

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**O.A No.3834/2012
With
O.A. No.3835/2012**

**Reserved On:11.09.2017
Pronounced on:15.09.2017**

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Ms. Nita Chowdhury, Member (A)**

OA No.3834/2012

HC Hari Kishan
(10955/DAP, PISA No.28883896)
S/o Late Shri Pyare Lal
R/o B-3/18, Sector 15,
Rohini, Delhi-110089,
Aged about 52 years.

... Applicant

OA No.3835/2012

Ct. Roshan Lal
(1892/Security, PIS No.28980942)
S/o Late Shri Rattan Singh
R/o House No.U-112, Vijay Nagar,
Narela, Delhi-11040,
Aged 39 years.

...Applicant

(By Advocate: Shri Sourabh Ahuja in both the OAs)

Versus

1. GNCT of Delhi
Through its Secretary,
Department of Home,
Delhi Secretariat,
Players Building,
IP Estate,
New Delhi.
2. Union of India
Through its Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.

3. Lt. Governor
GNCT of Delhi,
Raj Bhawan,
Shamnath Marg,
New Delhi.
 4. Commissioner of Police,
Police Head Quarters,
I.P. Estate, MSO Building, New Delhi.
 5. Joint Commissioner of Police,
Headquarters,
New Delhi
Through Commissioner of Police,
Police Head Quarters, I.P. Estate,
MSO Building,
New Delhi.
-Respondents

(By Advocate: Mrs. Rashmi Chopra in OA No.3834/2012
Mr.N.K.Singh proxy for Mrs. Avnish Ahlawat in
OA No.3835/2012)

ORDER

By Hon'ble Ms. Nita Chowdhury, Member (A)

As common questions of law and facts are involved in both the OAs, so we propose to dispose of the above mentioned Original Applications (OAs) by means of this common decision.

2. The reliefs claimed by the applicants in both the OAs are identical and read as under:-

“(a) To quash and set aside the impugned order dated 04.10.2012 of the OA.

(b) To direct the respondents to grant President Police Medal for Gallantry to the applicant w.e.f. 22.12.2006 (the date of brave act) with all consequential benefits including seniority, difference in pay, promotion etc.

(c) To award cost in favour of the applicant and against the respondents.

(d) To pass any further order, which this Hon'ble Tribunal may deem fit, just equitable in the facts and circumstances of the case".

3. The facts, in brief, are that applicants were working as Head Constable in the first OA bearing No.3834/2012 and as Constable in the second OA bearing No.3835/2012. They and their teammates had displayed extraordinary good work that led to the pinning down of one gangster, namely, Kamal Mehta in an encounter on 22.12.2006 near Sir Chhotu Ram Poly Technique Institute, Village Gherwa, Delhi. They have submitted that the gangster Kamal Mehta was involved in cases of murder, attempt to murder, robbery, kidnapping for ransom etc. in Delhi and Haryana. The said Kamal Mehta was carrying a reward of Rs.15,000/- from Haryana. On 22.12.2006, the date of incident, Kamal Mehta started firing on the police team. The applicants led the charge from the front and did not deter a bit from facing the volley of bullets fired by Kamal Mehta. They submitted that the DPC/Special Cell has recommended the name of their teammates only for grant of President Police Medal for Gallantry (PPMG).

4. The applicants have further submitted that on 19.05.2008, the respondents rejected the said citation/recommendation of DCP/Special Cell qua the applicants' teammates, i.e., ACP Sanjeev Kumar Yadav, Ct. Man Singh, Ct. Hari Ram and SI Abhay Narain Yadav. The teammates of the applicants, namely, ACP Sanjeev Kumar Yadav and Ct. Hari Ram accepted the fate and did not

pursue the said matter further. However, SI Abhay Narain Yadav and Ct. Man Singh represented to the respondents on 24.11.2008 to reconsider their cases for grant of PPMG. Thereafter, respondents on 15.08.2009 recommended the names of SI Abhay Narain Yadav and Ct. Man Singh for grant of PPMG.

5. Immediately on grant of PPMG to Ct. Man Singh, the applicants represented to the respondents on 14.03.2012 pointing out that they also played the same role in the same very incident, so they are also entitled to the grant of PPMG and denial of same amounts to invidious discrimination and violation of Article 14 of the Constitution of India. The respondents rejected their representation on 04.10.2012 by passing a non-speaking and cryptic order. Further, the applicants submit that rejection of their representations is in violation of judgment passed by the Hon'ble High Court of Delhi in W.P. (C) No.8841/2008 in the case of ASI Devender Kumar Vs. Govt. of NCT of Delhi and Others. They have thus prayed that their OAs be allowed and they be granted PPMG as granted to their teammate Ct. Man Singh.

6. Learned counsel for the applicants has relied on the following judgments to support their claim:-

(i) Sualal Yadav Vs. The State of Rajasthan and Others AIR 1977 SC 2050.

(ii) OA No.187/2007 with OA No.2909/2007 Nasib Singh & Sharat Khohli Vs. U.O.I. & Others 2007 INDLAW CAT 19.

7. The respondents have filed their reply and submitted that OA is not maintainable as the issue involved in the present OA pertains to the award of PPMG which does not fall within the 'service conditions'. They further aver that the issue raised by the applicants is highly belated and stale, hence not maintainable. The applicants are raising a claim pertaining to an incident which had occurred in the year 2006 which is highly delayed. Further, the applicants are comparing their case with Ct. Man Singh, who was admittedly decorated with the PPMG on 15.08.2009 while the applicants had represented for the first time in the year 2012. Had they any genuine grievance/claim, they would have communicated the same immediately and not waited for years together.

8. They have also pleaded that on 22.12.2006 at about 5.30 PM a specific information was received that a noted gangster Kamal Mehta would come to Nangloi via Narela Kanjhawala Road on blue colour Bajaj, Chetak Scooter to meet his contact between 8.00 PM to 9.00 PM. This information was recorded in the Daily Diary Register. A team under the leadership of Shri Sanjeev Kumar Yadav, ACP consisting of officers and staff of Special Cell reached near Chhotu Ram Poly Technique Institute Village, Grewar Road, Delhi. Kamal Mehta was seen at about 8.00 PM and was intercepted and instead

of surrendering to the police, he started firing at them in order to escape from the scene. On firing by both the sides, Kamal Mehta got injured and fell down. He was moved to the hospital in a PCR van where he was declared brought dead. After this incident, a citation for out of turn promotion (OTP) was recommended by the DCP. Initially 3 persons were recommended for OTP and thereafter 4 more persons were recommended for PPMG. The names of the applicants were not recommended by the then recommending authority since they only provided cover fire to Shri Sanjeev Kumar Yadav, ACP, SI Abhey Narain Yadav, Ct. Man Singh and Ct. Hari Ram and did not face any actual risk. The applicants submitted their representation on 01/04.03.2012 for award of PPMG but their requests were not acceded to and they were informed vide letter dated 04.10.2012, which applicants have now challenged in the present OAs.

9. The respondents further submit that the two simultaneous citations, i.e. one recommending OTP (where applicants were recommended) and other recommending PPMG (where others were recommended) were based on the roles evaluated with precision of the officers involved in the operation. It is relevant to point out here that all of the officers involved in the operation were not recommended for either of the two. The citations are always based on the role of the individual officers and the roles of the applicants were not at par with those who were recommended for PPMG. As a

matter of fact, there were 49 officials of Delhi Police involved in the operation which constituted the police party and only 3 were recommended for OTP including the applicants and only 4 were recommended for PPMG.

10. Lastly, the respondents submitted that the recommendations made for OTP at the level of DCP, i.e. Head of Unit are considered at the level of GNCT of Delhi under Rule 19 of the Delhi Police (Promotion & Confirmation) Rules, 1980 and OTP is granted after approval of the Lt. Governor. However, the recommendations made for PPMG are considered by the Ministry of Home Affairs where country-wide recommendations from all the Police Forces including CPOs (even posthumous) are considered and PPMG granted by the President of India is announced on 26th January and 15th August. The police officer decorated with the PPMG is entitled for a monetary allowance on the uniform rate irrespective of the rank being held by him in the police force they belong to, which presently is Rs.750/-p.m. No extra increment, as alleged is admissible. They have thus prayed that the OAs be dismissed.

11. The learned counsel for the respondents has relied on the following judgments of the Hon'ble Supreme Court and of this Tribunal:-

(i) Hon'ble Supreme Court in **SLP (C) No.25795 of 2008** in the case of **C. Jacob Vs. Director of Geology & Mining and Another.**

(ii) **OA No.2438/2010** in the case of **Shri Daramveer Vats Vs. The Chief Secretary, Govt. of NCT of Delhi and Another** decided on 23.08.2011.

(iii) **OA No.4303/2016** in the case of **Chander Bhan Vs. U.O.I.** decided on 04.01.2017.

(iv) **OA No.3812/2014** in the case of **HC Satyendra Kumar Vs. GNCT of Delhi and Others** decided on 10.08.2016.

(v) **OA No.1860/2015** in the case of **Kailash Singh Bisht Vs. Govt. of NCT of Delhi and Others** decided on 06.04.2017.

12. We have heard the learned counsel for the parties and gone through the pleadings and judgments cited by the parties.

13. The issue involved in this case is whether applicants are entitled for PPMG or not. We may mention that, in all, 49 police personnel participated in the encounter on 22.12.2006, out of which 4 were recommended for PPMG, namely, Sanjeev Kumar Yadav, ACP, Abhey Narain Yadav, SI, Man Singh, Ct. (now ASI) and Hari Ram, Ct. and 3 were recommended for OTP, namely, Abhay Narayan Yadav, SI, Hari Kishan, HC (applicant in OA No.3834/2012) and Roshan Lal, Ct. (applicant in OA No.3835/2012). Though applicants were recommended for OTP but the authority has not found their cases to be deserving, hence rejected. Moreover, as regard PPMG it is submitted that the same

has to be considered soon after from the date of incident and cannot be raised after a long gap. In this case, since the incident is of 2006 and the applicants represented for the first time in 2012, hence their case is without any merit. With regard to limitation, the Hon'ble Apex Court in Special Leave Petition (C) No.25795 of 2008 titled as **C. Jacob Vs. Director of Geology & Mining & Another** has held as under:-

“6....Normally, there will be considerable delay in replying such representations relating to old matters. Taking advantage of this position, the ex-employee files an application/writ petition before the Tribunal/High Court seeking a direction to the employer to consider and dispose of his representation. The Tribunals/High Courts routinely allow or dispose of such applications/petitions (many a time even without notice to the other side), without examining the matter on merits, with a direction to consider and dispose of the representation. The courts/tribunals proceed on the assumption, that every citizen deserves a reply to his representation.....A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. **The Tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored.**

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7. Every representation to the government for relief, may not be replied on merits. **Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim.....”.**

14. Similarly, the Apex Court in the case of **D.C.S. Negi Vs. U.O.I. and Others** decided on 7.3.2011 in SLP (C) No.7956/2011 (CC No.3709/2011) has held as under:-

“....A reading of the plain language of the above reproduced section makes it clear that the Tribunal cannot admit an application unless the same is made within the time specified in clauses (a) and (b) of [Section 21\(1\)](#) or [Section 21\(2\)](#) or an order is passed in terms of sub-section (3) for entertaining the application after the prescribed period. Since [Section 21\(1\)](#) is couched in negative form, it is the duty of the Tribunal to first consider whether the application is within limitation. **An application can be admitted only if the same is found to have been made within the prescribed period or sufficient cause is shown for not doing so within the prescribed period and an order is passed under [Section 21\(3\)](#)**”.

15. Further, we may mention that PPMG cannot be claimed as a matter of right because it is for the relevant authority to consider the same and to grant it. Nobody has any right to say that he is entitled for a particular award. In this regard, we are guided by the judgment of the Hon'ble High Court of Delhi in W.P. (C) No.10733/2009 in the case of **Commissioner of Police and Others Vs. SI Satbir Singh** decided on 09.08.2010. In the said case, Hon'ble High Court has clearly held that “out of turn promotion being by way of special benefit cannot be claimed as a matter of right. Thirdly, nobody can stake a claim to be promoted from a date when somebody has done good work justifying claim to be considered for out of turn promotion”. The said order reads as under:-

“3. Honouring the decision dated 2.1.2004, allowing OA No.1746/2003, the petitioners granted out of turn promotion to the respondent who now working as a Sub Inspector vide order dated 17.5.2004 The respondent went crying to the Tribunal by filing OA No.625/2007 praying that his out of turn promotion had to be with retrospective effect i.e. the year in which he did exemplary work i.e. the year 1998. The Tribunal has obliged.

4. We wonder as to how the Tribunal could have done so.

5. Firstly, the respondent is not claiming any right to be promoted under the notified Recruitment Rules. Secondly, the out of turn promotion being by way of a special benefit cannot be claimed as a matter of right. Thirdly, nobody can stake a claim to be promoted from a date when somebody has done good work justifying claim to be considered for out of turn promotion. **Special incentives can never rank at par with statutory rights.** Lastly, the reason that while allowing the previous Original Application filed by the respondent, the Tribunal simply directed that his case for promotion be considered and never directed any consequential benefits to be given to the respondent.

6. The petition is allowed. Impugned order dated 9.3.2009 passed by the Tribunal is quashed.

7. No costs”.

16. Thus seen from any angle, the OAs being devoid of merit, are dismissed. No costs.

Let a copy of this order be placed in the other file also.

(NITA CHOWDHURY)
MEMBER (A)

(V. AJAY KUMAR)
MEMBER (J)

Rakesh