
(2005) 12 RAJ CK 0003

In the Rajasthan High Court

Case No : Civil Writ Petition No. 2324 of 2005

Hanuwant Singh Bhati

APPELLANT

Vs

State of Rajasthan and Another

RESPONDENT

Date of Decision : 01-12-2005

Acts Referred:

Rajasthan Administrative Service Rules, 1954 — Rule 41

Citation : (2006) 1 RLW 1 : (2006) 1 WLC 618

Hon'ble Judges : Asok Parihar, J

Bench : Single Bench

Advocate : S.N. Kumawat, for the Appellant; B.L. Avasthai, Addl. GA, for the Respondent

Final Decision : Allowed

Judgement

Ashok Parihar, J.—This is yet another unfortunate case where a person has to seek protection of this Court against inaction and indifferent casual approach of the authorities concerned.

2. While the petitioner serving as Additional District Magistrate (In-charge of Law & Order), Jaipur City, Jaipur, there has been an encounter between the police and militants of Khalistan Liberation Force, an internationally banned group of terrorists, in the Model Town area of Jagatpura, Jaipur in the night of 25th/26th of February, 1995. One terrorist - Navneet Singh Kandia - was killed and other terrorists managed to escape from the spot. When the petitioner came to know about the incident he rushed to the spot immediately and supervised the search operation in which an empty leather briefcase was traced containing one car key with a paper slip attached thereto. Petitioner, at his own initiative, started thorough investigation of Transport Department records and traced out the Headquarters of international terrorists and all other secret hide outs in Jaipur in the mid-night without fearing of his life. It was found that many dreaded terrorists like Daya Singh Lahoria, Harnek Singh and others were operating terrorist activities from their secret hide outs in Vaishali Nagar area of Jaipur. On the basis

of such information collected by the petitioner, highly sensitive arms, ammunition, sophisticated explosives, huge amount of deadly RDX and TNT explosives, AK 56 rifles, loaded fire arms, magazines and ammunition in bulk quantity were recovered with the assistance of the police authorities. Such a huge recovery was made for the first time in the history of the State.

3. The tremendous work done by the petitioner had widely been appreciated by various authorities. Observations and recommendations made by the then District Magistrate in his letter dated 4.3.1995 are reproduced hereunder:-

A bare perusal of the report submitted by Shri Bhati would reveal that he has done a stupendous task full of risk and hazard even to his own life. He has displayed a high sense of duty while conducting the inquiry at his own initiative even at the risk of his own life. The sequence of events which unfurled during the inquiry one after another were deeply probed systematically and this led to the revealing of more and more information about terrorists which in turn led to the ultimate recovery of their main hide out where the most dangerous weapons, explosives, communication and remote control systems, ammunition, objectionable literature, etc. used to be stored by them. The ability with which all these; events were probed by going from place to place in the night itself speaks for itself. The clue in the shape of a key of a Motor-car could lead to the recovery of the most dangerous firearms, remote control and communication systems and the most hazardous explosive material is still beyond anybody's imagination but Shri Bhati has proved it that if one is sincere about his job, possesses devotion of the highest order and ability to perform with an inquisitive mind, he can make it. The search made by him and the recovery that ensued therefrom of the above objectionable articles including many documents and sensitive information must have later on helped the enquiring agencies to know more and more about the modus operandi of the terrorists in the State of Rajasthan and elsewhere. The District Administration is certainly, proud of him. The efforts made by Shri Bhati, therefore, deserves to be recognized by the State Government keeping in view its declared policy. This will motivate and encourage other officers in the administration to display similar courage, devotion and efficiency in general public interest. Since it has already become known that the efforts of these officers led to the recovery of dangerous weapons and hazardous explosives and many objectionable and suspicious documents, in my view, they need to be provided adequate security so that no undesirable element may cause damage to their life, families and property with a vengeance. It has become necessary particularly in the light of reports indicating that they have acted fast with revengeful attitude in the past.

I shall, therefore, be grateful if you could kindly consider to take up the matter with the State Government for providing Shri Bhati out of turn promotion, State Award and suitable Cash Reward.

4. The Divisional Commissioner, vide his letter dated 4.3.1995, also, while commending the services of the petitioner, made strong recommendations for

out of turn promotion to the petitioner. The relevant portion of the letter written by the Divisional Commissioner, as referred above, is also reproduced hereasunder:-

It would be apparent that this was possible only because of the rare initiative, imagination and courage beyond the call of normal duty displayed by Shri Hanuwant Singh Bhati, R.A.S. at the time when the local police had its hand full with the rescue of Shri Rajendra Mirdria, the encounter and its aftermath. In this Shri Hanuwant Singh Bhati, R.A.S. was ably assisted by Shri Rohit Mahajan, R.P.S., Additional SP, Shri Mahajan's case, I understand, has separately been commenced by the P.H.Q. To the State Government.

I would strongly recommend that the State Government should consider an out of turn promotion for Shri Hanuwant Singh Bhati, RAS as an exceptional and special case in relaxation of existing service Rules. For whatever be the reason, Rajasthan had become the base for terrorist activities and if the RAS Rules were to provide for out of promotion to such RAS officers who display exemplary courage in combating these activities it would go a long way to boost morale and check such activities as well.

5. The highest police authorities also made similar recommendations for the petitioner.

6. As usual, the file of the petitioner for out of turn promotion rolled over in the corridors of the Secretariat year after year with unending notings of the concerning officers one after another. It may be pertinent to mention here that the police officials involved in the same incident had already been granted suitable awards and even out of turn promotion by making necessary amendments in the relevant rules. The Special Secretary (Home), way back in the year 1995 itself, had observed that the petitioner had shown rare courage and initiative and he had acted beyond the call of normal duty. Whereas, all the police officers have acted in the discharge of their duties, the petitioner had done something which was not a part of his normal duty as a Magistrate. The action taken by the petitioner led not only to the discovery of the hide out of the terrorists but also provided vital clues about the extent and nature of the activities of the terrorists in Jaipur. The comments, words of appreciation and recommendations by various authorities in favour of the petitioner require no further observations since the facts speak for themselves.

7. Without processing and pursuing the matter any further, the most unfortunate part is that the authorities washed their hands just by awarding three advance grade increments to the petitioner, the monetary benefit of which comes to only Rs. 375/- in the salary per month. This is nothing but tossing a coin in the bowl of a beggar. The humiliation of the officer in such circumstances can be well imagined. Such pathetic sadistic approach of some of the higher authorities is highly deplorable. Instead of generating confidence among the officers such authorities only lose respect for themselves.

8. As per right of information, the petitioner has also placed on record copies of certain note sheets in regard to recommendations made in his favour even by the Department of Personnel. The Secretary, Department of Personnel, on 8.2.2005 has, however, made following observations:-

The Government has always been considerate in recognizing the gallantry acts of its employees to encourage efficiency and boost their morale. In the instant case the then Divisional Commissioner and Collector Jaipur as well as the then Addl. DGP and the DGP have already recommended for out of turn promotion. The Home Department has forwarded the case for further necessary action to DOP as the services of Shri Bhati are governed by DOP.

In case Shri Bhati is considered for granting out of turn promotion (Selection to Super-time Scale) treating it as an exceptional case and as per the announcement made by the Government on the basis of his extra-ordinary bravery and courageous acts on anti-terrorist front, this out of turn promotion would be a reward and that should not cause prejudice to anyone senior to him.

Incidentally, I am of the view that we should forge some methods to encourage efficient officers connected with dealing with law and order situations who do exceptional and extraordinary service and earn laurels to the department. Grant of out of turn promotion can be one such method. It would, therefore, be appropriate to formulate a policy for such out of turn promotion in respect of executive machinery of the State who are directly involved in handling grave law and order situation and who earns laurels to the department on the ground of showing exemplary bravery and courage on terrorist front or on the ground of outstanding and exceptional performance in other fields like sports/games with a view to encourage efficiency and boost morale of officers.

In the special circumstances of the instant case, file is submitted to take a view for granting out of turn promotion to Shri Bhati with retrospective effect from the date Shri Detha was promoted by Home Department, as reward for gallantry acts performed by him keeping him on the same pedestal on which Shri Detha has been placed. It will need amendment in the RAS Rules 1954 making provision for out of turn promotion for showing initiative, imagination and courage beyond the call of normal duty.

9. Referring to Rule 41 of the RAS Rules, 1954 in regard to powers to relax rules, the following recommendations also find place in the note-sheet:

There is no precedent of giving out of turn promotion in RAS cadre. Shri Bhati is a confirmed direct recruit RAS officer of 1980 batch who was given Selection Scale of RAS in 1991-92. He has completed 18 years of service on 07.12.1998. For granting him out-of-turn promotion in order to enable him for induction in Super-time scale of RAS (although he fulfills the requisite condition of three years in Selection Scale for granting him Super-time Scale) necessary provisions will have to be made in RAS rules as he does not complete 20 years of services for consideration of his case with effect from Shri Govind Detha being given out

of turn promotion.

10. Though, admitting all the facts, the reply filed on behalf of the respondents is even more pathetic, vague and evasive. No reasons, whatsoever, have been given as to why in spite of repeated recommendations made by various authorities at all levels, no recourse to Rule 41 of the Rules of 1954 has been taken for granting out of turn promotion to the petitioner. The petitioner had already been granted Selection Scale as per his turn in the year 1991-92, however, in view of his exceptional services, he ought to have been granted Super-time Scale of RAS while relaxing the rules as provided in Rule 41 of Rules of 1954 from the year 1995 itself. Though, there is no necessity for making amendments in the rules in this regard in view of powers under Rule 41 of the Rules of 1954 to grant relief to the petitioner, still, if the situation requires and as has been done in other service rules, necessary amendments can also be made for future in regard to giving out of turn promotion to the employees to encourage and appreciate their services.

11. There cannot be any doubt that the country is undergoing shadows of terrorism and this State has become the center of such activities from where operations throughout the country are being controlled. The State Government is expected not only to protect the public but civil authorities as well who handle such emergent situation. Such officers or the civil authorities are always to be encouraged, appreciated and duly rewarded for their exceptional courage to be shown by them under extreme circumstances. Having considered entire facts and circumstances, the inaction on the part of the concerning authorities cannot be appreciated in any manner.

12. Accordingly, the writ petition is allowed. The respondents are directed to consider the case of the petitioner also for out of turn promotion to Super-time Scale of RAS from the year 1995 after granting necessary relaxation as provided under Rule 41 of the Rules of 1954. Necessary consideration be made and decision be taken within thirty days from the date of receipt of certified copy of this order and consequential orders, if required, be passed within 30 days thereafter giving all financial benefits as well to the petitioner including arrears.