

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 8669-2012

Date of Decision: 20.01.2015

Swarnjit Singh

...Petitioner

Vs.

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Harinder Sharma, Advocate,
for the petitioner.

Mr. Rajiv Prashad, Addl. A.G., Punjab.

1. To be referred to the Reporters or not? *Yes.*
2. Whether the judgment should be reported in the Digest? *Yes.*

RAJIV NARAIN RAINA, J. (ORAL)

The petitioner claims to be son of the daughter of a freedom fighter, namely, Sh. Krishan Chand, an original inhabitant, domicile and resident of village Saloh, District Una, Himachal Pradesh but settled in Punjab after marriage. He claims the benefit of horizontal reservation under Article 15 of the Constitution in appointment to public posts advertised in the State of Punjab as a “dotra” of a freedom fighter being the maternal grandson of Late Sh. Krishan Chand. The claim is based on the policy instructions of the Punjab Government. The learned counsel for the petitioner submits that the petitioner's mother was married in Punjab and settled in Faridkot from where domicile is claimed by him by residence and therefore he is domiciled in Punjab and indisputably he is a grandson of a Freedom Fighter.

In the written statement filed by the State the claim has been refuted and it has been stated that at the time of counselling for filling up the post in question, the petitioner was asked to produce a certificate of Punjab domicile and the freedom fighter certificate which was submitted later on by him. The petitioner's claim has been declined for the reason that the freedom fighter certificate was issued to his maternal grandfather by the office of the Sainik Welfare Board in Himachal Pradesh, which may be the competent authority in Himachal Pradesh but is not issued by the competent authority for Punjab purposes. It may be mentioned that Himachal Government does not recognize or offer any concession or relaxation in appointments for wards/dependants/dotras of freedom fighters for public employment in its State, unlike in Punjab. Therefore, the certificate issued by the Sainik Welfare Board in District Una, Himachal Pradesh will not legitimately work in Punjab as it has not been issued by the competent authority in Punjab State. Besides, the Collector in Himachal has got no authority to issue freedom fighter certificates for his State, unlike in Punjab, as such certificates are meaningless and of no value for people in Himachal Pradesh to claim reservation in appointment when no such right exists or is recognized in the hill State.

Be that as it may, the right claimed can only be given to those persons who fall in the category of descendants of freedom fighters recognized for reservation in Punjab. The right to the concession was created in Punjab for a special class of persons who required special treatment in recognition of services rendered in the freedom struggle for the liberation of India from British rule after its relationship with the hill State stood severed. History has it that after independence the Chief

Commissioner's province of Himachal Pradesh came into being on 15 April 1948. Himachal became a Part-C State in Sept. 1951 with the implementation of the Constitution of India. Himachal Pradesh became Union Territory on 1 November 1956. On 18 December 1970 the State of Himachal Pradesh, Act was passed by Parliament and the new State came into being on 25 January 1971. Therefore, the petitioner can have no case being a descendant of a freedom fighter who belonged to Himachal Pradesh. His present day domicile in Punjab is not sufficient to create an actionable right in him to lay hands on a Punjab post. He is free to apply in the general category without aid of reservation on the basis of his Punjab domicile.

For the foregoing reason, there is no merit found in this petition. The same is ordered to stand dismissed.

(RAJIV NARAIN RAINA)
JUDGE

January 20, 2015
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