

**IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI
07.**

O.A. No. 376 of 2011

Maj. B.S. Kohli, SM (Retd.)

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. K. Ramesh, Advocate.

For respondents: Ms. Anjana Gosain, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. S.S.DHILLON, MEMBER.

ORDER
26.04.2012

1. Petitioner vide this petition has prayed that directions be issued to the respondents to quash and set aside Army HQ MS Letter dated 16.03.2010 and suitably modify the award of Sena Medal (Distinguished Service) to that of Sena Medal (Gallantry) in view of admitted fact of bravery, indomitable leadership and for a conspicuous act of valour on 24.05.1984.

2. Petitioner was commissioned in the Indian Army on 09.06.1979. He served in Arunachal Pradesh where he was a Column Commander in "OP HARARE" against the Nationalist Social Council of Nagaland insurgents in Tirap District. He was recommended for "Shaurya Chakra" by his Commander Brigadier V.R. Raghavan but unfortunately could not get that one. On 24.05.1984, petitioner was on patrol duty with ten men in the Kharwadi locality of Bandra (East) which was being rocked by communal violence since 17.05.1984. At about 0230 hours, on reaching Vikhola Crossing near Santa Cruz, the petitioner and his patrol saw a mob of approximately 500 personnel

attacking a few policemen with soda water bottles, iron rods, acid bulbs, knives, swords and other such lethal weapons. The police had fired a few rounds on the mob, which proved ineffective. This firing had in fact further infuriated the mob who was bent on murdering them.

3. After taking immediate stock of the situation and maintaining his composure, petitioner decided on charging into the crowd instead of firing into them, as this would have caused unnecessary bloodshed. With utter disregard to his personal safety and displaying dauntless courage, the petitioner charged into the crowd with his meagre patrol. He hit a ring leader armed with an iron rod with the butt of his Stan-gun knocking him down. He then grappled with two more rioters, one after the other and knocked them down. On seeing the patrol leader thus acquitting himself, the men under his command also displayed bravery of a high order which resulted in the disintegration of the mob. For this act of bravery, he was awarded Sena Medal on the recommendation of his CO, Lt Col V.K. Jetley and other Commanders in chain. After doing 10 years of service, petitioner got released from Army on 02.11.1989.

4. It is pointed out that recently the Army HQ had made a distinction of Sena Medal (Gallantry) and Sena Medal (Distinguished Service). It is alleged that based on this distinction, one Sepoy Balwinder Singh was granted a Sena Medal (Gallantry) for the same bravery act whereas petitioner who was the leader of patrol team and showed the same bravery continued to have Sena Medal (Distinguished Service). Therefore, this matter was taken up by the father of the petitioner through proper channel as he was abroad and vide

letter dated 17.02.2010, a serving Master General Ordnance Lt Gen Vinay Sharma recommended to the Military Secretary for award of Sena Medal (Gallantry) to the petitioner, however the same was rejected by the Military Secretary vide letter dated 16.03.2010. Therefore, petitioner has filed the present petition praying that he be also granted Sena Medal (Gallantry) as he performed the same bravery and valour as was performed by Sepoy Balwinder Singh who has been granted Sena Medal (Gallantry).

5. A reply has been filed by the respondents and they contested the matter.

6. We have heard both the parties and gone through the record. It is true that prior to 1998, the policy was to grant Sena Medal without making a distinction. It is only in 1998 when the distinction was made and the Sena Medal was distinguished as Sena Medal (Gallantry) and Sena Medal (Distinguished Service). After this amendment of policy, the case of Sepoy Balwinder Singh was reviewed by the competent authority who was having Sena Medal and was granted Sena Medal (Gallantry) whereas petitioner's case for granting Sena Medal (Gallantry), who performed the same bravery, was rejected by the authority. This has given rise to the petitioner's grievance and it is alleged that his case has been discriminated as he and Sepoy Balwinder Singh performed the same bravery and valour although being leader of the patrol team he took lead but despite that his case for grant of Sena Medal (Gallantry) has been rejected whereas case of Sepoy Balwinder Singh has been reviewed by the competent authority and he has been granted Sena Medal (Gallantry).

7. Grant or not to grant awards is the privilege of the Government as they are better advised and well versed on the subject, therefore, they are the competent authority to do this exercise. This cannot be subject matter of an appeal before the Court. This is left to the authorities to decide as they are well versed on the subject. But in the present case what stands out is this that since the petitioner was the leader of the petrol team, he led the team and charged into the crowd and hit a ring leaders and then grappled with two more rioters. This act of the petitioner encouraged the other member of the petrol team in which Sepoy Balwinder Singh was one of them and he displayed bravery emulating his leader/petitioner. Both petitioner and Sepoy Balwinder Singh performed bravery in the same incident, however petitioner's case for granting Sena Medal (Gallantry) has been rejected by the authority whereas Sepoy Balwinder Singh has been granted the same. This appears to be little illogical to us.

8. We do not propose to go into this question as it is the privilege of the Selection Committee to undertake this exercise. But the fact remains that bravery act shown by the petitioner has not been recognized by the Selection Committee. On the other hand, bravery displayed by Sepoy Balwinder Singh in the same incident has been recognized by the Selection Committee and he has been granted Sena Medal (Gallantry).

9. In view of above, we think it just and proper to remit the case back to the authority to reconsider the case of the petitioner for grant of Sena Medal (Gallantry) for a job well done by him and after going through the recommendations of the various Commanders who recommended the case of

the petitioner. We hope and trust that authority will look into the matter expeditiously and do a proper justice in the matter.

10. The petition is disposed of in the light of aforesaid observations. No order as to costs.

**A.K. MATHUR
(Chairperson)**

**S.S. DHILLON
(Member)**

**New Delhi
April 26, 2012**
mk