

In the High Court for the States of Punjab and Haryana, at
Chandigarh

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LPA No. 37 of 2015(O&M)

Date of decision: September 4,2015

Tejbir Singh

..Appellant

Versus

The Secretary, Government of India, Ministry of Home Affairs,
New Delhi and others..

..Respondents

Coram: **Hon'ble Mr.Justice Satish Kumar Mittal**
Hon'ble Mr. Justice Mahavir S. Chauhan

Present: Mr. Surinder Dhull, Advocate
for the appellant.
Mr. Sunil Kumar Sharma, Advocate
for respondent No.1.
Mr. Vikas Bali, Advocate
for respondent Nos.2 and 3

- 1.Whether to be referred to Reporter?
- 2.Whether the judgment should be reported in the
digest ?

Mahavir S.Chauhan, J.

Though, there is delay of 184 days in filing the instant appeal and the appellant has filed application (CM No.85-LPA of 2015) for condoning the delay, yet we have heard learned counsel for the appellant on merits and have gone through the impugned order passed by the learned Single Judge.

This intra-court appeal under Clause X of the Letters

Patent is directed against order dated 12.5.2014, whereby learned Single Judge has dismissed Civil Writ Petition No. 4827 of 2012 brought by the appellant herein to challenge order dated 4.1.2012 rejecting his claim for grant of permission to carry his .32 bore revolver throughout the territory of India.

As per case of the appellant, on 1.10.1984, he was granted an arms licence (Annexure P1) with validity up to 14.5.1999 (which has been renewed later on) and had purchased a .12 bore double barrel gun after due permission of the competent authority. This weapon was entered in column 'A' of his arms licence. On his request, validity of this arms licence was extended to the State of Haryana vide order dated 28.11.1999. He then applied for extension of validity of the licence for the State of Punjab also. Ultimately, vide order dated 2.12.2009 validity of the licence was extended for the territory of the entire country subject to State restrictions. Appellant then purchased a .32 bore revolver and made an application for permission to carry it throughout the country. Though his case was duly recommended by the authorities of Union Territory of Chandigarh vide letter dated 22.7.2011 (Annexure P3), yet his request has been declined by Central Government vide order dated 4.1.2012 (Annexure P4) without any valid reasons.

A written statement was filed on behalf of respondent No.1-The Secretary, Government of India, Ministry of Home Affairs, wherein it was specifically stated that after considering the report of Chandigarh Administration, it was felt by the Central Government that reasoning/justification given by Chandigarh

Administration in support of the proposal was not adequate and no specific threat to the appellant outside the jurisdiction of his present licenced area of Chandigarh and Haryana could be discerned so as to justify endorsement of another weapon with All India Validity, since the appellant was already holding All India Validity Arms Licence for his .12 bore double barrel gun.

Learned Single Judge after hearing both the sides and in the light of the relevant instructions dated 31.3.2010 issued by the Government of India, Ministry of Home Affairs, came to the conclusion that the writ petition was without any merit and, accordingly, dismissed the same vide order dated 12.5.2014 in the following terms:-

“As per the above instructions dated 31.03.2010, the petitioner does not fall in any of the category for grant of all India license. Moreover, the State Government has to seek prior permission from MHA for issuing of all India License to the petitioner. The petitioner was granted all India license on 09.12.2009 which shall require renewal after 03 years on 09.12.2012. The request of the petitioner for grant of All India licence, declined vide letter dated 04.01.2012 (P-4) is in accordance with instructions dated 31.03.2010 (R-1) by Ministry of Home Affairs.”

We have heard learned counsel for the parties.

It is argued on behalf of the appellant that the learned Single Judge has dismissed his writ petition by over-looking the fact that the appellant has an All India Validity Arms Licence and as per the Arms Act, the appellant can be permitted to carry three arms on that licence. According to him, only an endorsement was

required to be made in the arms licence held by the appellant with regard to the .32 bore revolver and his case for such an endorsement was duly recommended by the Chandigarh Administration.

The contention, however, has failed to impress us. In the first instance, the scope of intra court appeal is limited to see whether there is any patent illegality or irregularity in the impugned order or whether the findings recorded by the learned Single Judge suffers from perversity. Though, no such illegality, irregularity or perversity could be pointed out in the order of learned Single Judge on behalf of the appellant, still, we have perused the impugned order as also the documents available on record.

It is not in dispute that the .32 bore revolver is a prohibited fire arm. It is also not in dispute that grant of all India permit is governed by instructions dated 31.3.2010 and validity of those instructions has not been challenged. These instructions read as under:-

“(vii) At present, powers have been delegated to the State Government for allowing all India validity of NPB licenses at their level. It has been decided that the State Government may allow area validity up to a maximum of three adjoining State and also to consider AIV requests at State level for (i) sitting Union Ministers/M.P's (ii) Personnel of Military, Para-Military, (iii) officers of all India Services and (iv) officers with liability to serve anywhere in India and (v) Sports persons. AIV may be allowed for 03 years, after which it shall be reconsidered by the state

Government based on need and the area validity can be either reduced or allowed to continue for another three years. Request from above categories of applicants may be approved at the level of Secretary (Home) of the State concerned. In the case of applicants not covered by the above categories, the State Government shall seek prior concurrence of MHA with full justification in deserving cases. All India Validity may be allowed for three years in such cases and shall be re-considered after three years by State Government with prior concurrence of MHA. The State Government, may send date of All India Validity on quarterly basis of MHA.”

A perusal of the aforesaid instructions would reveal that request of the appellant for extending validity of the arms licence throughout the country as regards the prohibited weapon like .32 bore revolver was to be assessed at the level of Secretary (Home) Government of India, that too on the recommendation of the authorities of Union Territory of Chandigarh and the necessary permission could be granted only if the request was found to be justified. A perusal of order dated 4.1.2012 (Annexure P4) brings out that the reason/justification given by the Union Territory of Chandigarh in support of the proposal to allow the appellant to carry the prohibited .32 bore revolver throughout the country was found to be not adequate. To put it otherwise, the competent authority, i.e., the Government of India, Ministry of Home Affairs, on the basis of the recommendations of Chandigarh Administration, found that the recommendations did not justify grant of permission to the appellant to carry the prohibited .32 bore revolver beyond the

territory of Union Territory, Chandigarh, more so, when he is already holding an All India Validity Licence for his .12 bore double barrel gun.

Before us, it has been admitted on behalf of the appellant that he is a serving Constable. However, learned counsel for the appellant has not been able to satisfy us about the necessity for the appellant to carry a .12 bore double barrel gun and .32 bore revolver throughout the territory of the country.

In view of the above, we do not see any reason to interfere with the order passed by the learned Single Judge. The appeal, therefore, fails and is dismissed.

(SATISH KUMAR MITTAL)
JUDGE

(MAHAVIR S. CHAUHAN)
JUDGE

September 4, 2015
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