

**Central Administrative Tribunal
Principal Bench, New Delhi.**

**OA-2393/2016
MA-2189/2016**

Reserved on : 09.08.2018.

Pronounced on : 29.08.2018.

Hon'ble Ms. Praveen Mahajan, Member (A)

1. Vikram Singh, Sub Inspector, 4903/D
Aged about: 47 years, Son of Late
Sh.Bhagwan Singh, Posted/Working at:
Special Cell, Delhi Police, Lodhi Road
Police Station Complex, New Delhi-110003.
Resident of:Quarter No.487, PTS Colony,
Malviya Nagar, New Delhi-110017.
2. Nisar Ahmed Shaikh, Head Constable,
60/DAP, 1st Battalion,
Aged about: 47 years, Son of Mr. Abdul
Aziz, Posted/working at:1st Battalion, DAP,
Delhi Polie, New Police Lines, Kingsway Camp,
Delhi-110009.
Resident of:Quarter No.4, Type-I, Chandni Mahal
Police Station Complex, Dariya Ganj,
Delhi-110002.
3. Amar Singh, Head Constable, 855/SB,
Aged about: 43 years, Son of Mr. Durga Singh,
Posted/working at:Special Cell, Delhi Police,
Lodhi Road Police Station Complex,
New Delhi-110003.
Resident of: Barrack No.1, Special Cell,
Lodhi Colony, New Delhi-110003. Applicants

(through Sh. Pardeep Kumar, Advocate)

Versus

1. President's Secretariat,
[through/service to be effected upon:
It's Secretary at: Rashtrapati Bhawan,
New Delhi: 110004.]

2. Union of India,
[through/service to be effected upon:
Its Secretary at: Ministry of Home Affairs,
Government of India, North Block,
Central Secretariat, New Delhi:110001.]
3. Government of N.C.T. Delhi
[through/service to be effected upon:
Its Secretary at: Home Department, 5th Level,
Delhi Secretariat, I.P. Estate, New Delhi-110002.]
4. Delhi Police,
[through/service to be effected upon:
Its Commissioner at: Delhi Police Headquarter,
M.S.O. Building, I.P. Estate, New Delhi:110002.]Respondents
(through Sh. Vijay Pandia and Sh. Vaibhav for Sh. Gyanender Singh,
Advocates)

ORDER

The applicants in the O.A. are aggrieved with the decision of the respondents in not considering them for grant of President's Police Medal for Gallantry (PPMG) Award and have prayed for:-

“(a) Directing Respondents to forthwith consider, grant to the Applicants 'PPMG' with consequential with effect from 05.09.2010 grant of special allowance.

(b) Any other or further order or direction to grant complete relief to the applicants.”

2. Briefly stated, the facts of the case are that a citation/recommendation for the award of PPMG for 07 persons, including the name of 03 applicants in this OA, was sent to Commissioner of Police, Special Cell for their exemplary gallant act,

which led to a successful joint operation with SOG/Local Police, Mendhar, J&K.

3. It is stated that in this joint operation, one Divisional Commander of Jaish-e-Mohammad, namely, Umar Khitab r/o Pakistan was shot dead after fierce encounter and a local militant, namely, Zubai Husain S/o Khaliq Husain r/o Mendhar was arrested. A case FIR No. 166/2010 dated 05.09.2010 u/s 307/120-B/212/216 RPC & 7/25, 26/27 Arms Act and 2/3 Egress Act was lodged at PS Mendhar J&K and 2-AK-47 Assault Rifles, 01 Chinese Pistol of 7.62 Calibre, Ammunition 09 MM 05 rounds, 01 Chinese hand grenade and Rs.60,610/- in cash were recovered from the slain militants.

4. Appreciating the extra ordinary good work and exemplary gallant act which led to the aforesaid successful operation, cash reward amounting Rs.50,000/- (Fifty Thousand) to Mr. Kailash Singh, Inspector and cash reward amounting Rs.30,000/- (Thirty Thousand) was awarded to each of the aforesaid members of the team except Mr. Birender Singh Negi, Constable.

5. This citation sent by the police was placed before the Incentive Committee in its meeting on 10.05.2011. The Committee, however, did not recommend the case for award of PPMG to any of the seven team members.

6. Mr. Kailash Singh Bisht, Inspector (one of the team of seven), made a request to appear before the Commissioner of Police, Delhi to represent his case for reconsideration by the Incentive Committee. On his request, it was agreed by Commissioner of Police, Delhi to send the proposal for reconsideration.

7. A revised citation for reconsideration for grant of the PPMG Award was received from DCP/Spl. Cell vide Memo dated 20.12.2011 in respect of the four officers, namely, (i) Kailash Singh Bisht (ii) Satender Kumar, (iii) Rajeev Kumar and (iv) Birender Singh Negi excluding the names of the three applicants in OA. On getting to know about their exclusion, the applicants submitted their representations for addition of their names in the fresh recommendation moved by Special Cell.

8. The applicants state that the Incentive Committee vide their decision on 18.05.2012, recommended only (i) Insp. (Exe.) Kailash Singh Bist, No.D-725, (ii) HC (Exe.) Satender Kumar No. 558/SB, (iii) HC (Exe.) Rajiv Kumar, No. 457/SB and (iv) Ct. Birender Singh, No.748/SB for the award of PPMG whereas the representations submitted by the three applicants in OA, viz. (i) ASI (Exe.) Vikram Singh, No.1027/SB, (ii)HC (Exe.) Nisar Ahmed Saikh, No.176/DRP and (iii) Ct. Amar Singh, No.855/SB were not considered.

9. It is averred that the revised recommendation of the Incentive Committee was forwarded to Ministry of Home Affairs on 23.05.2012, without mentioning the fact of earlier rejection (for the entire team of seven officers). The applicants again represented their case to Commissioner of Police on 05.06.2012 but despite concerted efforts, could not meet the Commissioner of Police, personally.

10. On 26.09.2012, the GNCTD, on the basis of representations/complaints received from the applicants asked for comments of Delhi Police, stating that:-

“A) The circumstances, under which the names of 07 Police officials recommended earlier but not accepted by incentive committee for gallantry award were reduced to 04, leading to rest of 03 officials categorized under the list of Police personnel participated but not recommended, need to be ascertained.

B) The plea of the three representations/complainants “that as per the established procedure, after rejection, only a representation against the decision of the incentive committee could have been submitted but in the present case, a fresh citation, after dropping the names of three previous recommendees...was prepared and submitted for fresh consideration and the fact that a citation for the same gallant act and good work had already been submitted and was rejected by the Incentive Committee, was concealed” need to be clarified by Delhi Police, considering the fact that, had these three police officials not filed their representation/complaints before the authorities in time, the present proposal for Gallantry award to be given at the National level would have been sent to MHA after having been recommended/approved by the GNCTD and in the given circumstances put forth GNCTD and the GOI in an embarrassing situation.

C) As per FIR filed in this case vide No. 166/2010 dated 05/9/2012, about 21 security personnel including 7 of Delhi Police officials apart from those of SOG/Local Mendar J & K and 37 RR Army were involved in the encounter in which two terrorist were tackled, resulting in the killing of one and the other one apprehended. Considering the fact that it was a pre-planned operation and that the strength of security personnel quite outnumbered that of terrorists involved in the operation, the gallant aspect of the incent

for which award of President's Medal is proposed, need to be more elaborated by Delhi Police.

D) In the said operation, apart from Delhi Police, a large number of other security personnel from 37RR of Army, SOG Mendhar and local police of Police Station Mendhar were involved, in which one Army Jawan Lance Naik Sajjan Singh of 37 RR was stated to have been injured. Considering the fact that it was a joint operation, it is not clear from the record whether any such similar award has also been given or proposed to be given to other personnel of different units of security agencies."

11. On 26.04.2013, comments were sent by Delhi Police informing them as under:-

"(A) Initially, a citation for the award of Presidents Police Medal for Gallantry in respect of 07 police personnel namely Insp. Kailash Singh, No.D-725, ASI Vikram Singh No. 1027/SB, HC Satender Kumar, No.558/SB, HC Nisar Ahmed, No. 176/DRP, HC Rajiv Kumar, No.456/SB, Const. Amar Singh, No. 855/SB and Const. Birender Singh No. 748/SB, who participated in the successful operation against the Divisional Commander of militant organization Jaish-e-Mohd namely Umar Khitan R/o Pakistan in Mohalla Thera Jatta, Bhattidar, Mendhar, Distt. Poonch, J&K alongwith a party of local police and Indian Army, was sent by DCP/Special Cell vide memo No.118/Z (SB) dated 20.01.2011. The Incentive Committee meeting held on 10.05.2011 did not recommend the name of the any of the officials and rejected the proposal. Subsequently, a fresh proposal for the award of President's Police Medal for Gallantry in respect of 04 officials namely Insp. Kailash Singh, No.D-725, HC Satender Kumar, No. 558/SB, HC Rajiv Kumar, No.457/SB, and Const. Birender Singh, No. 748/SB who played a vital role in the whole operation was sent to the Incentive Committee by the DCP/Special Cell. The names of 03 police officials earlier recommended namely ASI Vikram Singh, No. 1027/SB, HC Nisar Ahmed, No. 176/DRP and Const. Amar Singh, No.855/SB, were also considered by the Incentive Committee on their representations but were rejected on 18.05.2012. Only names of Insp. Kailash Singh, No. D-725, HC Satender Kumar, No. 558/SB, HC Rajiv Kumar, No. 457/SB, and Const. Birender Singh, No. 748/SB were recommended for the award of President's Police Medal for Gallantry.

(B) Inspector Kailash Singh, No.D-725 filed a representation against the rejection of Gallantry proposal by the Incentive Committee on 11.05.2011. The Inspector alongwith the then Spl.C.P./Spl. Cell appeared before the then C.P. Delhi on 16.12.2011. Subsequently, on the directions of C.P. Delhi, a fresh proposal was sent on 20.12.2011. Police officials namely ASI Vikram Singh, No.1027/SB, HC Nisar Ahmed, No.176/DRP and Const. Amar Singh, No.877/SB also sent requests to include their names in the above citation on 27.04.2012. The Incentive Committee during the meeting held on 18.05.2012

recommended the names of Insp. Kailash Singh, No.D-725, HC Satender Kumar, No.558/SB, HC Rajiv Kumar, No.457/SB and Const. Birender Singh, No.748/,as proposed by DCP/Spl. Cell in the fresh proposal, but the names of ASI Vikram Singh, No.1027/SB, HC Nisar Ahmed, No. 176/DRP and Const. Amar Singh, No.855/SB were not recommended.

(C) It is true that the possible hideout of terrorist was identified by the team of officials of Special Cell and they took assistance of local police and Indian Army. The area to the cordoned off was nearly 2 square K.M. and three cordons comprises of officials from Special Cell and Indian Army Second Cordon comprises of officials of India Army, Special Cell and Local Police of J&K whereas third cordon comprises of officials of local police and Indian Army. The terrain was mountain and there were family members inside the house. After the operation, it was found that militant had made a hole in one of the rooms of the house from where he was firing at the police party.

(D) The Army had already honored LnK Pachitar Singh 2490840Y for his gallant act with Sena Medal on 15 August, 2011 and Injured LnK Sajjan Singh 2490840Y was not recommended for any award. Only army had sent their proposal for gallantry. However, PHQ (J&K) had sanctioned Rs.2,50,000/- (Rs.Two Lakh & fifty Thousand only) in favour of Police Party/source of Distt. Police Poonch for having taken part in the operation which stands distributed/Disbursed vide Sr.Supt. of Police, Poonch, J & K's letter no.PA/Reward/2011/1997/ST dated 20.06.2011."

12. After a lapse of almost 2½ years, on 03.12.2015 the award of PPMG was conferred on the four members of the team whose names had been sent for reconsideration.

13. During the course of hearing, learned counsel for the applicant Sh. Pardeep Kumar, taking the Bench through the facts of the case reiterated that out of the original 07 recommendee officers, the PPMG has been awarded to only 04 Members of the Special Cell, in a dubious and discriminatory manner. He forcefully argued that during the encounter with the militants, which lasted for almost two hours, all the 07 Members of the team acted conjointly. As a result,

names of all the seven were sent for award of PPMG. Later, however, PPMG was sanctioned only to 04 members of the aforesaid team because the names of three applicants were excluded from the reconsideration proposal though their roles were identical. He emphasized that the applicants have been discriminated against arbitrarily and wrongly left out from the grant of award of PPMG (& other consequential benefits), needing urgent intervention of the Tribunal.

14. Learned counsel for the respondents Sh. Vijay Pandita reiterated the contentions raised in the counter and stated that the Incentive Committee had taken a conscious decision to award PPMG only to the meritorious and deserving personnel and rejected the case of the applicants. He argued that grant of award is not a right of the applicant but a prerogative of the respondents, who, after taking cognizance of the entire situation, decided to forward only 04 names for reconsideration of the award. Sh. Pandita also pointed out that the O.A. is time barred and relied upon the following citations:-

- (i) **State of Punjab Vs. Gurdev Singh**, (1991) 4 SCC page 1.
- (ii) **UOI Vs. Ratan Chandra Samanta**, JT 1993(3) SC Page-418.
- (iii) **Harish Upptal Vs. UOI**, JT 1994(3) page 126.
- (iv) **Ajay Walia Vs. State of Haryana & Ors.**, JT 1997(6)SC 592.
- (v) **UOI Vs. M.K. Sarkar**, (2010) 2 SCC 59.

(vi) **DCS Negi Vs. UOI & Ors.**, SLP (C) CC No.3709/2011.

15. I have gone through the rival contentions and perused the record produced before me. The facts of the case not being in dispute, I go straight to Annexure A-2 dated 20.01.2011, wherein recommendation for the award of PPMG in respect of all the seven officials was “originally” sent by Deputy Commissioner of Police, Special Cell, Delhi.

16. Part-A of the recommendation, gives the details of each of the recommendees, and reads as under:-

Sl. No.	Name	Designation		Caste (SC/ST/Gen)	Medals Recommended PPMG/PMG
		At the time of operation	Now		
1.	KAILASH SINGH BISHT	Inspector	Inspector	Gen	PPMG
2.	VIKRAM SINGH	ASI	ASI	Gen	PPMG
3.	SATENDER KUMAR	HC	HC	Gen	PPMG
4.	NISSAR AHMAD SHEIKH	HC	HC	Gen	PPMG
5.	RAJEEV KUMAR	HC	HC	Gen	PPMG
6.	AMAR SINGH	Ct.	Ct.	Gen	PPMG
7.	BIRENDER SINGH NEGI	Ct.	Ct.	Gen	PPMG

Place of Gallant Action: Mohalla Thhera Jata, Bhattidar, Tehsil Mandhar, Distt./With District/State/Village/Town) Poonch, J&K.

2. Police personnel participated but not recommended

S.No.	Name of Forces	Name and rank of persons who participated	Reasons for not recommending
1.	NIL	NIL	NIL

3. Name of persons including posthumous recommendees if killed in action.

Sl.No.	Recommendees	Non Recommendees
1.	NIL	NIL

4. Name of persons injured- Lance Naik Sajjan Singh of 37RR.

Sl. No.	Recommendees	Non Recommendees
1.	NIL	NIL

5. Recoveries made:-

- 2 AK 47 Assault Rifles.
- 1 Chinese Pistol of 7.62 Calibre
- 1 Chinese hand grenade
- Rs.60,610
- 35 Pencil Cell
- Nokia Battery
- 2 Mobile Phones, one with SIM Card
- One Identity Card with picture of killed militant Umar Khitab, bearing name & address of Sufir s/o Bashir r/o Bhatidar, Mendhar. J&K.
- A comb.
- One Pouch
- Two Identity card of Militant Umer Khitab

If recommendees received PPMG earlier.

Yes, the details are as under-

Inspector Kailash Singh Bisht

Date/Year of award-(2006,2007)
PMG-2 PMG (2006, 2007)

ASI VIKRAM SINGH

Date/Year of award-(2006)
PMG-01 (2006)"

16.1 Part-B of the proposal contains names and rank of persons who participated in the encounter alongwith the background and contains the career profile of all the 07 recommendees. The cash rewards, commendations/appreciations received by all the 07 officers, till the date of issue of the said letter have also been reflected therein. The table, as annexed reads as under:-

Categories	Name of person awarded	Amount, if any
Cash Rewards of Rs.3,91,600/- Commendations-51 Appreciations-Nil Good Service Entries	KAILASH SINGH BISHT	
Cash Rewards of Rs.1,49,450/- Commendations-139 Appreciations-Nil Good Service Entries	VIKRAM SINGH	
Cash Rewards of Rs.54,775/- Commendations-59 Appreciations-Nil Good Service Entries	SATENDER KUMAR	
Cash Rewards of Rs.54,655/- Commendations-54 Appreciations-Nil Good Service Entries	NISSAR AHMAD SHEIKH	
Cash Rewards of Rs.40,500/- Commendations-28 Appreciations-Nil Good Service Entries	RAJEEV KUMAR	
Cash Rewards of Rs.31,000/- Commendations-22 Appreciations-Nil Good Service Entries	AMAR SINGH	
Cash Rewards of Rs.25950/- Commendations-30 Appreciations-Nil Good Service Entries-30	BIRENDER SINGH NEGI	

17. Initially, none of the recommended officers was considered for grant of PPMG on 10.05.2011. Subsequently, on a representation sent by one of the officers, namely, Sh. Kailash Singh Bist, to

Commissioner of Police, Delhi, the matter was reconsidered. As per the office notings available on record, it was held that:-

“15. This is a very genuine case. The inf. Was developed by Special Cell. Our officers also went to Mendhar in Poonch J&K and identified the location of Divisional Cdr. Of Jem. Inf. Was shared with IB, J&K Police, RR and a joint operation led to killing of Umar Khitab Divisional Cdr. Of Jaise – e – Mohd. Our officers also took part in operation. Information provided by us was appreciated in writing by Maj. Gen. Bhullar of 16th Light Infantry vide letter dt. 13.9.10.

16. Our officers need to be rewarded by President Police Medal for Gallantry, which has been rejected by Incentive Committee. Inspector Kailash Bisht has requested to appear before CP to represent his case and request for reconsideration by Incentive Committee. May be permitted please for orders please.

Sd/
Asstt.Commissioner
of Confidential Branch/PHQ

It is further noted that Insp. Kailash appeared before CP on 16.12.11 at 13.30 pm and the CP agreed that the proposal be sent once again for reconsideration.”

Surprisingly, however, the revised recommendation for reconsideration was sent for only of 04 persons as against the original 07 (excluding the three applicants in OA).

18. No reasons for such exclusion are available in the counter filed by the respondents. Undoubtedly, the award of PPMG or any other award for that matter, has to be given by the establishment after taking all the facts into consideration. This holistic evaluation, presumably, took place when the names of the entire team were recommended initially on 20.01.2011. There is no fresh evaluation available to show that there was a change of opinion before the names of 04 officers were sent for reconsideration. In other words,

no new facts were considered before the respondents sent the revised proposal. Apparently, the only difference between the two proposals is limited to the exclusion of 03 officers, for reasons best known (but not explained) by the respondents.

19. It is reasonable to assume, that sole consideration while recommending the names was the career profile of the whole team (original 07 recommendees) coupled with their sterling role during the joint operation/encounter. Going over the original citation (Part-A&B), it is clear that the respondents found each member of the team, equally deserving. Subsequently too, when the issue was being considered for reconsideration, the terminology used in the note of ACP-Confidential Hqrs. refers to "Our officers" signifying equivalence of role, in the successfully concluded operation. There is nothing to suggest that role of individual officers was discussed. The citation sent for the award shows that the extra ordinary good work was a result of successful "joint operation" in which one of the Divisional Commander of Jaish-e-Mohmmad, namely Umar Khitab r/o Pakistan was shot dead in fierce encounter and a local militant namely Zubai Hussain s/o Khaliq Husain r/o Mendhar was arrested.

20. Even going over the career profile (as made available at Annex. 2) applicant No.1 (one of the excluded 3) seems to have

received the maximum number of commendations i.e. 139 as compared to the commendations received by the PPMG Awardees at Serial Nos. 1,3, 5 & 7. The forwarded proforma of Gallantry shows that the excluded applicants i.e. No. 2, 4 and 6 who are applicants in OA, were not facing any vigilance enquiries and their antecedents were in no way less outstanding than their 04 counterparts whose cases were sent for reconsideration. Unfortunately, the respondents have not even made an attempt to explain the reason for such exclusion.

21. The respondents did not consider any extra evidence or set of facts, while sending their reconsideration proposal, nor is there any justification available on record which would show the rationale for the pick and choose policy adopted by the respondents in this case.

22. As per instructions on the subject, the PPMG Award shall be awarded to:-

- (i) For conspicuous gallantry in saving life and property, or in preventing crime or arresting criminals, the risks incurred being estimated with due regard to the obligations and duties of the officer concerned.
- (ii) A special distinguished record in police service or in the Central Police/Security Organizations.
- (iii) Success in organizing Police Service or the Units of Central Police/Security Organization or in maintaining their organizations under special difficulties.
- (iv) Special Service in dealing with serious or wide spread out breaks of crime or public disorder.

(v) Prolonged service, but only when distinguished by very exceptional ability and merit.

The three excluded officers seem to fit the bill as much as the other four, as laid out in the Notification governing the Award of PPMG dated 01.03.1951.

23. The objection raised by the respondents regarding delay in filing the O.A. is totally misplaced. Being disciplined officers, the applicants made consistent efforts to approach the authorities for redressal of their grievance. They were under the bona fide belief that the case of the entire team would be considered collectively. After getting to know that they had been excluded, they made a genuine effort to approach the higher authorities and it was only when their efforts failed that they considered it appropriate to approach the GNCTD and finally the Tribunal. Their delay in seeking the legal remedy speaks of their faith in the system due to which they were hesitant to resort to legal redressal. The delay, if any, was more on account of the lack of response of the respondents and not because the applicants remained inattentive to their genuine grievance.

24. Keeping in view the facts of the case, I am convinced that grave injustice has been done to the applicants. The respondents have acted arbitrarily without assigning any reason for not re-

recommending the names of the applicants for grant of PPMG. Normally, the Courts would not intervene in matters of grant or otherwise of an award, which rightfully, is the prerogative of the executive. But when the discrepancies exhibiting discrimination, are so glaring, as in the present case, there is no option but to intervene.

25. The action of the respondents, in my view is clearly violative of Articles 14 and 16 of the Constitution of India. The respondents are directed to reconsider the case of the applicants for grant of PPMG (& other allowances etc. as per rules) and forward it to the competent authority giving full facts of the case. This must be done within 90 days of the receipt of a certified copy of this order to ensure that injustice meted out to the applicants is rectified. O.A. is allowed. No costs.

**(Praveen Mahajan)
Member (A)**

/vinita/