

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

LPA No.782 of 2015(O&M)

Date of decision:14.9.2015

Ranjit Singh

....Appellant

VERSUS

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HEMANT GUPTA

HON'BLE MR. JUSTICE HARI PAL VERMA

Present: Mr. K.G. Chaudhry, Advocate for the appellant.

HEMANT GUPTA, J.(Oral)

The present Letters Patent Appeal under clause X of the Letters Patent is directed against an order passed by learned Single Bench of this Court on 11.03.2015 whereby a writ petition filed by the appellant for claiming a writ of mandamus for appointment as Constable in Intelligence Wing of Punjab Police was dismissed.

The appellant relies upon a policy dated 11.06.1996 to claim right of appointment which provides for 2% posts to be reserved for the Wards of deserving policemen for recruitment as Constable, Assistant Sub Inspectors and Inspectors out of direct recruitment quota. It is contended that the satisfaction of Director General of Police that a member of the Force was in forefront of the fight terrorists is sufficient, which test is satisfied in the case of the appellant when Director General of Police passed an order to examine the recruitment of the appellant in Intelligence Wing of Punjab Police as Assistant Inspector.

Learned Single Judge dismissed the writ petition finding that the appellant has not done such commendable work which may entitle the appellant for consideration for appointment against 2% quota.

Learned Single Bench was apprised of a Division Bench judgment reported as Jagtar Singh and others v. State of Punjab and others, 2006 (3) SLR 781, wherein similar provision as contained in Rule 12.14(3) of the Punjab Police Rules, 1934 was found to be unconstitutional.

Having heard learned counsel for the appellant, we do not find any merit in the present Letters Patent Appeal. Firstly, in view of the Division Bench judgment in Jagtar Singh's case (supra) wherein similar Rule 12.14(3) of the Punjab Police Rules, 1934, contemplating preference to the sons and near relations of persons who have done good service in Punjab Police for Employment in Police was found to be unconstitutional.

Secondly, the appellant seeks appointment for the reason that his father had done commendable job in Punjab Police. The father of the appellant is admittedly in service. Therefore, merely because at one point of time the Director General of Police directed to examine the claim of the appellant for appointment does not entitle the appellant for appointment as a ward of deserving police official. The policy dated 11.06.1996 to claim right of appointment against 2% posts to be reserved for the Wards of deserving policemen for recruitment as Constable, Assistant Sub Inspectors and Inspectors out of direct recruitment quota is wholly illegal, arbitrary, unjust and against the very concept of public employment. The ratio of the Division Bench judgment in Jagtar Singh's case is very well applicable to the present policy as well, when the Court held as under:-

“8. Article 16 of the Constitution of India guarantees to all citizens in the country equality of opportunity in matters relating to employment or appointment to any office under the State. It flows from the said article that in all cases of recruitment to government service where vacancies/posts are to be filled up by direct recruitment, the employer must adopt a mode through which all eligible candidates are given an opportunity to compete. In the present case, it is clear that no such opportunity was accorded to any candidate when recommendations were made by the then Director General of Police for the enlistment of the petitioners. The petitioners made individual applications on which orders for their enlistment were made by the Director General of Police. Neither were the vacancies advertised or circulated amongst all eligible candidates by any reasonable method nor were any applications invited from persons registered with various employment exchanges in the State. The appointment made was therefore totally illegal and against the rigor of Article 16 of the Constitution of India.

9. In so far as reliance of the petitioners on Rule 12.14(3) is concerned, the matter is no longer res integra. In "Yogender Pal Singh and others vs. Union of India and others, reported as 1987(1) SLR 379" Hon'ble Supreme Court had occasion to consider the constitutional validity of this very rule which provides preference in the matter of appointment to children or other relatives of serving or retired police officers. The Court concluded that the said rule showing preference in the matter of public employment on grounds of descent, was unconstitutional.”

Consequently, we do not find any merit in the Letters Patent

Appeal.

Dismissed.

(HEMANT GUPTA)
JUDGE

SEPTEMBER 14, 2015
‘D. Gulati’

(HARI PAL VERMA)
JUDGE