

Before J.S. Narang, J

BACHAN SINGH RANDHAWA, DSP & OTHERS—*Petittoners*

versus

STATE OF PUNJAB & OTHERS—*Respondents*

CWP No. 1386 of 1996

20th August, 2001

Constitution of India, 1950—Art. 226—Punjab Police Rules, 1934—Rls. 13.1, 13.2A, 13.10 13,15 & 13.16—Punjab Police Service Rules, 1959—Rls. 2,5,6 & 14—Fortuitous/out of turn promotions to the rank of DSP/SP—Grant of ORP/local rank—DGP making such promotions ignoring the claims of seniors in utter violation of rules—only State Govt. competent to issue orders of promotion in respect of Gazetted rank—DGP has no power to confer ranks of DSP/SP—Rl. 13.2A entitles the IGP/DGP to grant local rank to a non-Gazetted Officer for six months at a times with a condition to give reasons for granting the same—No reasons given for continuing promotions beyond six months—Such orders passed by the DGP without having any authority cannot be accepted as legal orders—Writ allowed while directing the State Govt. to withdraw the ORP ranks & promotions and the same be made in accordance with rules.

Held, that the stand of the respondents that by virtue of rule 13.2A of the rules Inspector General of Police/Director General of Police is entitled to give local ranks to the officer and that according such rank does not amount to promotion. The perusal of the rule envisages such authority in favour of I.G/DGP. But the said rule enjoins a condition in this regard that the reasons shall have to be given for giving such local rank and that the said rank cannot be given beyond six months at a time. If extension in such rank has to be given again reasons for such extension shall have to be disclosed in the order. The rule is silent as to how many times such extension can be granted but the basic ingredient remains the same that the reasons have to be spelt out for each such successive extension. In the case at hand, neither the petitioner nor the respondents including the official respondents have been able to bring on record the orders passed in this regard.

(Para 28)

Further held, that the authority of Government has been completely ignored and at that relevant time the orders are shown to have been passed by the then Director General of Police. Such orders cannot be accepted as legal orders and the same can be certainly termed the orders having been passed without any authority.

(Para 31)

H.S. Mann, Advocate for the petitioners

B.S. Sewak, AAG. Punjab for the State.

Rajiv Atma Ram, Sr. Advocate with Madhu Dayal, Adv. for respondents No. 13, 27, 32 and 34.

JUDGMENT

J.S. Narang, J.

(1) This judgment would dispose of three writ petitions bearing No. 8354, 9648 and 1386 of 1996, as common question of law and fact are involved in these cases. The facts are being taken from CWP No. 1386 of 1996.

(2) The petitioners joined police force in the State of Punjab either in the rank of Assistant Sub Inspector or constables and earned promotions up to the ranks the detail of which has been provided in a tabulated form,—*vide* Annexures P5 and P6. It is also averred that some of them have been awarded Police Medals for meritorious services rendered by them. It is also contended that some of them had also suffered at the hands of terrorists and that in their rank and file they had also fought and actively participated in the encounters with the dreaded terrorists. It is also averred that some of the petitioners had been given the commendation certificate with cash award of Rs. 1,50,000. Thus, it cannot be said that the petitioners in any manner did not act without any fear or favour and were forthright in meeting any kind of challenge given by the terrorists at that time.

(3) Unfortunately, the respondents who happened to be the favourites of the higher ranks and especially the then Director General of Police, Punjab, were given out of turn promotions in utter violation of the rules and in some cases without the authority having been

vested in Director General of Police. Such orders have been passed in utter violation of the principles enshrined in the Punjab Police Rules and totally ignoring the rule of seniority tempered with merit. Reliance has been placed upon some of the rules which specifically deal with the promotion from one rank to another i.e. rule 13.1 and also the rule under which an officer has to be brought into list "E" i.e. rule 13.10, List-F. Promotions to Inspector i.e. rules 13.15 and 13.16 and reference has also been made where the power of relaxation has been conferred upon the requisite authority i.e. Rule 13.21. of Punjab Police Rules, 1934 (hereinafter referred to as "the Rules") It shall be apposite to notice these rules which read as under

13.1 Promotion from one rank to another :-

- (1) Promotion from one rank to another, and from one grade to another in the same rank shall be made by selection tempered by seniority. Efficiency and honesty shall be the main factors governing selection. Specific qualifications, whether in the nature of training courses passed or practical experience, shall be carefully considered in each case. When the qualifications of two officer are otherwise equal, the senior shall be promoted. This rule does not affect increments within a time-scale.
- (2) Under the present constitution of the police force no lower subordinate will ordinarily be entrusted with the independent conduct of investigation or the independent charge of a police station or similar unit. It is necessary, therefore, that well educated constables, having the attributes necessary for bearing the responsibilities of upper subordinate rank, should accelerated promotion so as to reach that rank as soon as they have passed the courses prescribed for, and been tested and given practical training in, the ranks of constable and head constable.
- (3) For the purpose of regulating promotion amongst enrolled officers six promotion lists—A,B,C,D, E and F will be maintained.

Lists A,B,C, and D shall be maintained in each district as prescribed in rules 13.6, 13.7, 13.8 and 13.9 and will regulate promotion to the selection grade of constables

and to the ranks of head constables and Assistant Sub Inspector. List E shall be maintained in the office of Deputy Inspectors-General as prescribed in sub-rule 13.10(1) and will regulate promotion to the rank of Sub Inspector. List F shall be maintained in the office of the Inspector General as prescribed in sub-rule 13.15 (1) and will regulate promotion to the rank of Inspector.

Entry in or removal from A,B,C, D or E list shall be recorded in the order book and in the character roll of the police officer concerned. These lists are nominal rolls of those officers whose admission to them has been authorized. No actual selection shall be made without careful examination of character rolls.

“Provided that five per cent of such promotions may be made from amongst the members of the Police Force, who achieve outstanding distinction in sports field at All India Level or International Level if they are otherwise eligible for promotion but for seniority”.

13.10. List ‘E’ : Selection for promotion course for A.S.Is. Promotion to the rank of Sub Inspector :—

(1) List ‘E’ shall be maintained for promotion to the rank of Sub Inspector in two parts in Form No. 13.10 in each range. The names of Assistant Sub Inspectors who qualify the promotion course for Assistant Sub Inspectors at Police Training College shall be entered in part-I of the said List ‘E’. While entering the names in this list shall maintain their seniority *inter se*. The names of the outstanding Assistant Sub Inspectors who have not qualified the course mentioned above but otherwise are of exceptional merit and are considered suitable, may, with the approval of the Inspector General of Police, be entered in part-II of List ‘E’ provided they are not below the age of forty-five years.

Provided further that not more than ten per cent of the posts of Sub Inspectors (inclusive of temporary and permanent posts) shall not any time contain more than two per cent of cadre strength of the Sub Inspectors in the range.

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- (2) No. Assistant Sub Inspector shall be eligible for admission to the promotion course for Assistant Sub Inspectors at the Police College, unless—
- (i) he has been confirmed as Assistant Sub-Inspector :
 - (ii) he is below forty-five years on the date of commencement of the next course; and
 - (iii) he, in the case of promotee has completed four years service after passing the promotion course for Head Constables and in the case of direct recruit has completed five years of service after passing Assistant Sub-Inspectors initial course.
- (3) Promotion to the rank of Sub-Inspector shall be made strictly in accordance with the seniority in List 'E'.

Provided that the seniority may be ignored in exceptional circumstances or reasons to be recorded in writing by the Deputy Inspector-General and with the approval of the Inspector General of Police.

(For Haryana)

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- 13.15 List F—Promotion to Inspectors.—(1)** Recommendations on behalf of Sergeants and Sub Inspectors considered fit for promotion to the rank of Inspector shall be submitted with their annual confidential reports on the 15th April each year to Deputy Inspectors-General by Superintendents of Police in Form 13.15(1). Recommendations on behalf of Sergeants and Sub Inspectors employed in the Government Railway Police will be sent direct to the Inspector General of Police by the Assistant Inspector General Government Railway Police, in the same form and not later than October each year. The Deputy Inspector General shall decide, after seeing the officers recommended, and in consideration of their records, and his own knowledge of them, whether to endorse the recommendations of Superintendent of

Police and forwarded them to the Inspector General. He will keep a copy of any recommendation so forwarded in the personal file of the officer, if he decided not to endorse a recommendation, he shall retain the original in the officer's personal file and send a copy of his own order on it to the Superintendent concerned. Deputy Inspectors General shall finally submit recommendations to the Inspector General as soon as they are satisfied as to the fitness of officers recommended, but in no case later than October each year.

- (2) Such of the officers recommended as the Inspector General may consider suitable shall be admitted to promotion list 'F' (from 13.15(2) which will, however, not be published. Deputy Inspectors General shall be informed, and shall in turn inform the Superintendents concerned, of the names of those who have been admitted to the list ; similar information will be sent to the Assistant Inspector-General, Government Railway Police.

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- (3) When submitting recommendations for the entry of fresh names in List F, Deputy Inspectors-General and the Assistant Inspector General, Government Railway Police, will at the same time submit specific recommendations (which need not be accompanied by detailed confidential reports) as to the retention or removal of officers already admitted to the list. On receipt of these recommendations, the Inspector General will review the Provincial List, and pass orders regarding the retention or exclusion of names, at the same time communicating his decision to the Deputy Inspector General and the Assistant Inspector General, Government Railway Police.
- (4) Sub Inspector admitted to List 'F' will be placed in that list in order according to their date of permanent promotion to selection grade and, if the date of permanent promotion to selection grade is the same in the case of two or more Inspectors admitted to list 'F' on one and the same date, then according to date of permanent promotion to the

time-scale. Sergeants will be shown in list 'F' according to the date of entry in the list. When, however, two or more Sergeants are admitted to list 'F' on the same date, their names will be shown in order of seniority among themselves."

- 13.16. Promotion to the rank of Inspector. —(1) Substantive vacancies in the rank of Inspector, save those which are specifically designated for the appointment of probationers shall be filled by promotion of officers from list F selected according to the principles laid down in rule 13.1. Sergeants are eligible for promotion in the appointments reserved for European Inspectors.
- (2) Temporary vacancies in the rank of Inspector shall be filled by the officiating promotion of officers on F list by the authorities empowered by rule 13.4 to make the appointment. Such officiating promotions shall be made in accordance with the principles laid down in sub-rule 13.12 (1) in the case of E list, and the second part of that rule shall, *mutatis mutandis*, govern the scrutiny of the work of F list officers and the removal from that list of the names of those who are found unfit for the rank of inspector.
- (3) No officer whose name is not on F list shall be appointed to officiate as Inspector without the special sanction of the Inspector General. When no officer on F list is available in the range for a vacancy which the Deputy Inspector General is requiring to fill, application shall be made to the Inspector General to appoint a man from another range."

13.21. Power of relaxation :—Where the Inspector General of Police is of the opinion that it is necessary or expedient so to do, he may, by order for reasons to be recorded in writing relax any of the provisions of this Chapter with respect of any class or category of persons."

- (4) It shall also be apposite to notice rule 13.2-A where power has been conferred upon the Inspector General of Police but for such

re-course the reasons have to be recorded and further such local rank cannot be given for a period exceeding six months but if any extension in this period has to be granted, the reasons for each such extension are required to be given. The said rule reads as under :—

13.2-A. Power of grant local rank :—(1) Notwithstanding anything contained in these rules, if the Inspector General of Police considers it necessary so to do in the interest of better functioning of the force, he may, for reasons to be recorded, grant to an enrolled police officer next higher rank as a local rank : provided that the grant of only a non-gazetted rank shall be permissible under this rule.

(2) The local rank referred to in sub-rule (1) shall, in the first instance be granted for a period not exceeding six months which may from time to time be extended for a like period after recording reasons for each such extension.

(3) An Officer of the force holding a local rank—

(a) shall exercise the command and be vested with the powers of an enrolled police officer holding that rank ;

(b) shall not be entitled to any extra pay and allowances for holding such rank ;

(c) shall not be entitled to claim any seniority over other enrolled police officers by virtue of having held such a local rank”.

(5) So far as promotion to the rank of Deputy Superintendent of Police is concerned, in that regard, the principal provisions defining the appointing authority also needs to be noticed. It had been notified,— *vide* notification dated 1st December, 1959, issued under Article 309 of the Constitution of India, for regulating the recruitment and conditions of service for persons appointed to the Punjab Police. These rules were called the Punjab Police Service Rules, 1959 (hereinafter referred to as “the Police Rules, 1959”). It is under Rule 5 of the Police Rules, 1959 the appointing authority has been specifically defined which is none else but the “Government.” It has also been provided under rule 6 as to what method of recruitment shall be adopted. It

shall be appropriate to mention that for promoting a person from the rank of Inspector of Police to that of Deputy Superintendent of Police, the Police Rules 1959 are necessarily required to be followed. It, has been, categorically provided that only those Inspectors will be eligible for promotion, who have put in six years continuous service (subsequently reduced to "four years") and that this continuous service shall include officiating as well as substantive in the rank of an Inspector. The appointments by promotions shall be made by the Government from Inspectors having been brought on List-G prepared by the Government in consultation with the Commission (Punjab Public Service Commission). Thus, the checks and balances have been provided in the Police Rules 1959 when a person has to be considered and appointed to the rank of Deputy Superintendent of Police. However, power to relax has been given to the Government,—*vide* rule 14 of the Police Rules, 1959. The perusal of these rules shows that it is only the government who has to pass the order of appointment over and above the rank of Inspector. It shall be apposite to notice the relevant rules such as :—

2. **Definitions** : In these rules, unless there is anything repugnant in the subject or context,—

(a) to (e) xxx xxx xxx
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(f) "Service" means the Punjab Police Service."

Rule 5. Appointing Authority.—All appointments to the service shall be made by the Government.

Rule 6. Method of recruitment :—(i) Recruitment to the service shall be made :

(i) Eighty per cent by promotion from the rank of Inspector and twenty per cent by direct recruitment.

Provided that only those Inspectors will be eligible for promotion who :—

(a) in the case of Inspectors (both promoted from subordinate rank and directly recruited) have got six years continuous service : (officiating as well as substantive) in the rank of Inspector ; and

(b) in case they are Prosecuting Inspectors, have got eight years continuous service (both officiating and substantive) in the rank of Prosecuting Inspector.

(2) Appointments by promotion shall be made by the Government from Inspectors brought on list 'G' which will be a list of officers considered fit for promotion to the rank of Deputy Superintendent of Police, prepared by Government in Consultation with the Commission. The names in this list prepared at one time shall be arranged according to their *inter se* seniority. This list will be maintained in two parts; part : 1 (for officers from the Executive line) and part-II (for officers from the Prosecution line).

(3) Direct appointment to the service shall be made on the result of a competitive examination conducted by the Commission. The syllabus and rules relating to the examination will be framed by the Government in consultation with the Commission. The examination will include a *viva voce* test. Only those candidates will be interviewed for the *viva voce test* who obtain not less than the minimum qualifying marks fixed by the Commission in the written examination. The Inspector General of Police, Punjab, will be present at the interviews to the Commission. A candidate's position shall be determined by adding the marks obtained by him in the written examination and in a *viva voce* test.

(6) *Vide* Notification No. G.S.R. 63/Const./Art. 309/Amd./99, dated 5th August, 1999 the Government of Punjab has made amendment in rule 6 for sub-rule (3) by substituting the following sub-rule, namely :—

“3(i). Direct appointment to the Service shall be made on the result of a competitive examination conducted by the Commission. A preliminary competitive examination for the post of Deputy Superintendent of Police shall be conducted by the Commission, the regulations and total marks of which have been specified in Appendix 'C' to these rules. The candidates who qualify the said

preliminary competitive examination, shall be allowed to compete in the main competitive examination. Candidates equal to thirteen times of the total number of vacancies shall be considered to have qualified for the main competitive examination in accordance with the merit of the preliminary competitive examination. The regulations of main competitive examination have been specified in Appendix 'D' to these rules.

- (ii) The candidates who qualify the main competitive examination and obtain not less than the minimum qualifying marks fixed by the Commission, shall be put to physical tests and only those candidates who qualify the physical tests shall be allowed to compete in the *viva voce* test which shall be conducted by the Commission.
- (iii) An officer of the rank of Inspector General of Police shall be present in the *viva-voce* and shall be entitled to put questions to the candidates and to express his views to the Commission. A candidate's position shall be determined by adding the marks obtained by him in the written examination and in *viva-voce* test."

Rules 14 of 1959 Police rules reads as under :—

14. General powers to relax rules .—Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order, for reasons to be recorded in writing, relax any of the provisions of the rules with respect to any class or category of persons.

(Inserted.—*vide* Punjab Government Home Department Notification No. 10769-3II-68/2601, dated 28th January, 1969)."

(7) The grievance is that the respondents have been given the ranks in utter violations of the rules and also Police Rules 1959. The petitioners have been made to suffer subordination to those who were in fact much junior to the petitioners. Not only the local ranks had been given to the blue eyed but they have been given further promotions to the rank of DSPs and SPs as well in utter violation of the rules and Police rules 1959. The word has been coined as "ORP"

(Own Rank and Pay) meaning thereby the blue eyed boy shall continue to draw his salary in this substantive rank but shall wear stars and ranks to which he is given the promotion defining it as "ORP". ORP is nothing but a misnomer coined out by the respondents for preferring blue eyed boys over the senior persons and that too at time when almost absolute power had been acquired by the then Director General of Police under the name of terrorism.

(8) In fact the Director General of Police was not competent to give promotion to the rank of DSP/SP as local rank and that also to the persons whomsoever he wanted to oblige or as per whimsical fancies. As per the rules, it is only the government which is competent to issue orders of promotion in respect of gazetted rank and not the Director General of Police. It is further averred that as per the Police Rules 1959 while making promotion from the rank of Inspector ratio of 80:20 is required to be maintained as envisaged under rule 6, as noticed above i.e. 80% by promotion and 20% by direct appointment. However, the role of the Commission is a pivotal role, which is provided and which can be inferred from the aforesaid rules. Thus, while following the principle of checks and balances, the government has also not been given the absolute powers to make such appointments/promotions but the same are in consultation/approval of the Commission. This ratio has also been ignored and the law laid down by the Apex Court in P.S. Sandhu's case reported as 1979(2) SLR 88, has been completely violated. A strange situation is stated to have been created by the then Director General of Police, that is the persons who held the rank of ASI/SI had been given the rank of DSP/SP terming it as ORPs. The rights of the persons in the respective lists such as E&F and waiting for promotion had been completely ignored. In a disciplined force, a person holding a rank and senior to others would feel demoralised and humiliated if in that rank a person junior to him is given the higher rank by coining a separate system defining it as ORP. By virtue of coining the word ORP, the then Director General of Police created a force within the force because it is obvious that a person who is given the higher number of stars/rank gets the authority over the senior who holds the lower rank and less number of stars. Thus, as per discipline the person with lesser stars is to be in attendance to a person with higher number of stars though junior in seniority in the rank which is held by the person with lesser number of stars but due to the ORP rank such unborn indiscipline would creep in. It

is violation after violation which had been committed by the then Director General of Police and the government was rendered as a helpless & hapless spectator despite the fact that power vested in the Government, yet, it was allowed to be exercised by the then Director General of Police. The rules contained in the books were put on the shelves and almost anarchical situation had been created under the garb of "terrorism". The rule or law was given a complete good-bye. A patriarchal system seems to have been invoked for governing affairs of the State. Even if the situations may demand promulgating emergency yet the acts cannot be committed which may into anarchical situation and may permit evolution of patriarchal system. It is understood that during such situation also the government and the functionaries are required to act in a manner which should not turn into absolutism. The perusal of the aforesaid rules shows that a local rank can be given to an officer but for such act the reasons are required to be recorded and such rank/promotion shall not be given for a period beyond six months and that extension may be granted on account of justifiable reasons. It is also noticed that no rule provides for giving a rank of DSP and S.P. to the persons in the force by treating the said ranks as local ranks without adopting a procedure which is required to be meticulously adhered to for granting promotions to the eligible persons.

(9) The contention is that no such procedure has been followed and that the then Director General of Police, Punjab gave such ranks at his own whims and fancies despite the fact that he did not have the authority to confer such ranks i.e. the rank of DSP and SP. As per the rules, it is only the government which has been defined to be the competent authority. Interestingly, it has been presumed that the ORP rank having been coined out, conveniently, got out of the rigour of bringing the concerned officers on respective lists. It may be noticed that a person can be brought on concerned list only when he becomes eligible and is qualified to be promoted to the next higher rank. Thus, for earning promotion to the rank of DSP it is incumbent upon government that a person holding the rank of Inspector should be brought on list 'G' in consultation with the Commission. His name can only be brought in the aforesaid list if he is duly qualified to be promoted as DSP. Such procedure had not been adopted but the ranks of DSP and SP have been given to various respondents at the whims and fancies of the then Director General of Police.

(10) It is contended that even as on date the aforesaid ranks have been given to some Officers who are not even eligible or qualified to be considered for such promotion and additionally they rank far below in the seniority list of the rank in which the eligibility and qualification has to be judged. There are number of instances which have been mentioned in the petition but it is not necessary to reiterate those in the judgment, however, suffice it to say that by adopting the aforesaid method number of persons have become beneficiaries and are holding such rank as ORPs.

(11) It is also the case of the petitioners that eligibility criteria provided under the rules had not been adhered to for examining the case of each person for being considered for promotion. It is also contended that if at all a local rank was to be given, the same could have been given to the persons who ranked far senior to those who have been preferred to be given the aforesaid rank and that they were duly qualified. The plea of the respondents that the ORP rank had been given to those persons who had fought the terrorists effectively, is not sustainable, because every police officer/constable is required to fight against the act of terrorism and every unlawful act committed by any person. It is the duty of the police force to maintain law and order and peace amongst the public and for achieving this objective, all powers are given to such officers and constables and that it cannot be differentiated as to who has fought the terrorism in a better way or not on in an effective manner.

(12) It is also contended that for acts of bravery and for acts of meticulous performance of duty, such officers are considered separately and are given the awards, medals and letters of appreciation, which, ultimately are taken into consideration while promoting them to the next higher rank, the rule applicable is "seniority-cum-merit". There is no rule which provides that a parallel force within the force can be created. It is unheard of that next higher rank is given or subsequent thereto by defining it as ORP and that the persons senior to the said persons are subjected to subordination of the junior. If one takes a look all around like in the forces defined as Para-Military Forces and the Defence Forces, no such method or procedure is allowed to be adopted for giving higher ranks as has been adopted in Punjab Police Force.

(13) On the other hand the Official respondents have filed a

separate written statement and the private respondents collectively and individually have filed respective written statements and that replications thereto have been filed by the petitioners.

(14) The stand of official respondents is that by granting/giving fortuitous/out of turn promotions no illegality has been committed. The fortuitous/out of turn promotions can be given to the deserving Officials/constables. Such act of the official-respondents has been confirmed by this Court while deciding CWP No. 17813 of 1995 titled as **Dharam Singh v. State of Punjab** (1) decided on 15th December, 1995. Thus, the ORP ranks which have been given to the officers on account of their excellent performance while fighting out terrorists cannot be termed against the rules and against the law prevailing as on date. It has been fairly admitted by the official respondents that it is a part of the duty of every police officer/official to work against terrorists and ante social elements to maintain law and order. It is averred that the promotions to the rank of SP/DSP and Inspector were made/are being made according to the rules. It has also been stated that the police officials, who did good work at terrorist front for maintenance of law and order, were posted against the vacant posts of SPs/DSPs and Inspectors in their own rank and pay. This procedure was adopted due to non availability of eligible officers for promotion to higher ranks. It is also averred that by way of adopting this procedure, no financial burden was put on the State as they had been asked to work in their own rank and pay. It is further stated that such arrangement was made only during the war like situations and that a large number of vacancies in the rank of SP/DSP and Inspector existed at that time and that to ask such efficient officers to work on such posts was not against the rules. The original seniority was never disturbed and that regular promotions were made as per seniority-cum-merit in accordance with the rules and instructions applicable. The plea is that local ranks were conferred upon the deserving officers who had done good work against the terrorists and that power was derived from rule 13.2-A of the Rules. It shall be apposite to notice here that no specific plea has been taken nor any word has been stated that while granting such local ranks, the reasons had been stated and that the said local ranks were given for a period of six months and thereafter the extension in respect thereof was given by giving reasons. It looks that such local ranks had been given by virtue of invoking

rule 13.2A of the Rules but no reasons have been placed on record for giving such ranks nor the extension orders in respect of such officials have been placed on record. Thus, the local rank once given to the officers was continued without passing any order of extension.

(15) It is also averred that "local rank promotion" had not been given by Director General of Police, Punjab and that the out of turn promotions as well as local ranks were conferred by Government of Punjab but no such orders passed by the Government have been placed on record.

(16) Yet, the other stand is that none of the persons had been given promotions but had been given the rank termed as ORP only to man the vacant posts at that time when the situations so warranted. However, some of such officers have earned their regular promotions strictly in accordance with their turn and some of them are likely to earn promotions according to turn and seniority-cum-merit. Thus, no act of the official respondents can be said to have been committed in violation of the rules and regulations and the law prevailing at that time and even today. The official-respondents have not placed on record any such orders except that bald statement has been made while submitting reply to the petition. Such pleas have been controverted by the petitioners by submitting replications.

(17) Similarly, by a separate written statement, respondent No. 12 Shri Balbir Singh has taken the plea that the respondent was recommended for out of turn promotion to the rank of DSP and the said recommendation was communicated by the Senior Superintendent of Police to the Deputy Inspector General of Police and in turn the Deputy Inspector General of Police to the Director General of Police, Punjab. While recommending his case, it has been specifically stated that he should be considered for out of turn fortuitous promotion to the rank of DSP. The order of promotion to the rank of DSP has not been appended but it shall be apposite to notice that the recommendation by DIG is dated 4th January, 1993 and recommendation by SSP for confirming Balbir Singh respondent No. 12 in the rank of Inspector is dated 15th May, 1993. Admittedly for earning promotion to the rank of DSP, a separate set of rules have been provided and the competent authority has also been defined but despite the averment of the official respondent and respondent No. 12 that such rules had been followed, no order passed in this regard has been placed on record. Thus, it

cannot be elicited that any proper procedure had ever been adopted for giving *ad hoc* promotion to respondent No. 12. In any case, the pleas of State is that he held substantive rank of DSP since 11th March, 1994 and a copy of the order dated 28th February, 1994, has been annexed as Annexure R12/1 and that the said promotion is stated to have been made on *ad hoc* basis subject to the approval of the Punjab Public Service Commission (hereinafter referred to as "the Commission"), nothing has been stated as to whether any approval has been accorded by the Commission or not. However, as per the amended rule 6 of the Police Rules 1959, the Government in consultation with the Commission is required to prepare list 'G' and that the name of such officer would be contained in that list if he is found fit for promotion to the rank of DSP. No explanation has been provided either by the official respondents or by respondent No. 12 as to when his name was brought on list 'G'. In the absence of such averment, the pleas of the official respondents as also respondent No. 12 cannot be accepted and the same is devoid of merit.

(18) Similarly such pleas have been taken by the other private respondents but no one has been able to give the mathematics as to in what manner they earned promotions to the ranks defined as local ranks. In the case of respondent No. 13 Shri Darshan Singh, who was in the first instance given local rank of Inspector, is stated to have been given the local rank as DSP and that the order is stated to have been passed by the then Director General of Police, Punjab, copy of the order has been annexed as Annexure P13/1. It shall be apposite to notice the language of such order which reads as under :—

OFFICE OF DIRECTOR GENERAL OF POLICE, PUNJAB

Re. this office TPM No. 13447-5/Con. SA-6, dated 12th May, 1993, dated Chandigarh the 21st May, 1993.

ORDER

No. 14656/Con. SA-6: Ref. DIG/Patiala Range, Patiala's DO letter No. 9191/A-1, dated 3rd May, 1993 regarding promotion of Inspector Darshan Singh No. 2/FR as DSP/ORP. Inspector Darshan Singh, No. 2/PR presently working as SDO/PS, Dehlon (Jagraon District) is hereby posted to work as Deputy Superintendent of Police/ Mehal Kalan in his own rank and pay of Inspector. He should be

releived and directed to report for duty at his new place of posting immediately under intimation to this office. It is also certified that this will not entitle him any seniority or monetary benefit.

K.P.S. Gill,
Director General of Police,
Punjab.

No. 14657-63/Con. SA-6, dated Chandigarh
the 21st May, 1993.

A copy of the above is forwarded for information and necessary action to the :

1. D.I.G./Patiala Range, Patiala.
2. D.I.G./Ludhiana Range, Ludhiana.
3. S.Ss.P. Jagraon and Sangrur.
4. Supdt./Estt. Br. CPO, Punjab.
5. Supdt./PF Br. CPO, Punjab.
6. SA—4, CPO, Punjab.
7. SA—6, CPO, Punjab.

(Sd/.)
for Director General of Police,
Punjab.”

(19) Similarly the order relating to respondent No. 27 also needs to be noticed as the said respondent was asked to perform duties of DSP in pursuant to the order passed by the then Director General of Police. It is dated 5th December, 1991 (copy of this order has not been appended). Copy of the orders passed by the Superintendent of Police Ludhiana appended as Annexures R27/2 and RW27/3 read as under :—

Police Department : District Ludhiana.

FOR PUBLICATION IN THE PUNJAB POLICE GAZETTE
PART-II

ORDER.....DEPARTMENT OF POLICE, LUDHIANA.

No. /AC-II, dated Ludhiana the.....()

Out of turn promotion (.) As intimated by the Dy. Inspector General of Police, Patiala, Range, Patiala's Endst. No. 39248-51/A-I dated 5th December, 1991, the Director General of Police, Punjab Chandigarh *vide* his Memo No./A-I date 27th November, 1991 has approved the same of Narinderpal Singh No.

for his out of turn fortuitous promotion to the rank of Inspector of Police, in recognition of his outstanding performance on the anti terrorist front.

2. He will not claim any seniority over his seniors on the basis of his fortuitous promotion. He will get his regular promotion on his turn.
3. He will be reverted without issuance of any show cause notice in case his work deteriorated. On promotion, he has been posted in District Ludhiana.

Book the order.

Sd/-
Sr. Superintendent of Police,
Ludhiana.

No. AC-2, dated Ludhiana, the

A copy is forwarded to the Deputy Inspector General of Police, Patiala Range, Patiala w.r. to his office Endst. No. 39248-51 dated 5th December, 1991, for favour of information

Sd/-
Sr. Superintendent of Police,
Ludhiana.

No. 129791—96/AC-2 Dated Ludhiana, the 12th December, 1991”

Annexure R-27/3 .

Copy of TPM No. 17628-31/Con. SA-S, dated 18th June, 1992 from Police Punjab, Chandigarh to DIG/...Ludhiana and SSP/Ldh.

2. Copy to Shri Narinder Pal Singh, DSP (City Moga for information and n/action.

3. xxx xx

Sd/-

Ishwar Chander,
Sr. Supdt. of Police, Faridkot."

(21) The sum total of pleas taken by the respondents including the official respondents is that by way of giving local ranks (ORP), no regular promotions are conferred upon such officers but the said rank(s) had been given on account of exemplary conduct in service by the said officers.

(22) These petitions had been earlier taken up for regular hearing on 11th February, 2000 and that report regarding the latest status of the petitioners and so also that of respondents 3 to 55 vis-a-vis the ranks which are being held by them and also the circumstances which ultimately culminated in promotion of some of the respondents, who were already holding the ORP rank and further promotion to ORP rank was called for. In pursuant to the aforesaid order, a short affidavit dated 16th March, 2000 has been filed by Shri A.S. Rai, IPS, Assistant Inspector General of Police, Welfare and Litigation, Punjab, Chandigarh and that the status relating to the petitioners and the aforesaid respondents has been given *vide* Annexure R1 appended with the aforesaid affidavit which has been taken on record *vide* order dated 17th March, 2000.

(23) Further, when the cases were taken up for regular hearing on 11th August, 2000, it was disclosed that a number of posts in the rank of DSP are lying vacant and that the vacancies are more than the eligible candidates available. It had also been disclosed that the seniority list in the rank of Inspectors has not been finally settled by the concerned authority. It was thought fit that if the seniority list in the rank of Inspectors is settled and that the eligible persons are brought on list 'G', number of petitioners and respondents might fall within the zone of consideration for being considered for promotion to the rank of DSP. In pursuant thereto an interim direction was issued *vide* order dated 11th August, 2000, that the seniority list in the rank of Inspectors should be settled and the persons who are found eligible be brought on list 'G' in accordance with provisions of law. After the list of Inspectors is settled including being brought on list

'G', the persons eligible and falling in the zone of consideration should be considered for promotion to the rank of DSP and as a sequel thereto the vacancies lying unfilled should be filled in accordance with law. The interim directions dated 11th August, 2000, read as under :-

"During the course of arguments, it has been disclosed that a number of posts in the rank of Deputy Superintendent of Police are lying vacant. It is further stated that such posts are more in number than the eligible candidates available. It is further contended that the seniority list in the rank of Inspectors has not been finally settled as yet by the concerned authority. If the seniority list in the rank of Inspectors is settled and the eligible persons are brought on list 'G', a number of petitioners would fall within the zone of consideration for being considered for promotion to the rank of Deputy Superintendent of Police.

Under these circumstances, I consider it appropriate that the seniority list in the rank of Inspectors should be settled and the persons who are found to be eligible to be brought on list 'G' should be brought on the said list in accordance with the provisions of law. After the seniority list of Inspectors is settled including being brought on list 'G', the eligible persons falling in the zone of consideration for promotion to the rank of Deputy Superintendent of Police should be considered and the vacancies which are lying unfilled as yet should be filled in accordance with law.

Learned AAG, Punjab has informed this Court that as per the information received from the office of Director General of Police, Punjab, the vacancy position of Deputy Superintendents of Police as on 11th August, 2000 is as under :—

Sanctioned strength : 403 (Cadre 361. Ex. Cadre 42)

2. Posted Strength : 215+121 DSPs (ORP)

3. Vacant post of : 173+15 (Direct

DSPs (by promotion) recruitment) = 188

I direct the respondents to settle the seniority list of the Inspectors including their name being brought on list 'G',

within a period of one and half months. Thereafter, the eligible candidates from the rank of Inspectors be considered for promotion to the rank of Deputy Superintendent of Police within a period of three months thereafter in accordance with law.

Seniority list of Inspectors including the status in list 'G', and the promotions made to the rank of Deputy Superintendent of Police shall be placed on the Court file before the adjourned date.

Let these directions be carried out within the period specified hereabove and the said time framed shall commence from the date of receipt of copy of this order attested by the Reader of this Court.

Adjourned to 15th January, 2001."

(24) In pursuant to the aforesaid order, the entire exercise was carried out and that 230 Inspectors, who were found eligible and having been brought on list 'G', were considered by the Departmental Promotion Committee and that recommendation was made accordingly. In pursuant thereto the government promoted 175 Inspectors to the rank of Deputy Superintendent of Police,—*vide* order dated 15th February, 2001 and 18th May, 2001 (74 Inspectors promoted,—*vide* order dated 15th february, 2001 and 101 Inspectors were promoted as Deputy Superintendent of Police,—*vide* order dated 18th May, 2001). Despite this, 29 persons are still holding the ORP rank and that the recommendations relating to four Inspectors have been put in a sealed cover. So far as the status regarding the SPs is concerned, the total cadre posts in the aforesaid rank are 40 and that Ex. cadre posts are 142 and vacant posts are 12. It has been clearly disclosed that there are still 13 persons holding the rank of SP-ORP. the aforesaid status has been elicited from the affidavit dated 26th July, 2001 filed by Shri A.S. Rai, Assistant Inspector General of Police, Welfare and Litigation Punjab. It shall be apposite to notice the contents of the said affidavit which read as under :—

Affidavit of A.S. Rai, IPS, Assistant Inspector General of Police, Welfare & Litigation Punjab, Chandigarh, on behalf of respondents No. 1 and 2.

I, the above named deponent do hereby solemnly affirm and declare as under :—

Information regarding DSPs :

1. Total cadre post in the rank of Dy. S.P. = 368
2. Ex. cadre post in the rank of Dy. S.P. = 42
3. Vacant post in the rank of Dy. S.P. = 15
4. Persons considered by the departmental promotion Committee are as under :—
 - (i) Considered 97 names of Inspectors for promotion in the rank of Dy. S.P. on 11th January, 2001. 74 Inspectors have been promoted by the Government Order No. 1/231-98-1 IHIII/514 dated 15th February, 2001 on recommendation of D.P.C. The cases of 23 Inspectors have been ignored whereas names of four Inspectors have been kept in sealed cover.
 - (ii) The D.P.C. considered 133 names of Inspectors for promotion to the rank of Dy. S.P.s out of them 101 eligible persons were promoted as DSP as per order issued by the Punjab Government No. 1/231/98/98-IHIII/1692 dated 18th May, 2001. The cases of 32 Inspectors have been ignored/deferred.
5. Number persons promoted till date = 175
6. Total number of ORP in the rank of DSP = 29 (Cases of 4 Inspectors have been kept in a sealed cover.)

The following respondents have been promoted as DSP on regular basis by the Government :—

- (1) Respondent No. 13, 15, 32 & 33 Pb. Govt. Order No. 1/231/98-IHIII/514 dated 15th February, 2001
- (2) Respondent No. 26 and 27 Pb. Govt. Order No. 1/231/98-IHIII/1692 dated 18th May, 2001.

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- (3) Respondent No. 19,22 & 23 Pb. Govt. Order No. 1/479/96-IH(i)/Spl./1689 dated 10th July,1997.
- (4) Respondent No. 25 Pb. Govt. Order No. 1/368/94-IH(i)/279 dated 22nd February,1995.

Information regarding SPs is as under :—

1. Total cadre post in the rank of S.P. = 40
2. Ex-cadre post in the rank of S.P. = 142
3. Vacant post in the rank of S.P. = 12

(However the State Govt. have not conveyed Sanction regarding continuance of 8 posts out of these vacant posts. A proposal regarding promotion of IPS Officers of 1997 batch w.e.f. 1st January, 2001 has been sent to the State Govt.

4. Persons considered by D.P.C. = Nil
5. Promoted till date as under :

Out of the petitioners mentioned in (Annexure R-1) U.O. No. 291/Con. SA. 1 dated 2nd March, 2000, 7 petitioners have been posted as Offg. S.P., out of the respondents mention in the Annexure, 5 have been posted as Offg. S.P. and the Officers mentioned at Sr. No. 12, 27, 32 and 33 have been posted as D.S.P.

6. Total No. of ORP in the rank of S.P. = 13.
7. Respondents promoted in the rank of SPs out of ORP and left as under :—

6 promoted. Sh. Harnek Singh has been retired and the ORP rank of Sh. Dharamjit Singh was withdrawn. Sh. Narinder Bhargava was posted as Offg. SP out of turn. Sh. Gurnam Singh, Balbir Singh Khaira, Narinder pal Singh, Kanwaljit Singh and Raghbir Singh have not yet been eligible for consideration for posting as Offg. S.P. as their seniors are still awaiting posting as such.”

(25) Learned counsel for the respondents have addressed arguments individually but some common arguments have been adopted. It has been argued that fortuitous promotion can be given by the competent authority in a deserving case and that at the relevant time the circumstances so warranted that for appreciation of their service, out of turn accelerated promotion should be given to the deserving officers and that the respondents were such officers who were given the promotions without affecting the finances of the State but only the rank was given terming it as local rank as envisaged under Rule 13.2-A. The seniority of the seniors was not disturbed at all in the substantive rank and that the regular promotion was to be earned by the respondents on their turn. Reliance has been placed upon a Division Bench judgment of this Court in CWP No. 17813 of 1995 titled as **Dharam Singh v. State of Punjab and others** (supra) decided on 15th December, 1995. However, the petitioners in the aforesaid petitioners had challenged the gross misuse of powers by the then Deputy Inspector General of Police and that a number of officers have been the beneficiaries of such unlawful orders. After examining the matter threadbare their lordships have observed that as per the statement made by the then Advocate General Punjab, the department would independently review all such cases including the cases of the petitioners in the aforesaid petition. It shall be apposite to notice the observations made by the Division Bench which read as under :—

We also do not find any substance in the contenting of Shri Mann that the promotions of the petitioners could not have been nullified except where performance had shown to have been declined. In our opinion, in a case like the present one, where gross misuse of power by the then Deputy Inspector General of Police has been palpably demonstrated, respondent No. 1 was left with no option but to set aside the unlawful orders and, therefore, the beneficiaries of such unlawful orders cannot complain that the impugned order has not been passed in accordance with the conditions incorporated in the earlier orders.

For the reasons mentioned above, the writ petition is dismissed. However, we take note of the statement made by Shri Sarin, learned Advocate General, Punjab, that the Department would independently review all the cases,

including the cases of the petitioner Nos. 1 and 2 and if they or others are found entitled to promotions under Rule 13.8(2) and Rule 13.9(2) of the Punjab Police Rules, 1934, necessary orders will be passed by the competent authority. We hope that such action would be taken by the respondents within a period of one month and those who are legally entitled to get promotions under Rules 13.8(2) and 13.9(2) and the Policy Instructions issued by the Director General of Police on 19.11.1991 will be given such promotions.

Before parting with the case we consider it necessary to take notice of the disquieting features of the action taken by the officers of the rank of Deputy Inspectors General of Police. We do not want to express any final opinion on their actions but at the same time we cannot refrain from observing that the entire matter requires a thorough probe by the Government which must be conducted at the earliest and that at the same time the Government shall take necessary measures and pass appropriate orders so that none of the three Deputy Inspectors General of Police, who passed orders of promotions after their transfers are able to visit those ranges and thereby influence directly or indirectly the proceedings of the inquiry being held by the Government. We further direct the Government that if after making its inquiry the Government comes to the actions taken by the concerned Deputy Inspectors General of Police are vitiated by *mala fides* or extraneous reasons, then the Government must necessarily initiate inquiry against the defaulting officers."

(26) It has been further argued that another Division Bench judgment of this Court rendered in *Karamvir Singh v. State of Punjab and others*, CWP No. 5434 of 1999 decided on 21st September, 1999 (of which I was also a member) has granted relief to the petitioner for retaining the rank of ASI (ORP) and that he has been directed to get his regular promotion as Head Constable and Assistant Sub Inspector as per his turn in seniority subject to passing intermediate course on his turn. Thus, in view of the aforesaid judgment giving of the local rank (ORP) has been allowed to be retained despite the

fact that he has been found in excess of 10% fortuitous promotion, which could be given to the rank of Head Constable.

(27) I have considered the rival contentions of the learned counsel for the parties and I have perused the record placed on the Court file by way of affidavits and annexures. I am of the considered opinion that the creation and granting of ORP ranks is not in conformity with the rules applicable to the Punjab Police force.

(28) The stand of the respondents that by virtue of rule 13.2A of the rules Inspector General of Police/Director General of Police is entitled to give local rank to the officer and that according such rank does not amount to promotion. The perusal of the rule envisages such authority in favour of I.G./D.G.P. But the said rule enjoins a conditions in this regard that the reasons shall have to be given for giving such local rank and that the said rank cannot be given beyond six months at a time. If extension in such rank has to be given again reasons for such extension shall have to be disclosed in the order. The rule is silent as to how many times such extensions can be granted but the basic ingredient remains the same that the reasons have to be spelt out for each such successive extension. In the case at hand, neither the petitioner nor the respondents including the official respondents, have been able to bring on record the orders passed in this regard. However, whatever orders have been appended as annexures, which have been noticed above, do not spell out reasons for granting such local ranks. However, after passing such order, the extension orders as required to be passed after expiry of six months which fall within the mischief of the aforesaid rule, have neither been pleaded nor brought on record. It is obvious that the aforesaid rule has been invoked but the ingredients provided therein have not been followed nor depicted in the orders passed relating to particular officers. It shall also be appropriate to notice here that the aforesaid rule may be made applicable upto the rank of Inspector i.e. non-gazetted officers.

(29) So far as promotion or granting of ORP or asking an officer to act in the rank of DSP/SP is concerned, the same is governed by separate set of rules which again have been noticed hereabove. Admittedly for such rank, the order has to be passed by the Government, again no one has produced copies of the orders passed by the Government for giving promotions *ad hoc* or otherwise to the officers

in the rank of DSP/SP. However, it has been pleaded by the official respondents that the orders have been passed by the Government but no such order (s) has/have been produced on record. The plea has remained uncorroborated/unsubstantiated. However, noticing some of the orders passed by the then DGP, which have been appended by some of the private respondents go to show that the orders have not been passed by the government but have been passed by the Director General of Police and that too by giving the rank defining it to be "ORP".

(30) It has also been noticed that some of the officials have been given the ORP rank as ASI/Inspector and subsequently have given promotion from that rank which was already held as ORP to the higher rank of DSP/SP (ORP). It is not discernible as to how such kind of promotion be ordered by the then Director General of Police.

(31) The cumulative effect of noticing the facts brought on record and the orders which have been noticed hereabove the authority of Government has been completely ignored and at that relevant time the orders are shown to have been passed by the then Director General of Police. Such orders cannot be accepted as legal orders and the same can be certainly termed the orders having been passed without any authority.

(32) As per rules, the authority vested in the Government so far as the rank of DSP/SP is concerned. It shall be apposite to observe here that this authority which has been given to the Government is not to be exercised independently but can only be exercised in consultation with the Commission. The check has been created to the extent that once a person earns a regular promotion as Inspector, thereafter, he has to be considered to be brought on list 'G' in consultation with the Commission and that those persons who are found eligible are brought on list 'G' meaning thereby they become eligible and fall in the zone of consideration for being promoted to the rank of DSP and subsequently to the rank of SP, accordingly, in accordance with provisions of law.

(33) The argument of the learned counsel for the petitioners that a force had been created within the force has ample weightage, which cannot go unnoticed. By giving local rank, no illegality would

have been committed provided the ingredients provided in rule 13.2-A had been complied. Unfortunately, neither the orders passed in pursuant to the aforesaid rule have been placed on record nor it has been pleaded that sufficient reasons had been given for according such local rank to the persons who were not senior but otherwise deserved the same. Further passing of extension orders have neither been pleaded nor placed on record.

(34) It is obvious that total and absolute freedom was acquired by the then Director General of Police and that de hors of the rules and regulations, the orders were passed giving promotions but the only care which has taken is that no financial burden was allowed to creep in into the coffers of the State. However, the fact is that giving a higher rank in disciplinary force is far more than financial effects, earning a rank is a feather in one's cap, no doubt, if it is earned the right way. Ordinarily and as per the provisions of law, the paramilitary force and the police force are meant for fighting terrorism, extremism, anarchial situations and for the purpose of maintaining law and order and also for the protection of society at large, but, if the ranks are disturbed as "BOOTIES", the discipline is lost and the protection of society becomes a secondary aspect and that misuse of power can be apprehended. It is the salient rule that "absolutism" and "absolute power" breeds corruption and a number of such situations would lead to injustice as well.

(35) As a caution, the theory of checks and balances is invoked and the power is divided into parts to be used collectively tempered with principle of justice, equity, and fair play for achieving the positive results. If the ranks are distributed as have been done in the present case, a race would be created amongst the officers to establish and show the alleged effective fights by them to curb terrorism etc. but this may involve that a fair and honest person may also be dubbed in as terrorist for accomplishing the number by the officer concerned. If such person is eliminated it shall be a sad day for the administration and that if such person is arrested and is produced before the Court for facing trial, the task becomes far more difficult for the judicial system. These are such kind of situations of which the benefit of doubt may come to the lot of the actual terrorist or extremist etc. Thus, it is very necessary that the disciplinary forces should not be given any opportunity to adopt such acts of activism which are not tampered

with honest approach to the purpose for which they have been established.

(36) It would not mean that a brilliant officer should not be given his due but this also has to be given in accordance with law. An officer who fights terrorism without any fear or favour but with due diligence and for honest laurels and protects the society exposing himself to the danger which is always writ large in such situations, such kind of officers are entitled to awards, medals and letter of appreciation which would actuate their promotion by being termed as meritorious service.. The rule of promotion is seniority tempered with merit or merit tempered with seniority. The distribution of ranks at the drop of the hat or for performing the duty which is enjoined upon the officer, should never be adopted by the seniors or by the competent authority.

(37) It is settled law that power should always be exercised by the authority where it vests and not by the authority which does not enjoy such conferment. We have been over the years that monarchical system and patriarchal system has not suited the society and that the only system which has been largely accepted is the democratic, system. Democratic system functions according to the rules, regulations and provisions of law which are promulgated by the society to govern itself, such rules have to be adhered to honestly, meticulously and diligently and never for acquiring absolute power resulting into "absolutism".

(38) Reference has been made to the Division Bench judgments of this Court. A careful perusal of the same shows that their lordships have not deviated from the purpose inculcated in the provisions of law. It has been specifically noticed in the judgment rendered in **Dharam Singh's case (supra)** that any order which is passed by an authority in a careless manner and beyond the powers conferred upon that authority, such order would not be sustainable and their lordships have noticed a statement made by the then Advocate General, Punjab, that the matter shall be looked into meticulously in accordance with the rules applicable to the force, which have already been reproduced above. I have not been apprised as to whether such exercise has been carried out or not. I am sure the observations of their lordships must not have been allowed to lay in their covers and gather dust.

(39) So far as the judgment rendered in **Karamvir Singh's case (supra)**, is concerned it may be noticed that the petitioner in the aforesaid petition had been given fortuitous promotion in excess of 10% of quota provided under the rules. Such act committed by the authority made the petitioner suffer, though the order had not been passed in accordance with the rules but the authority passing such order, was vested with the power with only snag that the petitioner did not fall within the permissible 10% quota. It may also be noticed that the constables who had been given fortuitous promotions were not given ORP ranks but later on when it was found in view of the observations of this Court in various judgments that such promotions have been made in excess of 10% quota, the reversions were the necessary result. To overcome demoralisation in the police force, it has been observed by this Court that such officers be given the ORP rank but this would not mean that fortuitous promotions can be equated with ORP ranks which have been given in the case at hand.

(40) The situation which has been projected in the present case is entirely different i.e. in the first instance, the person is given the ORP rank and it is nowhere the case that the person had been promoted in excess of the quota prescribed under the rules. Admittedly, some of the officials have been given the ranks of Inspector (ORP), DSP (ORP) and SP (ORP) and in substantial number of cases without authority and without following the procedure prescribed under the rules. The local rank can be given in pursuant to rule 13.2A of the Rules but it requires that the reasons should be spelt out and that such rank shall be given only for a period of six months and if any extension is to be granted, the same must contain specific reasons for such extensions. Unfortunately, no such procedure is shown to have been followed in these cases. So far as giving the rank of DSP(ORP) is concerned, the same could not have been granted by the Director General of Police, the authority being vested in the Government and that to when the person is found eligible to be brought in list 'G' in consultation with the Commission and as a result thereof that such eligible persons are to be considered for promotion or for being *ad hoc* rank of DSP. So far as rank of SP is concerned, the same could only be given in accordance with the rules and not at the whims and fancies of the then Director General of Police. Thus, under no circumstances, the observations of this Court in the decisions rendered in various judgments are applicable to the present case.

(41) Since during the course of arguments, the respondents had been directed to consider and settle the seniority list of the Inspectors and bring them on list 'G' and thereafter granting promotion to the eligible persons tempered with merit and seniority, such exercise has been carried out but unfortunately there are still some ranks of Inspectors, DSP and SP which are being held by the persons who have not been promoted as per their turn, right and eligibility. Granting of such ranks is not sustainable. It shall be appropriate that the concerned authorities in the first instance should withdraw the ORP ranks from SP to the level of Inspectors and the vacant posts should be filled up in accordance with procedure provided under provisions of law.

(42) It is directed that the Principal Secretary (Home) Punjab—respondent No. 1 shall look into all such cases in consultation with the Director General of Police, Punjab and that ORP ranks from the rank of Superintendent of Police upto the level of Inspectors should be withdrawn forthwith and the promotions to those ranks be made in accordance with law. This exercise of regular promotions should be carried out within six months from the date of receipt of a certified copy of this judgment. It is made clear that posts which fall vacant in pursuant to compliance of the aforesaid direction, shall be manned by *ad hoc* appointees by the competent authority within two weeks and such appointments shall be made for six months, however shall be co-terminus with regular appointees.

(43) The petition is disposed of accordingly with the observations indicated above.

(44) Before parting with this judgment, I express my belief it is expected that the officers concerned shall not exercise the power which does not vest in them for long and short gains for themselves or for others and that the theory of checks and balances shall not be ignored by anyone. The rule of law coupled with transparency be adhered to by the concerned authorities.