

Order

Shri Mandhir Singh, presently posted as AIG/SPU, submitted representation to Addl. Chief Secretary, Department of Home Affairs & Justice, Punjab on 28.02.2017, regarding fixation of seniority in the PPS cadre, on the basis of following points:-

- i) Punjab Public Service Commission, Patiala advertised one post of Deputy Superintendent of Police/Wireless in the year 1992, to be filled up in the Wireless Wing of Punjab Police. As per advertisement, only those candidates were eligible for this post, who were Engineer Graduate i.e. Bachelor of Engineer (Electronics) or its equivalent.
- ii) He was got selected for this post and was appointed as DSP/Wireless in the Wireless Wing of Police Department, Punjab vide appointment letter memo No.1/244/89-1H(I)/17841 dated 14.06.1993.

In his appointment letter it is mentioned in paragraph No. 3 that:-

"your services shall be governed by the Punjab Police Service Rules, 1959, as amended from time to time and other rules/orders of the State Government".

- iii) It is pertinent to mention here that in exercise of powers conferred by the Proviso to Article 309 of the Constitution of India and all other powers enabling him in this behalf, the Hon'ble Governor of Punjab made the Punjab Police Service Rules 1959, for regulating the recruitment and conditions of service of persons appointed to Punjab Police Service. These rules came into force w.e.f. 01.12.1959.

Under these service rules, DSPs of the entire Punjab Police Department form uniform cadre at state level. In other words, Punjab Police Service Rules, 1959 does not speak about any separation of cadres (i.e. PAP cadre, Intelligence cadre, District Police cadre, Wireless cadre) at the level of Deputy Superintendent of Police.

Under these rules, the minimum qualification for the post of DSP of the District Police has been prescribed graduation from any recognized university and having knowledge of both Hindi & Punjabi up to the Matriculation or its equivalent standard.

While filling up the post of DSP/Wireless in the Wireless Wing of Punjab Police, Punjab Public Service Commission, Patiala followed additional provision in the Punjab Police Service Rules, 1959 in this case was that the minimum educational qualification graduation in Engineer i.e. B.E. (Electronics) or its equivalent.

Therefore, it is clear that the services of DSPs of District Police and DSPs of Wireless Wing are governed under the same service rules i.e. Punjab Police Service Rules, 1959, although the qualification was different at the time of recruitment and form uniform cadre (PPS cadre).

- iv) His seniority was kept separate from the DSPs of District Police on the grounds that his mode of recruitment as DSP Wireless, was separate (with mandatory qualifications B.E. (Electronics)) or its equivalent whereas, the mandatory qualification for the post of DSPs of District Police was graduation in any subjects at the time of recruitment.

- v) That since the service rules are same for DSPs of District Police and DSPs of Wireless Wing, he submitted various representations to the Government with the request that his seniority may be fixed with the DSPs of District Police in PPS cadre.

On the basis of these representations & in response to various objections/comments sought by the Home Department, Punjab, the office of Director General of Police, Punjab vide memo No. 24042/Con-SA-6 dated 25.08.2006, No. 38707/Con-SA-6 dated 27.12.2006, No.38807/Con. SA-I(ii) dated 29.12.2006 & No. 7011/Con. SA-6, dated 27.02.2007 sent the following comments/recommendations to the Home Department, Punjab:-

- a) DSPs of Wireless Wing are governed under Punjab Police Service Rules, 1959. Sh. Mandhir Singh and Sh. Malwinder Singh were recruited as DSP/Wireless in the Wireless Wing as per the provisions of Punjab Police Service Rules, 1959 by the State Government. However, the only additional provision followed in their case was that of the minimum education qualification was B.E. (Electronics) or its equivalent. As per their appointment letters, their services are governed under the Punjab Police Service Rules, 1959. In absence of any other rules, there is no option but to concede the

7426
Dated 2/11/17

5740
21-11-17

DGP/Admn

12039/Con
03/11/17

21/11

21/11/17

12/11

12/11

H. b. Singh

5/11/17
SA-6(1)

claim of these officers that for all purposes, they are member of the PPS cadre, for the purpose of common seniority.

b) The functional duties and operational experience of the officials of Wireless Wing are quite similar to those of general line cadre (District Police). Under the Indian Police Service (Recruitment) Rules, 1954, recruitment to the service can be made by promotion of substantive members of a State Police Service. However, according to Rule 4(1) (b) of Indian Police Service (Recruitment), Rules, 1954, recruitment to the service against promotion quota shall be by promotion of substantive members of a State Police Service and definition of State Police Service under rule 2(g) (ii) of ibid rules is as under:-

"In all other cases, the principal police service of a State, a member of which normally holds charges of a sub-division of a district for purposes of police administration and includes any other duly constituted police service functioning in a State which is declared by the State Government to the equivalent thereto".

Thus to streamline the matters the Government has two options:-

i) Declare DSPs of Wireless Wing as equivalent to DSPs of Principal Police Service of State for purposes of induction into IPS.

Or

ii) Merge the cadre of Wireless Wing DSsP with the Principal Police Service of State at appropriate level.

On the basis of position explained above it was recommended that DSPs of Wireless Wing may be merged in the general cadre and combined seniority list be prepared. On the basis of this seniority list the DSPs of Wireless Wing as per their seniority would also be promoted in the IPS cadre. It was also recommended that eligible DSPs of Wireless Wing i.e. Sh. Ramesh Kumar No. 199/W, Sh. Sukhdev Singh No. 68/W and Sh. Mandhir Singh may be posted as Superintendent of Police against the available posts in the PPS Cadre (District Police).

vi) On the basis of above recommendations of DGP Punjab office, Home Department, Punjab forwarded the case for approval of merger of cadres and placement of eligible DSPs in the PPS cadre as SP; to the Hon'ble CM, Punjab. After examination of whole matter, the office of Hon'ble CM, Punjab endorsed comments on file that before merging these cadres, the seniority of the eligible officers of Wireless Wing be fixed in the PPS cadre, thereafter the case be sent for their placement as Superintendent of Police in PPS cadre.



vii) Upon this, Home Department, Punjab again asked the DGP Punjab to examine the case in person and send his comments. DGP Punjab himself examined the whole matter and endorsed the following comments on file:-

"I have perused the entire case. We have already moved the State Govt. on 25.08.2006 for taking a policy decision so that a proposal could be sent to the Govt. for allowing eligible DSPs Wireless to officiate as SPs. It was later suggested on 27.12.2006 that DSPs in Wireless Wing should be merged with the main cadre of general line DSPs and on posting as officiating SPs they would be accommodated in the general line post of Superintendent of Police. It is also pertinent to note that the GOs in both the wings are covered by the same Rules.

----- It would, therefore, be in the interest of natural justice to post DSPs Telecommunication as SPs in the general cadre at the level of SPs".

On the basis of above recommendations DGP Punjab sent recommendation to Home Department, Punjab that the eligible DSPs of Wireless Wing may be posted as SPs in the general cadre.

viii) Home Department, Punjab examined all the recommendations on record sent by DGP Punjab for merging the seniority of DSPs of Wireless Wing with DSPs of District Police (General line) under the provisions of Punjab Police Service Rules, 1959 (as applicable to the DSPs of Wireless Wing as well as DSP of District Police); PSH Punjab, agreeing with these recommendations further sent its recommendations to the Hon'ble CM, Punjab (the then Home Minister) for merging the cadres of DSPs of Wireless

Wing with DSPs of District Police, for the purpose of their joint seniority and placement in the PPS cadre. The same was approved by the Hon'ble CM, Punjab on 27.07.2007.

ix) That after getting approval from the then CM, Punjab, the following policy decision was taken:-

"Government agrees to allow eligible DSPs of Wireless Wing to place them as officiating Superintendent of Police by assigning their names at appropriate place in the common seniority within the General Cadre of DSPs".

(The above policy decision was taken on the basis of various recommendations/comments sent by O/o DGP, Punjab & observation given by the office of Hon'ble CM, Punjab so that joint seniority of DSPs of Wireless Wing as well as DSPs of District Police be prepared before the placement of eligible DSPs of Wireless Wing in the PPS cadre as officiating SPs)

x) On the basis of above policy decision taken, the proceedings of Departmental Promotion Committee constituted by DGP office were sent to Home Department, Punjab with the recommendations that Sh. Mandhir Singh DSP (Direct), Sh. Ramesh Kumar DSP No. 199/W and Sh. Sukhdev Singh DSP No. 68/W may be placed as Officiating Superintendent of Police in PPS cadre and as per Government orders the names of these officers have been placed at appropriate place in the revised tentative seniority list at Serial No.'s 73, 94 & 95 respectively.

xi) On the basis of above recommendations vide Home Department order No.1/111/2005-III(I)1417 dated 27.08.2007, all the above officers were placed as Officiating SP's in the PPS cadre .

xii) One Harjinder Singh No.J.115, the then DSP, Detective Kapurthala filed CWP No.17650 of 2007 in Hon'ble Punjab and Haryana High Court, Chandigarh and challenged the above said orders dated 27.08.2007.

In reply to above said CWP, Home Department, Punjab submitted in the Hon'ble Punjab and Haryana High Court that the services of DSP Mandhir Singh, DSP Ramesh Kumar, DSP Sukhdev Singh are governed under Punjab Police Services Rules, 1959 and they have been rightly promoted under this service rules in the PPS cadre.

At present, this CWP stands admitted.

xiii) After some time government substituted the contents of the policy decision taken on 06.08.2007 with the following contents:-

"Government agrees to allow posting of DSP's of wireless Wing as SP's in the General Cadre at the level of SPs."

As per information received under RTI act, the noting (Page no. 62) of the concerned file, Paragraph 5 states:

"Keeping in view the position explained in the foregoing paragraphs, and as recommended by the DGP, Punjab, office is of the opinion that DSPs/Telecommunications (Wireless) may be posted as SPs in the general cadre at the level of SPs."

The above paragraph means that keeping in view the number of recommendations sent by the O/o DGP Punjab & observation on record from the office of Hon'ble CM, Punjab, for merging the cadres of DSPs of Wireless Wing and DSPs of District Police for the purpose of their joint seniority, eligible DSPs of Wireless Wing may be posted as SPs in the general cadres. The mark given "X" on this paragraph was collectively approved by the Hon'ble CM, Punjab so that these DSPs of Wireless Wing not only be placed as SPs in the general cadre but also be given joint seniority in the PPS cadre.

The above substituted contents were misleading and having no approval of Hon'ble CM Punjab.

xiv) He represented to the Home Department vide representation dated 06.01.2009 and dated 01.10.2009, to fix his seniority keeping in view of policy decision taken at the time of placement as SP in PPS cadre and also requested that the substituted contents in the policy decisions are not based upon the recommendations sent by the DGP office & observation of the O/o Hon'ble CM, Punjab .

xv) On the directions of Hon'ble Punjab and Haryana High Court, Chandigarh the above representations were decided by the Home Department, Punjab vide order dated 21.07.2011, by way of passing speaking orders and rejected on the grounds that he was appointed as DSP/Wireless in the Wireless Wing of Punjab

24

24-6

Police with mandatory qualifications B.E. (electronics) whereas the qualification for the appointment of District Police is 'B.A.' as per Service Rule. Also since the contents of the policy decisions have been changed, on that basis the seniority cannot be assigned to him in the PPS cadre.

- xvi) The Governor of Punjab in exercise of powers conferred by proviso to article 309 of the constitution of India and other powers an enabling him in this behalf made rules by amending in Punjab Police Service Rules, 1959 (Notification dated 18.08.2010) wherein it was notified that District Police Cadre, Armed Police Cadre, Intelligence cadre and technical and Support service cadre (Wireless Wing) shall form separate cadres upto the rank of Inspectors and thereafter upon promotion all the DSPs will form uniform state cadre with joint seniority (single PPS cadre).
- xvii) Home Department issued seniority list of PPS cadres on 19.12.2011 wherein no officer of Wireless Wing was included in the seniority list.
- xviii) He again represented the Home Department, Punjab, on the basis of his appointment letter issued under the provisions of Punjab Police Service Rules, 1959 and amendment in these service rules (notification dated 18/08/2010), wherein the Government has declared the DSPs will form uniform cadre.
- xix) Home Department, Punjab vide order dated 07.05.2013 again rejected his representation in the light of earlier decision taken by it vide order dated 21.07.2011.
- xx) He filed CWP 15079 of 2013 in the Hon'ble Punjab and Haryana High Court for quashing above said orders dated 21.07.2011 & dated 07.05.2013 issued by the State Government. In reply to this CWP, the Home Department, Punjab has taken the stand that although Punjab Police Service Rules, 1959 are applicable to the DSPs of Wireless Wing as well as DSPs of District Police but since the minimum qualification for DSPs of Wireless Wing was graduation in Engineering i.e. B.E. (Electronics) or its equivalent, at the time of recruitment whereas the minimum qualification is graduation in case of DSPs of District Police at the time of recruitment, the seniority of DSPs of wireless wing & DSPs of District Police cannot be combined

After the arguments at a length, the case was admitted by Hon'ble Punjab & Haryana High Court, Chandigarh and is fixed for hearing during the May 2017.

- xxi) The main law points involved are:-
 - i) Whether the impugned orders for declining his claim for fixing his seniority in the common PPS cadre is legal, justified sustainable and in accordance with the Punjab Police Service Rules, 1959. Advantage of promotion and seniority is being given to the DSPs (Direct) of District Police, who are simply graduate whereas he is Engineer graduate and being denied the same advantages, although same service rule are applicable to both the sides.
 - ii) Under article 309 of Constitution of India, the Governor of Punjab made Punjab Police Service Rules, 1959 and thereafter amended Punjab Police Service Rules, 1959, for recruitment of DSPs and their service conditions. It is mentioned in his appointment letter that his services would also be governed under these service rules.

Whether the act and conduct of the Home Department, Punjab by not including him name in the seniority list of PPS officer cadre is discriminatory and violation of Article 309, Article 14 and Article 16 of the constitution of India?
 - iii) Whether his services are governed under the Punjab Police Service Rules, 1959 and the Home Department, Punjab and DGP Punjab are duty bound to prepare the seniority list in accordance with the Punjab Police Services Rules, 1959 after adhering to the principles of natural justice?
 - iv) Whether the contradictory stand taken in CWP No. 15079 of 2013 by the Home Department, Punjab misleading the Court?

Dr

M. B. Singh

In view of position explained in above paragraphs, it is again requested that his seniority may be fixed keeping in view Punjab Police Service Rules, 1959 as applicable on his services as per his appointment letter & amended Punjab Police Service Rules, 1959 dated 18.10.2010.

2. The above representation was examined in detail as per service rules and keeping in view the recommendation sent by the DGP office. Shri Mandhir Singh was also called in person in the office of then ACS(H), Punjab to present his views regarding above said representation. After thorough examination of whole matter, the Government took following policy decision vide Order No 4/27/2017-2H3/2017-18 dated 24-03-2017 :-

"Sh. Mandhir Singh, DSP working in Wireless Wing represented to this department for fixation of his seniority in light of amendment made in Punjab Police service rules 1959, vide notification No. GSR 28/Const./Art. 3009/Amd. (5)/2010 dated 18/08/2010. Regarding his claim he has been heard personally.

After his personal hearing, as per official record it has been found that there is no doubt that litigation in his respect is pending in the Hon'ble Punjab & Haryana High Court. But nothing precludes the State Government from giving relief to an officer which is otherwise permissible under the Statutory Rules.

The officer has been recruited under the Punjab Police Service Rules, 1959, a perusal of which reveals that the Wireless Wing is not treated as a separate cadre thereunder. Now that the so-called separate Wireless Wing of DSPs stands merged with the General line of DSPs, vide Punjab Government Notification dated 18/08/2010, it stands to reason that the seniority of Sh. Mandhir Singh ought to have been fixed in the combined seniority list of DSPs with effect from the date he joined as DSP, consequent to his recommendation by PPSC. This is also codified by Rule 8 of the Punjab Civil Services (General common conditions of service) Rules, 1994 referred to in paragraph 10 of the aforesaid notification dated 18/08/2010. In any case, the executive instructions dated 18/08/2010, which purport to operative prospectively, cannot take away the right of seniority vested in Sh. Mandhir Singh by virtue of the aforesaid Statutory Rules of 1994.

Under these circumstances, Sh. Mandhir Singh and his other similarly placed colleagues in the erstwhile Wireless Wing of DSPs are granted seniority with effect from their joining as DSP along with all other consequential benefits.

The Government may review this order on the outcome of orders of court cases pending in the various courts." C.M No. 4822 of 2017 filed by Sh. Mandhir Singh has been allowed and the C.W.P No. 15079 of 2013 is dismissed as withdrawn by the Hon'ble Punjab & Haryana High Court Chandigarh vide order dated 07.0-4.2017

3. In view of above orders issued by the State Government, two officers namely Shri Harcharn Singh Bhullar, IPS & Shri Naveen Saini, IPS submitted objections vide representation dated 26/04/2017 and 20/04/2017 respectively. The comments were sought on these representations from the DGP office vide Home Department memo dated 28/04/2017.

On the basis of service rules and other instructions, the representations were examined and Para wise comments were sent to the Government vide DGP office memo No. 6379/Con.SA-6 dated 24/05/2017.

4. DGP office vide memo No. 6903-99/Con.SA-6I dated 02/06/2017 prepared proposed seniority list by fixing the slots of DSPs of Wireless Wing at appropriate place, in the seniority list of PPS Cadre and circulated to all concerned officers of Punjab Police officers and uploaded the same on Punjab Police Web Sites www.punjabpolice.gov.in. Vide above said letter it was requested that if any officer has any objection/objections against the above said proposed seniority list, the same may be submitted within 15 days from the date of issue of this letter.

In view of above proposed seniority list the following officers submitted their objections:-

1. Sh. Mandeep Singh, SSP Sangrur
2. Sh. Varinder Pal Singh, AIG/SSOC, SAS Nagar.
3. Sh. Rakesh Kaushal, Commandant, 3rd CDO.
4. Sh. Ashok Bath, AIG/Training.
5. Sh. Narinder Bhargav, Commandant, 3rd IRB.
6. Sh. Ajay Maluja, AIG/CI-Bathinda.
7. Sh. Gurdial Singh, PPS, AIG/CID Zonal Ludhiana.
8. Sh. Alam Vijay Singh, DSP City-1, SAS Nagar.



9. Sh. Naveen Saini, IPS, AIG/Admn./BOI.
10. Sh. Sukhminder Singh, PPS AIG/STF
11. Sh. Snehdeep Sharma, PPS AIG/STF.
12. Dr. Richa Agnihotri, PPS.
13. Sh. Balwinder Singh, Commandant 13 Battalion PAP.
14. Sh. Gursharandeep Singh, Commandant 82nd Battalion PAP.
15. Sh. Navneet Singh Mahal, PPS.
16. Sh. Sameer Verma, PPS.
17. Sh. Jaskeerat Singh Ahir.
18. Sh. Harcharan Singh Bhullar, IPS.

Based upon Service Rules and other instructions, the objections raised were examined and Para wise comments were prepared and sent to the Home Department vide DGP office Memo No. 10453/Con. SA-6, dated 07-07-2017.

5. The Home Department vide Memo No. 4/27/2017-2G3/4709 dated 28/08/2017, called all the above officers for personnel hearing in view of objections submitted by them, on 06/09/2017 on 3.00 P.M. at Punjab Bhawan, Chandigarh. In addition to above, the officers from Wireless Wing namely Shri Mandhir Singh, Shri Malwinder Singh, Shri. Vipin Chaduary, Shri. Sukhdev Singh were also called to present their views.

The objections raised by concerned officers were taken on record and examined as per Law/Service Rules. At the same time comments received from DGP, Punjab office on the representation were also examined and concluded that

1. ਜਨਰਲ ਕਾਡਰ ਦੇ ਅਧਿਕਾਰੀਆਂ ਨੇ ਸੁਣਵਾਈ ਦੌਰਾਨ ਇਹ ਇਤਰਾਜ਼ ਉਠਾਇਆ ਕਿ ਵਾਇਰਲੈਸ ਵਿੰਗ ਦੇ ਅਧਿਕਾਰੀਆਂ ਨੂੰ ਜਨਰਲ ਕਾਡਰ ਵਿੱਚ ਮਰਜ਼ ਕਰਨ ਸਬੰਧੀ ਸਰਕਾਰ ਵਲੋਂ ਹੁਕਮ ਪਾਸ ਕਰਨ ਉਪਰੰਤ ਉਹਨਾਂ ਨੂੰ ਨਿੱਜੀ ਸੁਣਵਾਈ ਦੇਣ ਦੀ ਕੋਈ ਉਚਿਤਤਾ ਨਹੀਂ ਬਣਦੀ ਹੈ, ਸਗੋਂ ਅਜਿਹਾ ਮਿਤੀ 24/03/2017 ਦੇ ਹੁਕਮ ਪਾਸ ਕਰਨ ਤੋਂ ਪਹਿਲਾਂ ਕਰਨਾ ਬਣਦਾ ਸੀ। ਇਸ ਸਟੇਜ ਤੇ ਮਿਤੀ 24/03/2017 ਦੇ ਹੁਕਮਾਂ ਰਾਹੀਂ ਪ੍ਰਭਾਵਿਤ ਧਿਰ ਨੂੰ ਸੁਣਨ ਦਾ ਕੋਈ ਮਤਲਬ ਨਹੀਂ ਹੈ।

ਇਸ ਬਾਬਤ ਮੇਰੀ ਰਾਏ ਇਹ ਹੈ ਕਿ ਅਜੇ ਤੱਕ wireless wing ਦੇ officers ਨੂੰ seniority ਸਬੰਧੀ ਕੋਈ benefit ਨਹੀਂ ਦਿੱਤਾ ਗਿਆ ਹੈ। ਜੇ ਹੁਕਮ ਮਿਤੀ 24/03/2017 ਨੂੰ ਪਾਸ ਕੀਤੇ ਗਏ ਹਨ, ਉਹ ਸਰਵਿਸ ਰੂਲਾਂ ਅਨੁਸਾਰ ਇਕ ਪਾਲਿਸੀ ਡਿਸੀਜ਼ਨ ਹੈ ਜਿਸ ਰਾਹੀਂ ਵਾਇਰਲੈਸ ਵਿੰਗ ਦੇ ਡੀ.ਐਸ.ਪੀਜ਼. ਦੀ ਸੀਨੀਅਰਤਾ ਪੀ.ਪੀ.ਐਸ. ਕਾਡਰ ਵਿੱਚ ਨਿਰਧਾਰਤ ਕਰਨੀ ਹੈ। DGP office ਨੇ 24/03/2017 ਦੇ ਹੁਕਮਾਂ ਦੇ ਮੁਤਾਬਿਕ ਵਾਇਰਲੈਸ ਵਿੰਗ ਦੇ ਡੀ.ਐਸ.ਪੀਜ਼. ਕਾਡਰ ਵਿਚ ਸਾਮਲ ਕਰਦਿਆਂ, proposed seniority list circulate ਕਰਕੇ ਸਮੂਹ ਲਾਹੇਵੰਦਾ ਤੋਂ ਇਤਰਾਜ਼ ਮੰਗੇ। ਇਸ ਉਪਰੰਤ ਆਏ ਇਤਰਾਜ਼ਾਂ ਤੇ ਪੈਰਵਾਈਜ਼ ਕੁਮੈਂਟਸ ਪ੍ਰਾਪਤ ਕਰਨ ਉਪਰੰਤ ਇਸ ਦਫਤਰ ਵਲੋਂ ਸੁਣਵਾਈ ਲਈ ਬੁਲਾਇਆ ਗਿਆ ਅਤੇ ਉਨ੍ਹਾਂ ਦੇ ਇਤਰਾਜ਼ ਸੁਣੇ ਗਏ। ਇਹੋ ਜਿਹੀ ਸਥਿਤੀ ਵਿਚ ਇਹ ਕਹਿਣਾ ਕਿ ਇਹ exercise ਇੱਕ eye wash ਹੈ, ਉਚਿਤ ਨਹੀਂ ਕਿਉਂਕਿ ਹਰ ਇਤਰਾਜ਼ਕਰਤਾ ਨੂੰ full opportunity of hearing ਦਿਤੀ ਗਈ ਹੈ। Administratively ਮੇਰੇ ਮੁਤਾਬਕ ਇਹ ਇਤਰਾਜ਼ valid ਨਹੀਂ ਹੈ।

2. ਜਨਰਲ ਕਾਡਰ ਦੇ ਅਧਿਕਾਰੀਆਂ ਵਲੋਂ ਇਹ ਵੀ ਇਤਰਾਜ਼ ਉਠਾਇਆ ਗਿਆ ਹੈ ਕਿ ਸੀਨੀਅਰਤਾ ਸਬੰਧੀ ਵੱਖ ਵੱਖ ਕੋਰਟ ਕੇਸਾਂ ਵਿਚ ਅਦਾਲਤ ਦੇ ਅੰਤਿਮ ਹੁਕਮ ਉਡੀਕਣੇ ਚਾਹੀਦੇ ਸਨ ਅਤੇ ਇਸ ਦੇ ਕੇਸ ਦੇ ਨਿਪਟਾਰੇ ਵਿੱਚ ਕਾਹਲ ਨਹੀਂ ਸੀ ਕਰਨੀ ਚਾਹੀਦੀ।

ਇਸ ਬਾਰੇ ਮੇਰੀ ਰਾਏ ਹੈ ਕਿ ਰਿਕਾਰਡ ਮੁਤਾਬਿਕ ਕਿਸੇ ਵੀ ਮਾਨਯੋਗ ਅਦਾਲਤ ਵਲੋਂ ਕਿਸੇ ਵੀ ਕੇਸ ਵਿਚ, ਪੀ.ਪੀ.ਐਸ. ਕਾਡਰ ਦੇ ਅਧਿਕਾਰੀਆਂ ਦੀ ਸੀਨੀਅਰਤਾ ਫਿਕਸ ਕਰਨ ਸਬੰਧੀ ਕਿਸੇ ਕਿਸਮ ਦੇ ਸਟੇਅ ਦੇ ਹੁਕਮ ਪਾਸ ਨਹੀਂ ਕੀਤੇ ਹੋਏ ਹਨ। ਇਸ ਲਈ ਮੈਂ ਇਹ ਸਮਝਦਾ ਹਾਂ ਕਿ ਪ੍ਰਬੰਧਕੀ ਤੌਰ ਤੇ ACS(H) ਮਿਤੀ 24/03/2017 ਦੇ ਹੁਕਮ ਪਾਸ ਕਰ ਸਕਦੇ ਸਨ ਜੋ ਕਿ ਇਕ ਪਾਲਿਸੀ ਡਿਸੀਜ਼ਨ ਸੀ ਅਤੇ DGP ਪੰਜਾਬ ਉਨ੍ਹਾਂ ਹੁਕਮਾਂ ਦੇ basis ਤੇ proposed revised seniority list circulate ਕਰਕੇ, ਇਤਰਾਜ਼ ਮੰਗ ਸਕਦੇ ਸਨ। ਇਸ ਲਈ ਜਨਰਲ ਕਾਡਰ ਦੇ ਅਧਿਕਾਰੀਆਂ ਦਾ ਇਹ objection service Rules ਅਨੁਸਾਰ valid ਨਹੀਂ ਹੈ।

3. ਜਨਰਲ ਕਾਡਰ ਦੇ ਅਧਿਕਾਰੀਆਂ ਵਲੋਂ ਇਹ ਇਤਰਾਜ਼ ਉਠਾਇਆ ਗਿਆ ਹੈ ਕਿ ਵਾਇਰਲੈਸ ਵਿੰਗ ਦੇ ਅਧਿਕਾਰੀਆਂ ਨੂੰ ਜਨਰਲ ਕਾਡਰ ਦੇ ਵਿਚ ਮਰਜ਼ ਨਹੀਂ ਕੀਤਾ ਜਾ ਸਕਦਾ ਹੈ।

[Handwritten signature]

M-6 [Handwritten signature]

ਇਸ ਸੰਬੰਧ ਵਿੱਚ ਇਹ ਮੈਂ ਸਮਝਦਾ ਹਾਂ ਕਿ administrative position ਇਹ ਹੈ ਕਿ ਪੰਜਾਬ ਪੁਲਿਸ ਸਰਵਿਸ ਰੂਲ 1959 ਅਧੀਨ ਡੀ.ਐਸ.ਪੀ.ਜ਼. ਸਟੇਟ ਪੱਧਰ ਤੇ ਇਕ ਹੀ ਕਾਡਰ ਹੈ। ਸ਼੍ਰੀ ਮਨਧੀਰ ਸਿੰਘ ਅਤੇ ਸ਼੍ਰੀ ਮਾਲਵਿੰਦਰ ਸਿੰਘ ਵਾਇਰਲੈਸ ਵਿੰਗ ਵਿੱਚ ਸਿੱਧੇ ਤੌਰ ਤੇ (Direct Recruitment) ਭਰਤੀ ਕੀਤੇ ਗਏ ਸਨ। ਉਨ੍ਹਾਂ ਦੇ ਨਿਯੁਕਤੀ ਪੱਤਰਾਂ ਵਿੱਚ ਇਹ ਸਪੱਸ਼ਟ ਲਿਖਿਆ ਹੈ ਕਿ ਉਨ੍ਹਾਂ ਦੀਆਂ ਸੇਵਾਵਾਂ ਪੰਜਾਬ ਪੁਲਿਸ ਸਰਵਿਸ ਰੂਲਜ਼, 1959 ਅਧੀਨ ਗਵਰਨ ਹੋਣਗੀਆਂ। ਇਸ ਲਈ ਉਨ੍ਹਾਂ ਦੀ ਸੀਨੀਅਰਤਾ ਦੀ ਪੀ.ਪੀ.ਐਸ. ਕਾਡਰ ਵਿੱਚ ਇਸ ਮਹਿਕਮੇ ਵਿੱਚ ਜੁਆਇਨਿੰਗ ਦੀ ਮਿਤੀ ਤੋਂ ਨਿਰਧਾਰਤ ਕਰਨੀ ਬਣਦੀ ਹੈ। ਕਿਉਂਕਿ ਇਨ੍ਹਾਂ ਸਰਵਿਸ ਰੂਲਜ਼ ਵਿੱਚ ਵਾਇਰਲੈਸ ਵਿੰਗ ਵੱਖਰਾ ਕਾਡਰ ਨਹੀਂ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਅਮੈਂਡਮੈਂਟ ਆਫ ਪੰਜਾਬ ਪੁਲਿਸ ਸਰਵਿਸ ਵਿੱਚ ਵਾਇਰਲੈਸ ਵਿੰਗ ਵੱਖਰਾ ਕਾਡਰ ਨਹੀਂ ਹੈ। ਇਸ ਤੋਂ ਇਲਾਵਾ ਅਮੈਂਡਮੈਂਟ ਆਫ ਪੰਜਾਬ ਪੁਲਿਸ ਸਰਵਿਸ ਰੂਲਜ਼ 2010 ਰਾਹੀਂ ਸਪੱਸ਼ਟ ਕਰ ਦਿਤਾ ਗਿਆ ਹੈ ਕਿ ਡੀ.ਐਸ.ਪੀ. ਕਾਡਰ ਵਿੱਚ 20% ਸਿੱਧੇ ਤੌਰ ਤੇ ਭਰਤੀ ਕੀਤੇ ਜਾਣਗੇ (ਸਮੇਤ ਵਾਇਰਲੈਸ ਵਿੰਗ ਦੇ ਡੀ.ਐਸ.ਪੀ.) ਅਤੇ 8% ਆਫ 80% ਦਾ ਕੋਟਾ ਵਾਇਰਲੈਸ ਵਿੰਗ ਦੇ ਇੰਸਪੈਕਟਰਾਂ ਨੂੰ ਤਰੱਕੀ ਉਪਰੰਤ ਕਾਡਰ ਵਿੱਚ ਆਉਣ ਲਈ ਨਿਸ਼ਚਿਤ ਹੈ। ਇਸ ਲਈ ਜਨਰਲ ਕਾਡਰ ਦੇ ਅਧਿਕਾਰੀਆਂ ਦਾ ਉਕਤ ਉਜਰ ਠੀਕ ਨਹੀਂ ਹੈ ਕਿ ਵਾਇਰਲੈਸ ਵਿੰਗ ਦੇ ਅਧਿਕਾਰੀਆਂ ਨੂੰ ਸਰਵਿਸ ਰੂਲਜ਼ ਦੇ ਅਧਾਰ ਤੇ ਜਨਰਲ ਕਾਡਰ ਵਿੱਚ ਸ਼ਾਮਿਲ ਨਹੀਂ ਕੀਤਾ ਜਾ ਸਕਦਾ।

4. Sh. Mandhir Singh was appointed as DSP/wireless in the wireless wing Police Department, Punjab vide appointment letter memo no. 1/244/89-1H(1)/17841, dated 14.6.1993. In this appointment letter it was mentioned that "your services shall be governed by the Punjab Police Service Rules, 1959, as amended from time to time and other rules/orders of the State Government". It is pertinent to mention here that in exercise of powers conferred by the Provision to Article 309 of the Constitution of India and all other power enabling him in this behalf, the Hon'ble Governor of Punjab made the Punjab Police Services Rules 1959, for regulating the recruitment and conditions of service of persons appointed to Punjab Police Service. These rules came into force w.e.f. 01/12/1959. Under these service Rules, DSPs of the entire Punjab Police Department form uniform cadre at state level. In other words, Punjab Police Services Rules, 1959 does not speak about any separation of cadres i.e. (P.A.P. cadre, Intelligence cadre, District Police cadre, Wireless Cadre) at the level of Deputy Superintendent of Police. Under these rules, the minimum qualification for the post of DSP of District Police has been prescribed graduation from any recognized university and

having knowledge of both Hindi & Punjabi up to the Matriculation or its equivalent standard. While filling up the post of DSP/Wireless in the Wireless Wing of Punjab Police, Punjab Public Service Commission Patiala followed Additional Provisions in the Punjab Police Service Rules, 1959, in this case, minimum educational qualification were graduation in Engineering i.e. B.E (Electronics) or its equivalent. Therefore it is clear that the services of DSPs of District Police and DSPs of Wireless wing were governed under the same service rules i.e. Punjab Police Service Rules, 1959, although the qualification was different at the time of recruitment and form uniform cadre(PPS cadre). In view of the above discussed facts and Rules relating to this case the objections raised against the proposed tentative seniority are devoid of any merits and are hereby rejected. The Government may review this order on the outcome of orders of court cases pending in the various courts".

Therefore, the seniority of following DSPs of Wireless Wing is fixed in PPS Cadre in seniority circulated vide order No. 8/435/2011-1H3/3727-29, dated 19.12.2011

Sr. No.	Name of the officer S/Sh.	Date of Birth	Date of joining/promotion as DSP	Date of retirement
453-A	Malvinder Singh Sidhu, PPS	13-03-1966	09-05-1992 (recruited as DSP)	31.03.2024
468-A	Mandhir Singh, PPS	02-12-1969	19-07-1993 (recruited as DSP)	31.12.2027

Similarly, the seniority of following DSPs of Wireless Wing is fixed in PPS Cadre in the seniority circulated vide order No. 8/435/2011-3H3/278, dated 29.01.2013:-

Sr. No.	Name of the officer S/Sh.	Date of Birth	Date of joining/promotion as	Date of retirement
---------	---------------------------	---------------	------------------------------	--------------------

M. 6

			DSP	
148-A	Sukhdev Singh PPS No. 68/w	15/11/1960	18/03/1993	30.11.2018
334-A	Vipin Choudhary, PPS No. 67/W	17/08/1965	05/04/1995	31.08.2023

Dated, Chandigarh:

(Nirmaljit Singh Kalsi) IAS
Additional Chief Secretary to Government of Punjab
Deptt. of Home Affairs & Justice and Jails.

Endst.No.4/27/2017-2H3/ 5201

Dated, Chandigarh: 1/11/17

✓ A copy of the above order is forwarded to The Director General of Police, Punjab, Chandigarh with their reference letter No.17671/ਬੁਫੀਆ ਗਸ-5, dated 26. 10.2017 for information and necessary action.

[Signature]
Additional Secretary Home

Endst.No.4/27/2017-2H3/

Dated, Chandigarh:

A copy of the above said orders is forwarded to all the concerned officers through The Director General of Police, Punjab, Chandigarh, under intimation to Government.

[Signature]
Additional Secretary Home

The Director General of Police, Pb.
(Secret Section-2)

Endst. No.

18171-76
/SA-6(1), dated Chg. the: *12-11-77*

A copy is forwarded to the following for information and necessary action:-

1. Director General of Police, IT & T, Pb., Chg.
- ✓ 2. All concerned officers.
3. Supdt., Secret Section-1 Br., CPO.
4. Supdt., Pay Fixation Br., CPO.
5. Supdt., Confidential Br., CPO.
6. Incharge, Punjab Police, Website, Hqr., Chg.

[Signature]
for Director General of Police, Pb.