

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.15600 of 2000(O&M)

Date of decision:29.1.2015

Sain Dass

....Petitioner

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. Vivek Salathia, Advocate for the petitioner.

Mr. Manoj Bajaj, Additional Advocate General, Punjab
for respondents No.1 and 2.

Mr. A.R. Takkar, Advocate for respondents No.3 and 4.

HEMANT GUPTA, J.(Oral)

The petitioner has sought a writ in the nature of mandamus directing the respondents to allot residential plot in 340 Acre Scheme in pursuance of draw of lots held on 04.12.1998.

The petitioner superannuated from service of Northern Railways in the year 1994 and applied for a plot in pursuance of an advertisement published in the year 1995. The petitioner sought allotment of a plot under the Reserved Category contained in clause 10 of the advertisement meant for pensioners which reads as under:-

“10. Pensioners and these serving employees whose superannuation falls in the next three years and who have no house of their own or in the name of any members of their family. 15%”

The petitioner relies upon circular dated 13.12.1989
(Annexure P-1) which contemplates the extent of reservation and the

categories in respect of which reservation in the matter of allotment of plots. The relevant clauses from the circular reads as under:-

“Reservation

1. Members of Parliament representing the State of Punjab and Members of the Punjab Legislative Assembly.
2. Freedom fighters and political sufferers who have been awarded Tamra Patras by the Government of Punjab and who are domicile of the State; and in case of their death, their widows and in the absence of widows, their children;
3. Defence personnel, Border Security Force (personnel) members of the Central Reserve Police Force, Ex. Servicemen and War Widows having domicile in the State of Punjab.
4. Persons appointed by the Government in connection with the affairs of the State of Punjab and in case of death while in service, their widows;
5. Persons belonging to the S.Cs and B.Cs.
6. Employees of the Improvement Trust and Urban Estates and in case of their death while in service their widows;
7. Outstanding sportsmen who have won a medal at International/ National Level competitions;
8. Handicapped persons (only residential plots measuring 150 Sq. yds or less will be allotted under this category.
9. Discretionary quota of Government 5%
10. Pensioners and these serving employees whose superannuation falls in the next three years and who have no house of their own or in the name of any members of their family.” 15%

In the written statement filed, the stand of respondents No.3 and 4 is that the reservation was meant only for domiciles of Punjab and not for other pensioners. Since the petitioner is not a

pensioner from the State of Punjab but a pensioner of the Central Government, therefore, he is not entitled to benefit of reservation.

The reservation in respect of residential plots is contemplated in Rule 4 of the Punjab Town Improvement (Utilization of Land & Allotment of Plots) Rules, 1983 (for short ‘the Rules’). The relevant Rule reads as under:-

“4. Reservation of residential plots and multi-storeyed houses.-

(1) Subject to the provisions of rule 10, residential plots and multi-storeyed houses shall be reserved for allotment to the following categories of persons to the extent specified against each:-

	Category of persons	Extent of reservation
(i) *	Members of the Parliament representing the State of Punjab and the Members of the Punjab Legislative Assembly.	Eight per cent of plots of 250, 300, 400 and 500 Square Yards only.
(ii)	Freedom fighters and political sufferers having domicile in the State of Punjab and who have been awarded Tamra Patras by the Punjab Government; and in the case of such persons their widows and in the absence of widows their children	Two per cent
(iii)	Defence Personnel, Border Security Force Personnel, members of the Central Reserve Police Force, Ex-servicemen and War Widows having domicile in the State of Punjab	Eight per cent
(iv) **	Persons appointed to Public Services by the State Government who are holding posts in connection with the affairs of the State of Punjab and in case of their death while in service their widows.	Eight per cent
(v)	Persons belonging to the Scheduled Castes and Backward Castes	Eight per cent
(vi) **	Employees of the concerned Truést and in case of their death while in service, their widows.	Two per cent
(vii) *	Non-Resident Indians	Four per cent of plots of 500 Square Yards size only:

Note:- * omitted by notification dated 15.12.2005
** prior to substitution on 15.12.2005.

Provided that ten per cent of the residential plots and multi-storeyed houses shall be reserved for persons whose applications for allotment of residential plots and multi-storeyed houses are pending for a period of more than five years ending with the date of commencement of these rules:

Provided further that the unutilized plots reserved for different categories of persons under sub-rule (1) for want of eligible persons shall be open for allotment to the persons other than the reserve categories of persons;

Provided further that ten percent of the residential plots and multi-storeyed houses shall be allotted by the Trust with the approval of the Government to such category or class of persons and in the manner as the Government may from time to time keeping in view the socio-economic conditions of such persons specify.

xx xx xx xx xx”

The Rules in existence at the time of issuance of the advertisement contemplated reservation for the Members of Parliament representing the State of Punjab, Freedom Fighters, political sufferers who have been awarded Tamra Patras from the Government of Punjab having domiciles in State of Punjab and persons appointed by the Government in connection with the affairs of the State of Punjab etc.

We have heard learned counsel for the parties and find no merit in the present writ petition. The condition No.10 in the advertisement has to be read in continuation with condition No.4 i.e. Persons appointed by the Government in connection with the affairs of the State of Punjab. The basic reservation is to the employees of Government of Punjab. Therefore, the pension cannot be irrespective of the employees. All other reserved categories are in respect of domiciles of Punjab. The condition No.10 is not applicable in respect of pensioners.

Learned counsel for the petitioner refers to certain orders passed by the District Consumer Forum at Amritsar whereby the directions have been issued for allotment of plots to the Central

Government Pensioners as well. It is contended that the Improvement Trust has since allotted plot in terms of directions issued. The orders passed by the District Consumer Forum is not a binding precedent for this Court nor the petitioner can claim any parity in respect of illegality committed by the respondents in allotting plots to Central Government Pensioners. Reference may be made to Chandigarh Administration & another v. Jagjit Singh & another (1995) 1 SCC 745.

Therefore, the claim of the petitioner that all pensioners irrespective of nature of their employment are entitled to benefit of reservation cannot be accepted. The petitioner could apply as a General Category candidate and compete with all other similarly situated candidates for allotment of a plot but as a pensioner of the Central Government, he is not entitled to reservation in terms of circular dated 13.12.1989.

Consequently, we do not find any merit in the present writ petition. The same is dismissed.

(HEMANT GUPTA)
JUDGE

JANUARY 29, 2015
‘D. Gulati’

(HARI PAL VERMA)
JUDGE