Jeet Waheguru Ji Da Khalsa, Waguruji ki faith", evil reform commando force of khalistan,



khalistan zindabad series number HQP 796 A/2 date that day 28.05.1991. We could not come as per our promise as we were almost 2 hours late. We need help from our singhs. We had to go out, the time is very short, we cannot keep our wounded Singhs here for a long time, so we are forced to, when the time will comes, we will also help you. Our Jathedar will come in the next 7-8 days, we will return your money, you should take the money and come to the kiln and stand outside the road. Don't worry, we comfort your life. Our Singhs will not say anything to you. You bring rupees tomorrow on 31.05.1991 between 7 pm to 9 pm. Our Singhs will take the rupees do not try to chase them if you do not bring the rupees or try to do some trick or police report or If something happens to the injured Singhs, remember that the weapons of our Singhs are not bullets, but death bullets came out of them. Paramjit Singh Pamma, servant of the Guru Panth." and 11 printed pamphlet of Correction Commando Force of Khalistan, Khalistan Zindabad without written letter found and a press note stuck in a yellow tape wrapped around the head of Harful Singh with writing, " Today on dated 20.05.1991 in Nabhaa meeting of Bandi Singhs was held in the jail which was presided over by Bhai Mewa Singh in which Bhai Sukhwinder Singh, Bhai Mahinder Singh, Bhai Balwinder Singh, Bhai Sukhdev Singh, Bhai Sukhminder Singh, Bhai Manjit Singh, Bhai Ajmer Singh, Bhai PT Mathur etc. Babbar Singhs participated in this meeting. and took notice of the elements harassing the families of martyrs. One such case is of Bhajan Singh and his other associates harassing the mother of Shaheed Bhai Gurjant Singh at village Sidhpur Khurd. A final warning is given to Bhajan Singh and his accomplice to stop harassing the families of the martyrs. We appeal to the militant organizations to pay attention to such cases," After preparing a separate layout of the pistol, of 12-bore pistol along with cartridges, taken into possession by written memo, and unwritten letter and press note and the motorcycle brand name were taken to the police custody as evidence. During interrogation, the said men told that on the basis of the written threatening letters, they were



going to collect the money Rs.50,000 from Ramesh Kumar owner brick kiln of village hakim pure kahde but they were rounded up. By threat to kill and trying to collect money by keeping pistol and cartridge without license by Deedar Singh and creating threat atmosphere they have committed offense 385.387.34 IPC, 25/54/59 A. Act 3, 4, 5, of the TDA (P) Act has done. Therefore, I am sending a written report to register the case against Satnam Singh, Didar Singh, Harful Singh, Manjit Singh through Constable Jaibarm Singh 1922, then after registration case number should be informed. Special reports should be sent to the senior officers. I am a busy in investigation along with colleagues. SD Harnek Singh Inspector SHO Police Station Malerkotla Dated 31.05.1991 in the area of Village HakimpurKhatde at 11:25 PM, "on receiving report case has been registered against accused above and the entry has been made in record. The original handwritten report along with case file has been sent to Malerkotla SHO Malerkotla to Inspector Harnek Singh through Jaimbersingh1922. Control room Sangrur has been informed through wireless message. Special Reports are sent through C Jangir Singh 289 to senior officers and Area Magistrate."

10. From the perusal of contents of afore-stated FIR, it is evident that four militants were arrested by a team of officers which comprised petitioner's father besides other officers. Arms as well as anti-national material was recovered from the terrorists. The respondent-State is denying claim of the petitioner on the sole ground that there was no encounter. As per respondent-State 'encounter' means exchange of gunfire between terrorists and police officials which results in casualty of someone. The interpretation of respondent seems to be pedantic and unholistic. 1996 policy is a piece of beneficial legislation. The object of the policy was to encourage as well as protect sincere and brave police officers. The expression 'encounter with terrorists' cannot be interpreted in a way that there should



be gunfire and casualty. It is, in fact, achievement of police officers if they succeed to catch hold militants instead of killing them in encounter. In the instant case, the police party was successful to apprehend four militants with arms and anti-national material. It would be unfair to conclude that there was no encounter with terrorists because no casualty took place in the operation. The petitioner is entitled to benefit of 1996 policy as amended.

11. As per policy, certificate of wards of police personnel can be issued by DIG. In the instant case, certificate was issued by DIG, Patiala Range, Patiala. The said certificate cannot be ignored.

12. In the wake of above discussion and findings, this Court is of the considered opinion that present petition deserves to be allowed.

13. The appointment of petitioner may prejudice appointment of one already selected candidate. The selected candidates joined about three years back and they have already completed their training. There is scarcity of jobs in the country. If a selected candidate, at this stage, is disturbed, it would ruin his/her life. There is no lapse or mis-representation on his/her part. He/She is a *bona fide* candidate, thus, it would not be in the interest of justice and fitness of things.

14. In the case of ***Vikas Pratap Singh and others v. Rahul Bhagat and others, (2013) 14 SCC 494***, Hon'ble Supreme Court has held that candidates who have already successfully undergone training and are efficiently serving State for more than three years, should not be discharged because it would undoubtedly impinge upon their economic security as well as their dependents. It will also adversely affect their careers. It would be



highly unjust and grossly unfair to the appellants who are innocent appointees of an erroneous evaluation of the answer scripts.

15. In the case of ***Rajesh Kumar and others v. State of Bihar and others, (2013) 4 SCC 690***, Hon'ble Supreme Court while protecting interest of already selected candidates has held: -

“21. There is considerable merit in the submission of Mr Rao. It goes without saying that the appellants were innocent parties who have not, in any manner, contributed to the preparation of the erroneous key or the distorted result. There is no mention of any fraud or malpractice against the appellants who have served the State for nearly seven years now. In the circumstances, while inter se merit position may be relevant for the appellants, the ouster of the latter need not be an inevitable and inexorable consequence of such a re-evaluation. The re-evaluation process may additionally benefit those who have lost the hope of an appointment on the basis of a wrong key applied for evaluating the answer scripts. Such of those candidates as may be ultimately found to be entitled to issue of appointment letters on the basis of their merit shall benefit by such re-evaluation and shall pick up their appointments on that basis according to their inter se position on the merit list.”

16. The respondent-State, at this stage, may or may not be having vacant post, thus, this Court finds it appropriate to direct the respondent to consider the petitioner against vacant post, if any, in any cadre other than Intelligence. In the absence of vacant post, the respondent-State would create supernumerary posts. It is made clear that date of joining of the petitioner would be her date of appointment for all intents and purposes

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(service benefits). The needful shall be done by respondent-State within 6 weeks from today.

17. Allowed in above terms.

18. Pending application(s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

04.09.2025*Mohit Kumar*

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