

(2014) 07 RAJ CK 0050
In the Rajasthan High Court
Case No : Civil Writ Petition No. 10186/2011

Deravar Singh	Vs	APPELLANT
State of Rajasthan		RESPONDENT

Date of Decision : 02-07-2014

Acts Referred:

Constitution of India, 1950 — Article 14, 142, 144, 32
Penal Code, 1860 (IPC) — Section 201, 302, 34

Citation : (2014) LabIC 3687 : (2014) 4 RLW 3498 : (2014) 4 SCT 421

Hon'ble Judges : Vineet Kothari, J

Bench : Single Bench

Advocate : Shreyansh Mardia for Sandeep Shah, Advocate for the Appellant;
Shweta Bora, Advocate for the Respondent

Final Decision : Allowed

Judgement

Dr. Vineet Kothari, J.—The present petitioner Deravar Singh S/O. Bhakar Singh working as Sub-Inspector of Police has preferred this writ petition claiming an "out of turn promotion" against the 10% reserved vacancies for the year 2006-2007 under Rule 28 of the Rajasthan Police Subordinate Service Rules, 1989 which is enacted to reward the police personnel who perform the outstanding and extraordinary acts of courage in discharge of their duties and with their outstanding caliber in the fields like anti-dacoity or anti-smuggling or any special field of police work including performance in games and sports and 10% of next higher posts can be reserved for such "out of turn promotion" as per Rule 28 of the Police Subordinate Service Rules, 1989.

2. The recommendations of the Superintendent of Police, Jodhpur (Rural) were made vide letter Annex. 1 dtd. 5.4.2007 recommending the case of the petitioner for such out of turn promotion on the various grounds like catching and arresting a known dacoit Rania, saving of six lives on 11.7.2001 in a flooding and overflowing river at 6.45 a.m., preventing the communal riots at Swaroopganj at the period of time when ill-famous Godhra riots took place in the nearby State of

Gujarat and various other incidents. In as many as 10 such incidents were narrated by the Superintendent of Police, Jodhpur (Rural) after due verification for recommending the case of the petitioner for the out of turn promotion to the next higher post of Inspector. The petitioner upon not being considered for the same had earlier approached this Court by way of writ petition No. 119/2009-Derawar Singh V/s State of Rajasthan and ors., which writ petition came to be disposed of by the coordinate bench of this Court on 4.1.2011 remanding the case back, for consideration afresh at the hands of Director General of Police showing the due application of mind by him to the facts of the case of the petitioner. It appears that even upon a reconsideration also, the Committee framed by the Director General of Police found the petitioner's case as not fit to grant him the "out of turn promotion" to the next higher post of Inspector and accordingly, his case was rejected and communication Annex. 5 dtd. 26.7.2011 was sent to him in which 4 out of such 10 incidents on the basis of which recommendations were made by the Superintendent of Police only were narrated and it was conveyed to the petitioner that since cash awards and appreciation certificates were given to him during the relevant point of time for such exemplary works done by him, therefore, out of turn promotion claimed by him cannot be granted. Being aggrieved by this order, the petitioner again approached this Court by way of present writ petition in the second round of litigation which was filed on 18.10.2011.

3. Upon the issuance of notices, the respondents have filed reply to the writ petition and have tried to defend the impugned order.

4. The learned counsel for the petitioner, Mr. Shreyansh Mardia submitted that not only the consideration at the hands of Director General of Police has not taken place independently and properly, but from the copy of "Office Note" obtained by the petitioner under the provisions of Right to Information Act, it is clear that while the other police personnel with much lesser exemplary works done by them have been awarded such "out of turn promotion" under Rule 28 of the 1989 Rules, for the petitioner somehow, the Committee albeit Director General of Police himself was supposed to consider his case, rest contended by observing that since he has been given the cash awards and the appreciation certificates, the "out of turn promotion" cannot be given to him, as he has not done any outstanding work in the form of anti-dacoity or anti-smuggling or any special field of police work. The Director General of Police, vide office note No. 152 merely says that "report of the committee approved". He, therefore, submitted that there is no independent and proper application of mind on the part of Director General of Police himself and reading before this Court, the details of recommendations made by the Superintendent of Police, Jodhpur (Rural), the learned counsel for the petitioner urged that the outstanding work done by the petitioner in the form of police work, like saving of six lives from a flooding river from a swayed truck, preventing communal riots, catching a dacoit known as Rania, catching leader of the gold chain-snatchers" group, namely, Dinesh Patel etc. were not only outstanding and extraordinary work of exemplary

courage shown by him and therefore, the respondents ought to have awarded him the "out of turn promotion" to the petitioner and thus now the suitable positive directions deserve to be given to the respondents in this regard.

5. On the other hand, the learned counsel for the respondents, Ms. Shweta Bora for Mr. Anil Bissa supported the impugned order to the best of her ability.

6. Upon consideration of the rival submissions and upon a closer perusal of the documents placed before this Court and relevant Rule 28 of the 1989 Rules itself, this Court is of the opinion that the respondent-Department has failed to appreciate the true letter and spirit of Rule 28 and have also not properly appreciated the extraordinary works of courage and daring nature done by the petitioner on the basis of which the appropriate recommendations were made by the Superintendent of Police, Jodhpur (Rural). Some of the incidents on the basis of which the said recommendations have been made were even ignored by the Committee concerned for no good reason and whose report has been merely approved by the Director General of Police, in a rather mechanical manner, without any independent appreciation of the facts and assigning any reason especially when the matter, upon a remand by the High Court was before him for such reconsideration. One of the incidents, which strongly makes out a good case for recommendations of the petitioner for out of turn promotion is the act of saving of six lives in a flooding and fast flowing Rohida river by the petitioner. The relevant extract of the recommendations of the Superintendent of Police is quoted below for ready reference:

7. Similarly preventing the outburst of the communal riots in Swaroopganj which is on the border of State of Rajasthan and Gujarat in the aftermath of ill-famous Godhra incident in the year 2002, also could not be less than an act of extraordinary bravery and the recommendations in that regard is also extracted below for ready reference:

8. Arresting a person involved in an illicit liquor smuggling is another anti-smuggling police work or incident mentioned in the said recommendations, which reads as under:

9. This Court cannot appreciate as to how and why the detailed narration of these incidents have simply not been taken into account by the Director General of Police or the Committee formed by him for the purpose of the reconsideration of petitioner's case for the said "out of turn promotion" under Rule 28 of the 1989 Rules.

10. Rule 28 which permits such out of turn promotion reads as under:

28. Special nomination for promotion cadre course. Notwithstanding anything contained in sub-rule (1) to (3) of rule 27 above:

(a) Nomination for promotion cadre course for next higher rank up to Sub-Inspector in Section I and Section III and upto Platoon Commander in Section II and Section IV of Rule-4 upon 10% of the vacancies to be filled in by promotion

in a particular year, may be made by the Director General-cum-Inspector General of Police in case of those who have shown outstanding work in the anti-dacoity, anti-smuggling or in any special field of Police work including performance in Games and Sports, or have put in not less than 20 years service exclusively as member of the service and also have exceptionally good and unblemished record of service with integrity:

Provided that no member of the service shall be nominated more than once on account of 20 years service as mentioned above.\$\$

(b) The Government may nominate for Promotion Cadre Course upto 10 percent of the vacancies by promotion in a particular year from amongst the member of service holding substantive rank from the rank of Sub-inspector/platoon Commander to Supervisor/Inspector/Company Commander's rank and from Sub-Inspector/Supervisor to Inspector on the recommendation of the Director General-cum-Inspector General of Police who have shown outstanding work in the anti-dacoity, anti-smuggling or in any special field of Police work including performance in games and sports or have put in not less than 20 years service exclusively as members of the service and also have exceptionally good and unblemished record of service with integrity:

Provided that no member of the service shall be nominated more than once on account of 20 years service as mentioned above.

11. The basis for consideration of police personnel under this Rule is the outstanding work in the field of anti-dacoity, anti-smuggling or in any special field of police work including performance in games and sports and if service career of the person concerned is otherwise unblemished, he can be granted such out of turn promotion once in the entire service career of 20 years. Though the learned counsel for the petitioner, Mr. Shreyansh Mardia from the office note produced by him as Annex. 5 sought to draw the attention of the Court towards the consideration of other persons' cases particularly at office Note No. 96 Sh. Ramanand Sharma, Note No. 97, Sh. Ramniwas Vishnoi, Note No. 98, Majid Khan and Note No. 99 Subhash Godara etc. who were given such out of turn promotion as if to make out a case of discrimination, but instead of examining the case of the present petitioner on the anvil of Article 14 of the Constitution of India on the ground of discrimination which purportedly was caused in the case of the petitioner, in the discretionary exercise for such "out of turn promotion" under Rule 28, this Court is of the considered opinion that during the reconsideration by the Director General of Police after the remand by this Court in the first round of litigation he did not properly consider the recommendations of the Superintendent of Police. The extraordinary achievements of the petitioner with reference to the incidents prima facie clearly establish that the petitioner undertook the work of extraordinary courage and the outstanding performance of his duties and incident of saving of six lives in a flooding and fast overflowing river in the early morning of 11.7.2001 at 6.45 a.m. from a swept away truck in the said river, shows the presence of mind and courage of the petitioner to

undertake that rescue work and actually saving the six precious lives. This one incident itself could have been enough to reward him with an "out of turn promotion" under Rule 28, which has been denied to him quoting the grant of cash reward like Rs. 31/-, Rs. 101/- and Rs. 250/- with appreciation certificates for the three incidents relied upon by the Committee concerned.

12. This kind of consideration at the hands of the highest competent authority i.e. the Director General of Police and that too after a remand by the High Court, rather shocks the conscience of this Court and to say least such reconsideration is only half hearted, much less than a comprehensive and proper consideration. The respondents have shown rather merciless attitude while considering the case of the petitioner under Rule 28 of the 1989 Rules. The said Rule permitting "out of turn promotion" is not a dead letter of statute, but is enacted for encouraging the police personnel for motivating them further who during the course of the discharge of their duties do so in extraordinary courageous manner which can set an example for others to be followed in the said Police Department.

13. This Court also cannot lose sight of the falling standard of performance of duties by the police personnel in our country and failure of power that be to undertake police reforms despite directions of the Hon'ble Apex Court of the country in the case of Prakash Singh and Others Vs. Union of India (UOI) and Ors, , in a PIL filed ten years back in 1996, which are reiterated by quoting the relevant extract from the said landmark Judgment.

The commitment, devotion and accountability of the police has to be only to the Rule of Law. The supervision and control has to be such that it ensures that the police serves the people without any regard, whatsoever, to the status and position of any person while investigating a crime or taking preventive measures. Its approach has to be service oriented, its role has to be defined so that in appropriate cases, where on account of acts of omission and commission of police, the Rule of Law becomes a casualty, the guilty Police Officers are brought to book and appropriate action taken without any delay.

None of the State Governments/Union Territories urged that any of the suggestion put forth by the petitioners and Solicitor General of India may not be accepted. Besides the report submitted to the Government of India by National Police Commission (1977-81), various other high powered Committees and Commissions have examined the issue of police reforms, viz. (i) National Human Rights Commission (ii) Law Commission (iii) Ribeiro Committee (iv) Padmanabhaiah Committee and (v) Malimath Committee on Reforms of Criminal Justice System. In addition to above, the Government of India in terms of Office Memorandum dated 20-9-2005 constituted a Committee comprising Shri Soli Sorabjee, former Attorney General and five others to draft a new Police Act. The Sorabjee Committee has prepared a draft outline for a new Police Act (9-9-2006). Despite strong expression of opinions by various Commissions, Committees and even a Home Minister of the country, the position has not improved as these opinions have remained only on paper, without any action. In

fact, the position has deteriorated further as can be seen from the report dated 31-5-2002 of the National Human Rights Commission.

Besides the Home Minister, all the Commissions and Committees above noted, have broadly come to the same conclusion on the issue of urgent need for police reforms. There is convergence of views on the need to have (a) State Security Commission at State level; (b) transparent procedure for the appointment of Police Chief and the desirability of giving him a minimum fixed tenure; (c) separation of investigation work from maintenance of law and order; and (d) a new Police Act which should reflect the democratic aspirations of the people. It was contended that a statutory State Security Commission with its recommendations binding on the Government should have been established long before. The apprehension expressed is that any Commission without giving its report binding effect would be ineffective.

There is no doubt that Sorabjee Committee Report and the new Act will receive due attention of the Central Government which may recommend to the State Governments to consider passing of State Acts on the suggested lines. It is expected that the State Governments would give it due consideration and would pass suitable legislations on recommended lines, the police being a State subject under the Constitution of India. However, the Supreme Court cannot wait further for the Governments to take suitable steps for police reforms. It is not possible or proper to leave this matter only with an expression of this hope and to await developments further. It is essential to lay down guidelines to be operative till the new legislation is enacted by the State Governments.

Having regard to (i) the gravity of the problem; (ii) the urgent need for preservation and strengthening of Rule of Law; (iii) pendency of even this petition for last over ten years; (iv) the fact that various Commissions and Committees have made recommendations on similar lines for introducing reforms in the police set-up in the country; and (v) total uncertainty as to when police reforms would be introduced, we think that there cannot be any further wait, and the stage has come for issue of appropriate directions for immediate compliance so as to be operative till such time a new model Police Act is prepared by the Central Government and/or the State Governments pass the requisite legislations. The quality of Criminal Justice System in the country, to a large extent, depends upon the working of the police force. Thus, having regard to the larger public interest, it is absolutely necessary to issue the requisite directions.

Article 32 read with Article 142 of the Constitution empowers this Court to issue such directions, as may be necessary for doing complete justice in any cause or matter. All authorities are mandated by Article 144 to act in aid of the orders passed by this Court. The decision in *Vineet Narain and Others Vs. Union of India (UOI)* and Another, , notes various decisions of this Court where guidelines and directions to be observed were issued in absence of legislation and implemented till legislatures pass appropriate legislations.

In discharge of the Supreme Court's constitutional duties and obligations having regard to the aforementioned position, the following directions are issued to the Central Government, State Governments and Union Territories for compliance till framing of the appropriate legislations. The said directions shall be complied with by the Central Government, State Governments or Union Territories, as the case may be, on or before 31-12-2006 so that the bodies afore-noted became operational on the onset of the new year. The Cabinet Secretary, Government of India and the Chief Secretaries of State Governments/Union Territories are directed to file affidavits of compliance by 3-1-2007.

The directions are as follows:

State Security Commission

The State Governments are directed to constitute a State Security Commission in every State (in the manner detailed herein) to ensure that the State Government does not exercise unwarranted influence or pressure on the State police and for laying down the broad policy guidelines so that the State police always acts according to the laws of the land and the Constitution of the country. This watchdog body shall be headed by the Chief Minister or Home Minister as Chairman and have the DGP of the State as its ex-officio Secretary. The other members of the Commission shall be chosen in such a manner that it is able to function independent of Government control. The functions of the State Security Commission would include laying down the broad policies and giving directions for the performance of the preventive tasks and service-oriented functions of the police, evaluation of the performance of the State Police and preparing a report thereon for being placed before the State legislature. The recommendation of this Commission shall be binding on the State Government.

Selection and Minimum Tenure of DGP:

The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission on grounds of conviction, incapacitation, etc., as detailed herein.

Minimum Tenure of I.G. of Police & other officers:

Police Officers on operational duties in the field like the Inspector General of Police in-charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge district and Station House Officer in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless

it is found necessary to remove them on grounds of conviction, incapacitation, etc., as detailed herein.

Separation of Investigation:

The investigating police shall be separated from the law and order police to ensure speedier investigation, better expertise and improved rapport with the people. It must, however, be ensured that there is full coordination between the two wings. The separation, to start with, may be effected in towns/urban areas which have a population of ten lakhs or more, and gradually extended to smaller towns/urban areas also.

Police Establishment Board:

There shall be a Police Establishment Board in each State which shall decide all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police. The State Government may interfere with decision of the Board in exceptional cases only after recording its reasons for doing so. The Board shall also be authorized to make appropriate recommendations to the State Government regarding the posting and transfers of officers of and above the rank of Superintendent of Police, and the Government is expected to give due weight to these recommendations and shall normally accept it. It shall also function as a forum of appeal for disposing of representations from officers of the rank of Superintendent of Police and above regarding their promotion/transfer/disciplinary proceedings or their being subjected to illegal or irregular orders and generally reviewing the functioning of the police in the State.

Police Complaints Authority:

There shall be a Police Complaints Authority at the district level to look into complaints against police officers of and up to the rank of Deputy Superintendent of Police. Similarly, there should be another Police Complaints Authority at the State level to look into complaints against officers of the rank of Superintendent of Police and above. The district level Authority may be headed by a retired District Judge while the State level Authority may be headed by a retired Judge of the High Court/Supreme Court. The State level Complaints Authority would take cognizance of only allegations of serious misconduct by the police personnel, which would include incidents involving death, grievous hurt or rape in police custody. The district level Complaints Authority would, apart from above cases, may also inquire into allegations of extortion, land/house grabbing or any incident involving serious abuse of authority. The recommendations of the Complaints Authority, both at the district and State levels, for any action, departmental or criminal, against a delinquent police officer shall be binding on the concerned authority.

National Security Commission:

The Central Government shall also set up a National Security Commission at the

Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organisations (CPOs), who should also be given a minimum tenure of two years. The Commission would also review from time to time measures to upgrade the effectiveness of these forces, improve the service conditions of its personnel, ensure that there is proper coordination between them and that the forces are generally utilized for the purposes they were raised and make recommendations in that behalf. The National Security Commission could be headed by the Union Home Minister and comprise heads of the CPOs and a couple of security experts as members with the Union Home Secretary as its Secretary.

Unfortunately the aforesaid directions of Hon"ble Supreme Court still remain largely not implemented. It is expected from the State of Rajasthan to complete the said process of Police reforms on urgent priority basis.

14. In S.I. Paras Kumar and Others Vs. S.I. Ram Charan and Others, decided on 12/4/2004, the Hon"ble Supreme Court, in a similar case held that,

Though the regular promotion could not be made by the DGP, he can definitely forge some methods u/s 12 of the Police Act so as to encourage efficient officers who did yeomen service on anti-terrorist front or who earned laurels for the department. The impugned ad hoc promotions could be treated as one such method to improve the efficiency of the police force by according special status to meritorious officers. Similarly, under the PPR, Rule 13.2-A, a subordinate (enrolled) police officer could be given next higher rank as local rank, in the interest of better functioning of the force. Such grant of a next higher rank is only an exercise of Section 12 powers of the Police Act by the IG/DGP so as to improve the efficiency of the force or for administrative convenience. At the same time, it cannot be treated as regular promotion under Chapter 13 of the PPR.

In the special circumstances of the present case, though the impugned promotions are not promotions under the Rules, the State came up with a proposal of the ORP scheme so as to deal with the out of turn/adhoc promotes. therefore, it is held that those officials who are promoted within the 10% limit of Rule 13.8(2) could be given regular promotion and those who are beyond the 10% limit of Rule 13.8(2) could be given ORP promotion which is designed to encourage and reward the good work of meritorious officers without excessively burdening the exchequer.

15. Had it been in other developed countries, the petitioner would have been decorated with various medals and promotion to next higher post. On a perusal of the relevant material on this aspect, it emerged on a Google search of internet as under:-

1. UNITED KINGDOM:

Police (Promotion) Regulations 1996 governs the promotion of Police Officers in England and Wales. Section 3 of the Act gives details of the written examination

one must qualify for a promotion. However the Police Officers for there act of bravery are rewarded by various Police Award ceremonies conducted around the year.

? Queen's Gallantry Medal (QGM): (see <http://www.historybytheyard.co.uk/gallantry.htm>): Patrick Kielty was awarded the QGM with PC Kemp in 1995 for a chase and arrest of armed robbers and a bar to the medal for dealing with and disarming a violent man who took a child and later a woman as a hostage.

? In 2007, Paul Humphrey, an Explosives Officer was awarded the QGM for manually dismantling an unstable car bomb parked outside a London night club, when a remote robot was likely to detonate the explosives.

? Queen's Police Medal (QPM): The Queen's Police Medal (QPM) is awarded to police officers in the United Kingdom and Commonwealth of Nations, for gallantry or distinguished service.

Northern Ireland:

Police Act has provision for rewarding the Police Officers in Northern Ireland. Section 13 of the Police Act, 2000 states that the Board may, on the recommendation of the Chief Constable, pay rewards for exceptional diligence or other specially meritorious conduct to Police Officers.

2. United States of America (USA)

New York Police Department (NYPD):

The New York City Police Department (NYPD or NYCPD), officially the City of New York Police Department, was established in 1845, and is the largest municipal police force in the United States, having primary responsibilities in law enforcement and investigation within the five boroughs of New York City.

Following medals are given as rewards for exemplary services in this Department:

(see <http://web.archive.org/web/20130730004518/http://www.beyondthelineofduty.com/Medals.html>)

? Medal for Valor: The Medal for Valor is awarded for Acts of outstanding personal bravery intelligently performed in the line of duty at imminent personal hazard to life under circumstances evincing a disregard of personal consequences.

? Medal of Honor: The Medal of Honor is awarded for individual acts of extraordinary bravery intelligently performed in the line of duty at imminent and personal danger to life. Specifically, the Department Medal of Honor is awarded for acts of gallantry and valor performed with knowledge of the risk involved, above and beyond the call of duty.

? Police Combat Cross: The Police Combat Cross is awarded for members who have successfully and intelligently performed an act of extraordinary heroism, while engaged in personal combat with an armed adversary under circumstances

of imminent personal hazard to life.

Los Angeles Police Department (LAPD):

The LAPD is the police department of the city of Los Angeles, California is the third-largest local law enforcement agency in the United States, after the New York City Police Department and the Chicago Police Department. The department presents a number of medals to its members for meritorious service. The medals that the LAPD awards to its officers are as follows:

? Medal of Valor: The Los Angeles Police Department Medal of Valor is the highest law enforcement medal awarded to officers by the Los Angeles Police Department. The Medal of Valor is an award for bravery, usually awarded to officers for individual acts of extraordinary bravery or heroism performed in the line of duty at extreme and life-threatening personal risk.

? Police Medal for Heroism: The Police Medal is an award for bravery, usually awarded to officers for individual acts of heroism in the line of duty, though not above and beyond the call of duty, as is required for the Medal of Valor.

? Police Star: The Police Star is an award for bravery, usually awarded to officers for performing with exceptional judgment and/or utilizing skillful tactics in order to defuse dangerous and stressful situations.

Incidences where promotions were granted to officers:

August 30, 2013-Police Commissioner Raymond W. Kelly has promoted three New York City detectives who were paralyzed and one who was blinded after being shot by assailants to the rank of Detective, in recognition of their enduring courage and service to the Department. Three of them prevented armed robberies in their respective areas where they were patrolling. (See http://www.nyc.gov/html/nypd/html/pr/pr_2013_08_30_detectives_promoted_who_overcame_injuries.shtml)

May 29, 2012-Three NYPD officers came under fire trying to save a pregnant woman and her 4 month old from a heavily armed ex-con in Brooklyn. NYPD Commissioner Ray Kelly promoted the three officers to the post of Detectives, who displayed tremendous courage under fire.

(See http://abclocal.go.com//story?section=news/local/new_york&id=8680770)

July 28, 2009-New York State Governor David A. Paterson bestowed Police Officer of the Year honors on Detectives Russel Timoshenko and Herman Yan for the heroism they exhibited on July 9, 2007, when the patrol partners were shot in Brooklyn's 71st Precinct by three men in a suspicious vehicle, whom the then-police officers had pulled over for stolen license plates. Officer Russel Timoshenko died of his injuries July 14 and was posthumously promoted to Detective later that month. Officer Yan also was promoted for his demonstration of bravery and quick action in the moments after the shooting, despite being wounded at close range in his arm and chest. See <http://www.nyc.gov/html/>

3. AUSTRALIA:

Victoria Police is the primary law enforcement agency of Victoria, Australia. It was formed in 1853. Recognition of the bravery and good conduct of Victoria Police employees is shown through the awarding of honours and decorations. Employees (including both sworn and unsworn personnel) are eligible to receive awards both as a part of the Australian Honours System and the internal Victoria Police awards system.

? Victoria Police Valour Award: The Victoria Police Valour Award (VA) is awarded to sworn police employees for a particular incident involving an act that displayed exceptional bravery in extremely perilous circumstances;

? Victoria Police Star: The Victoria Police Star is an award for employees killed or seriously injured, on or off duty;

? Victoria Police Medal for Excellence: Awarded to an employee/s who has/have demonstrated a consistent commitment to exceeding the organisational goals and priorities of Victoria Police;

? Australian Police Medal-The Australian Police Medal (APM) recognises distinguished service by a sworn police employee and is awarded on Australia Day and Queen's Birthday each year;

4. PHILLIPINES:

The Philippine Medal of Valor, is the highest military award given to members of the Armed Forces of the Philippines (AFP) as well as National Police of Philippines and allied military personnel. It is awarded by the President of the Philippines to military personnel of the Armed Forces of the Philippines, including recognized guerrilla forces. National Police Commission Philippines (NAPOLCOM) promoted 21 officers in February 2014 for exhibiting acts of Heroism and self sacrifice.

Four police officers were promoted on September 25, 2012 for there heroic deeds when they fought against six men carrying illegal weapons and arms. They were on patrol when they spotted a group of about six men who were carrying heavy firearms. (See <http://newsinfo.inquirer.net/277546/ncrpo-rewards-4-heroic-cops>)

Therefore, it can be said that Police Officers who have shown outstanding valour and bravery in the line of duty have been not only promoted by their Chief of staff but also have been honoured with decorations and medals. However promotion as per statutory provision is largely based on competitive exams in these countries. Therefore it is a matter of discretion in the hands of the head of the Police Department to consider any Police Officer's exemplary services for promotion.

16. Here in the present case, since the Director General of Police or the

Committee constituted by him have failed to touch the relevant aspects of the matter and considering the recommendations of the Superintendent of Police in a rather mechanical manner, have denied such "out of turn promotion" to the petitioner, even in the second round of consideration by them despite the directions of this Court in the first round of litigation, this Court sees no useful purpose to be served by remanding the case again to the respondents at this stage. The illustrious manner in which he discharged his duties in the year 2000-2001 have not been rewarded for long 14 years and the petitioner by now from the age of 30 years has grown upto 44 years and is still serving the same cadre of Sub-Inspector only. What motivation a Sub-Inspector of Police can have in these circumstances, if despite such courageous activities he cannot be suitably rewarded with an "out of turn promotion" for which the legislation took care to enact the said Rule in the form of Rule 28 quoted above.

17. There is no denial that the instances mentioned and discussed in the recommendations of the Superintendent of Police are but true. The fair and objective consideration of these instances and recommendations based thereon ought to have definitely resulted in an "out of turn promotion" to the petitioner under Rule 28 to the next higher post of Inspector as it satisfies the relevant criteria stipulated in the said Rule. When compared with the narration of facts and incidents for other persons in the said Office Note, this Court finds that the case of the petitioner stands on a far higher pedestal. The very fact that the petitioner was awarded several cash awards and Appreciation Certificates on various occasions, was itself enough to form a basis to give him the said "out of turn promotion" under Rule 28 of the Rules, instead of denying the same on this very ground treating them as sufficient substitutes.

18. Therefore, this Court is not inclined to uphold the impugned order Annex. 5 dtd. 26.7.2011 and in the considered opinion of this Court, the said order deserves to be quashed and the petitioner deserves to be given an "out of turn promotion" to the next higher post of Inspector from the date when such other persons were given such out of turn promotion on consideration of their cases under Rule 28 of the 1989 Rules. Vide order dtd. 19.2.2003 when one Ramanand Sharma was given such "out of turn promotion" even for arresting an accused in a murder case under Sections 302, 201 and 34 I.P.C. with reference to Case No. 506/2001, which compared with the various cited incidents qua the petitioners, was not such a great or outstanding work and the arrest of an accused in a murder case would stand far below the illustrious works done by the petitioner as narrated in the recommendations of the Superintendent of Police, Jodhpur (Rural).

19. Consequently, this writ petition is allowed and the impugned order Annex. 5 dtd. 26.7.2011 is quashed and the respondents are directed to give "out of turn promotion" to the petitioner to the next higher post of Inspector against the vacancies of the year 2006-2007 as claimed by the petitioner with all consequential benefits. No order as to costs. A copy of this order be sent to the

parties concerned forthwith.