



19 JAN 2017

New Delhi, the January, 2017

ORDER

The Hon'ble High Court of Punjab and Haryana at Chandigarh in CWP No. 4335/1986 filed by Shri Jit Singh and CWP No. 11532/1988 filed by Shri Balwant Singh allowed both the CWPs vide its Order dated 24.09.2009, with the following observations/directions:-

"It is settled proposition of law that disciplinary authority is not expected to dispense with the departmental enquiry merely because it does not want to hold such enquiry or in an arbitrary manner or for ulterior motives or to over-come the political or other pressure at the relevant time. Holding up departmental proceedings for any kind of dereliction of duty is a rule and its dispensation is an exception. The exception to the rule is enumerated under proviso to article 311(2) (b) of the Constitution of India. There must be valid reasons to dispense with the enquiry based upon material. No material has been placed before this Court to substantiate the grounds/opinion of the Advisor to Governor for dispensing with the departmental enquiry which is otherwise a rule and a basic right of a government servant. The opinion must be based upon objective criterion and identifiable material and not merely on the presumptuous opinion of the authorities. I do not find that the grounds projected are sufficient or at least supported with the material on record to dispense with the enquiry.

For the above reasons, both the writ petitions are allowed and the impugned orders dismissing the petitioners from service are hereby set aside. The petitioners are directed to be reinstated into service forthwith. However, the petitioners shall not be entitled to any financial benefits during the interregnum they were out of service though the period of dismissal shall be counted towards their length of service and shall be considered a part of the qualifying service for determination of the pensionary benefits, fixation of pay, which, inter-alia, includes the notional benefit of increments, revision of pay and promotional aspects as well. In the event the petitioners have achieved the age of superannuation, they will be entitled to pensionary benefits accordingly."

2. The State Government filed LPA No. 329/2010 in CWP No. 4335/1986 and LPA No. 328/2010 in CWP No. 11532/1988 against the Order dated 24.09.2009 of Hon'ble High Court. Another LPA No. 1515/2010 was also filed by Shri Jit Singh requesting for pay of dismissal period. All the referred LPAs were decided by the Hon'ble High Court, vide common Order dated 24.01.2014. While the LPAs filed by the State Government were dismissed, in the LPA No. 1515/2010 filed by Shri Jit Singh, the Hon'ble High Court directed the State Government to pay the arrears, by observing as under:-

"Accepting that prayer, we direct the respondent-State to pay the arrears within three months from the date of receipt of a certified copy of this order, failing which the respondent in both the cases viz. Letters Patent Appeal Nos. 328 & 329 shall be entitled to get simple interest at the rate of 8% per annum till realization of the amount."

Contd....2/-

3. Subsequently, in COCP No. 1948/2014 filed by Smt. Satwant Kaur (wife of late Shri Balwant Singh) and Shri Jit Singh against non compliance of the Orders dated 24.09.2014, the Hon'ble High Court of Punjab and Haryana, vide its interim Order dated 31.07.2014, directed to comply the Orders within a period of four weeks.

4. Subsequently, CWP No. 21657/2015 was filed by Smt. Satwant Kaur (wife of late Shri Balwant Singh) and Shri Jit Singh before the Hon'ble High Court of Punjab and Haryana at Chandigarh for direction to promote Shri Jit Singh and Shri Balwant Singh to the IPS of Punjab Cadre. The Hon'ble High Court, vide Order dated 09.10.2015 in the CWP No. 21657/2015, directed the Commission to decide the request of the State Government made in their letter dated 27.01.2015 for convening RSCM to consider the name of Shri Jit Singh for inclusion in the Select List prepared by the SCM held on 18.12.1985 and to consider the name of late Shri Balwant Singh for inclusion in the Select List prepared by the SCM held on 09.02.1990 for promotion to IPS of Punjab Cadre.

5. In view of the order dated 09/12/2015 of the hon'ble High Court of Punjab and Haryana in CWP No. 21657/2015, the UPSC decided to hold the Review Selection Committee meeting in compliance of the order dated 24.09.2009 of the Hon'ble High Court of Punjab and Haryana in the CWP No. 4335/1986 filed by Shri Jit Singh and CWP No. 11532/1988 filed by Shri Balwant Singh. The Review Selection Committee met on 15.07.2016 and recommended the name of Shri Jit Singh [Date of Birth: 09.10.1937] to be included at S.No. 3A below the name of Shri Surjit Singh at S.No. 3 and above the name of Shri Inderjit Singh at S.No. 4 in the Select List prepared by the SCM held on 18.12.1985 for promotion to the IPS of Punjab Cadre and of Shri Balwant Singh [Date of Birth: 20.08.1935] to be included at S.No. 3A below the name of Shri Gurinder Pal Singh at S.No. 3 and above the name of Shri Baldev Singh at S.No. 4 in the Select List prepared by the SCM held on 09.02.1990 for promotion to the IPS of Punjab Cadre ^{and} approved by the Union Public Service Commission on 05.12.2016 under Regulation 7 (3) of the Appointment by promotion Regulation, 1955.

6. Consequent upon inclusion of these names as per direction of the Hon'ble High Court of Punjab and Haryana mentioned in para-1 & 5 above, Shri Jit Singh and Shri Balwant Singh are entitled for pensionary benefits.


(Ajay Kumar Singh)

Under Secretary to the Government of India

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Copies to:

1. The Chief Secretary, Government of Punjab, Chandigarh {**Kind Attn. Shri R. K. Kaushik, Spl Secretary (Home Deptt.)**} – for information.
2. The Secretary, Union Public Service Commission, Dholpur House, Shahjahan Road, **NEW DELHI. (Kind Attn. Shri. M. B. Rajendran Nair, Under Secretary, AIS)** for information.
3. The Accountant General, **Punjab, Chandigarh.**
4. The Director General of Police, **Punjab, Chandigarh.**
5. IPS- II, III, IV / IPS ACR Cell / Civil List Seat / Seniority Seat.
6. SO (IT) for uploading this notification on the website of MHA.


(Ajay Kumar Singh)

Under Secretary to the Government of India