

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.20450 of 2015
Decided on :02.08.2016

Shireen Hanjra

... Petitioner

Versus

State of Punjab & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present : Mr.Rajesh Lamba, Advocate, for the petitioners.

Ms.Lavanya Paul, AAG, Punjab, for respondents No.1 & 3.

Mr.Ashish Rawal, Advocate, for respondent No.2.

G.S. Sandhawal, J. (Oral)

Present petition is an unfortunate case where a dependent of Ex-Serviceman, who was killed in action on 19.10.1999 in an encounter in the Operation, namely, OP Rakshak (OP Vijay) and has been recognized as a “Battle Casualty”, has to fight for admission and satisfy the authorities that she is entitled for the benefit of reservation under the Wards of Ex. Serviceman Category. The certificate of Battle Casualty, issued by the Army Headquarters reads as under:

“TO WHOM SOEVER IT MAY CONCERN

It is certified that IC-49485X MAJ GURPREET SINGH was granted commission in the Army on 09 Jun 1990 (PRC) and killed on 19 Oct 1999 in an encounter with militants in “OP-VIJAY (OP RAKSHAK)”. The death of the officer has been classified as BATTLE CASULTY vide this Headquarters letter No. 12821/47/99/OPR/ORG 3 (D) dated 04 Nov 1999.

As per records maintained at Integrated Headquarter of MoD (Army) details of his family are as under:-

Ser	Name of family	Relationship	Date of Birth/	Authority
No. members			Marriage	of DO
				Part II order
(a)	Mrs. Mandeep			
	Kaur	Wife	25 Dec 1972/	30/1997
			25 Feb 1996	dated 21 Apr
				1997
(b)	Miss Shireen			
	Hanjra	Daughter	11 Sep 1997	07/19998 dated
				31 Jan 1998.”

It is not disputed that the petitioner had studied her +2 from DAV Public School, Phase 10, Mohali, on the basis of which, she was eligible to apply under Clause 16 of the Prospectus (Annexure P1) for admission in the MBBS course for the academic session 2015. As per the reservation provided under Clause 20 to the defence personnel to the extent of 1%, preference is to be given to the wards of Defence Personnel killed in terrorists action. As per Clause 6 Part-I of the Prospectus, such ward would come under Category 22. The requirements under Category 22 to furnish the necessary certificates is prescribed in the format which is reproduced as under:

“CATEGORIES CODE-22 TO 27

CERTIFICATE TO BE FURNISHED BY WARDS OF DEFENCE PERSONNEL KILLED OR DISABLED TO THE EXTENT OF 50% OR MORE IN ACTION, WARDS OF GALLENTARY AWARDEES AND WARDS OF SERVING DEFENCE PERSONNEL

Certified that Mr./Ms. _____ Son/Daughter of Sh. _____ resident of _____ is/was father/mother/guardian of Sh./Mrs. _____ (Name of the candidate) has been/is:

i) Killed in action.

- ii) disabled in action to the extent of 50% or above & Boarded out of service.
- iii) Died while in service & Death attributed to military service
- iv) Disabled in service & Boarded out with disease attributed to military service.
- v) Gallantry award/other award winners both in service/retired.
- vi) Serving Defence Personnel/Ex.serviceman

Date: (Official Seal) Signature of Commanding Officer
Secretary District Sainik Welfare

Note: The candidates seeking admission against above category should produce a certificate from the Army Headquarters or the Commanding Officer of the Unit in the case of serving defence personnel and Army headquarters or Commanding Officer of the last armed Unit or Secretary Zila Sainik Board countersigned by the Secretary, Rajya Sainik Board as the case may be in the case of Ex-defence personnel. In doubtful cases of Ex-defence personnel, discharge certificate may be asked for.”

Petitioner, accordingly, furnished the requisite certificate dated 20.05.2015 (Annexure P3), which was issued by the Army Headquarters. On an objection being raised, the said certificate was also got countersigned by the Secretary of the Zila Sainik Board, Panchkula, which would be clear from photocopy of the said certificate, appended as Annexure P3. An objection was sought to be raised on 15.09.2015 (Annexure P4) that the said certificate did not have the counter signatures of the District Sainik Welfare Officer and the Director, Defence Services, Punjab, Chandigarh. Thereafter, another objection was raised on 21.09.2015 (Annexure P5) to the same effect that the countersigned certificate be made available by 24.09.2015, as required

vide the earlier communication, failing which, the seat would be cancelled and would be offered to the candidate next in the waiting list. In such circumstances, the petitioner was forced to approach this Court and the interim order dated 24.09.2015 had been issued in her favour that her admission shall not be disturbed, after noticing the above background.

Respondent-State, in its reply, filed by respondent No.3, averred that the residence of the petitioner is Village Tepla, District Ambala, Haryana and therefore, the benefit of this category cannot be claimed in the State of Punjab. It has been averred that the Director, Sainik Services Welfare Board, in the communication dated 17.09.2015, had informed that the petitioner did not fulfill the requisite qualifications for admission to Category Code 22. It had been found that her father did not belong to Tehsil Moonak, District Sangrur and therefore, was not eligible for admission. The defence taken was that reservation would only be for the candidates who were dependents of the defence personnel belonging to the State of Punjab and not to the other states.

The respondent-University, in its response, has taken the plea that there is an alternate remedy of appeal, as provided under Clause 18 of the notification. It has been, accordingly, pleaded that the certificate had to be countersigned by the Secretary, Zila Sainik Board and by the Secretary, Rajya Sainik Board, Punjab, in the case of Ex.Defence Personnel and therefore, the objections raised were justified.

Petitioner also filed replication whereby she appended the Prospectus of the current year, to buttress her arguments.

Clauses 15 & 16 of the Prospectus provides that the candidate has to be a *bona fide* resident of Punjab or should belong to Punjab and have passed his/her +2 examination from school/institute situated in the State of Punjab. Certain categories have been exempted but keeping in view the fact that the petitioner studied from Mohali and her mother belonging to Sangrur, there should be no dispute regarding the fact that she would be entitled for admission on the strength of having passed her +2 and in view of the fact that her mother owned property, in view of Clauses 15 & 16 of the Prospectus. Same reads as under:

“15. The candidate should be a bonafide resident of Punjab. The resident status of Punjab state will be taken in terms of Punjab Government. Department of Personnel and Administrative reforms (PP-II Branch) letter No.1/3/95-3 PP II/9819 dated 6th June, 1996, ID No.1/2/96-3PP-2/8976 dated 7th July, 1998 and ID No.1/3/95-3PP/II/81, dated 1st January 1999 and any further instructions issued by the Department of Personnel, if any, and the same shall be adhered. This is applicable on all MBBS/BDS candidates except 15% All India Quota. NRI seats and wards of defence personnel posted in Punjab.

16. A Candidate should belong to Punjab and should have passed his/her 10+2 examination or other equivalent examination in place of 10+2 examination from a recognized School/institution situated in the State of Punjab except for the following exemptions wherever applicable. The candidate would be required to submit a certificate to this effect from the Principal/Head of the Institute last attended in the prescribed proforma.”

It is not disputed that the mother of the petitioner owns property in Tehsil Moonak, which would be clear from the certificate issued by the Tehsildar, Moonak (Annexure P2). The requisite certificate issued, as per format, reads as under:

“RESIDENCE CERTIFICATE TO BE ISSUED BY THE
DC, ADC (R), ADC (D), SDM, ASSISTANT
COMMISSIONER GENERAL, DORG/DRO, EM,
TEHSILDAR, COMMISSIONERS OF MUNICIPAL
CORPORATIONS OF AMRITSAR, JALANDHAR AND
LUDHIANA

IN CASE OF CATEGORY- (b) (v) Annexure-V

Certified that Smt. Mandeep Kaur D/o Sh.
Jasvinder Singh holds immovable property at Village
Thaska, Tehsil Moonak, District Sangrur in the State of
Punjab for the Past 20 years/(Twenty Years) and till date.
(Place and District)

She is the Mother of Ms. Shireen Hanjra D/O (Late) Major
Gurpreet Singh

(Name of Candidate)

Dated: 7.05.2015

Sd/-

No.-156/08/15

TEHSILDAR-MOONAK

DISTRICT-SANGRUR,

PUNJAB (Based on copies of
Jamabandi) Revenue Record

Signature of DC, ADC(R), ADC(D),
SDM, ASSISTANT COMMISSIONER
GENERAL, DORG/DRO, EM,
Tehsildar, based on copies of Jamabandi,
Revenue Record, Municipal Record,
Registered deed or any other documents
to full satisfaction of the DC”

Once being eligible, she was also entitled for the benefit of reservation, as, admittedly, it is not disputed that her father was killed in action, which would be clear from Annexure P6, which shows that he died of multiple gunshot wounds and on account of haemorrhage. The certificate issued by the Army Headquarters would go on to show that the death of the officer was classified as 'a battle casualty' on 04.11.1999. In spite of this, the respondent-State is choosing to object, solely on the ground that the father of the petitioner belongs to the State of Haryana.

From the pleadings of the respondents, plea has been taken that the petitioner's father does not belong to Sangrur but to Haryana and the right stemming from the mother's ownership is being ignored, which is clearly contrary to Clause 15. As per the said clause, the resident status is to be taken as per the letter dated 06.06.1996, issued by the Punjab Government, which provides the eligibility conditions as per the five categories given in the said letter. Thus, as per Category (i) candidates had to have studied for a period of 5 years in the State of Punjab or for 2 years preceding the qualifying examination and the certificate was to be signed by the Head Master/Principal of the recognized school. The requisite certificate given by the concerned Principal in the case of the petitioner is as under:

“CERTIFICATE FROM THE PRINCIPAL/HEAD OF THE
INSTITUTION LAST ATTENDED

I certify that Miss. SHIREEN HANJRA S/o D/o Sh.
MAJOR GURPREET SINGH has studied in 10+1 and 10+2
as candidate in DAV PUBLIC SR. SEC. SCHOOL is a

recognized Institution(s) situated in PHASE-X MOHALI,
PUNJAB (State) as per following details:-

Class	School/ College Roll No. In case of 11 th Class Exams. Board Roll No. in case of 12 th Class	Year when passed 10+1/ appear ed for 10+2	Marks		obtained		/Total		Marks	
			Physics		Chemistry		Biology		English	
			Obt	Out of	Obt	Out of	Obt	Out of	Obt	Out of
10+1	32	2014	51	100	68	100	74	100	80	100
10+2	2762386	2015	73	100	88	100	85	100	87	100

- I. Attested photo copies are attached with this certificate.
- II. Permanent residential address of candidate as recorded in
school record is as under
Village-Thaska, Tehsil-Moonak, District-Sangrur, Punjab
Principal
D.A.V. Public Sr.Sec.School
Phase-X, Mohali
Signature of the Headmaster/Principal
Of institution Last attended (with official seal)
Date 09/09/2015
Place MOHALI”

Similarly, under Clause (v), children/wards of persons who
have held immovable property in Punjab for a period of 5 years, the
property being in the name of the parents/guardians or the candidate
himself, would make the person eligible to seek similar benefits. In the
case of the petitioner, as noticed above, the certificate, issued by the
Tehsildar, showing ownership of land in the name of the mother, would
put the controversy beyond an anvil of doubt.

Pertaining to the validity of the certificate of the Army authorities, rather a perusal of the note would go on to show that for the Ex-Serviceman, the form of Category 22 has to be filled by the Army Headquarters or the Commanding Officer of the last unit or the Secretary, Zila Sainik Board, countersigned by the Secretary, Rajya Sainik Board. In the case of the petitioner, as noticed, the Army Headquarters had already sent all the requisite certificates which was unnecessarily objected to by the respondents, leading to the present litigation and putting the student in a zone of uncertainty for one year.

A perusal of the Prospectus for the present year 2016 (Annexure P7) would go on to show that for the first time, now, a note has been put, pertaining to the wards of Ex-Servicemen that the certificate should be signed by the Army Headquarters, countersigned by the Director, Defence Services Welfare, Punjab. The relevant part reads as under:

- “(vii) Wards of Defence Personnel
(in Order of preference to the exclusion of next category)
(a) Killed in action.
(b) Disabled in action to the extent of 50% or above &
Boarded out of service
(c) Died while in service & Death attributed to Military
service.
(d) Disabled in service & boarded out with disability
attributed to Military Service.
(e) Gallantry award/other award winners both
serving/retired.
(f) Serving defence personnel/ex-serviceman.

Note:- Certificate to this effect must be issued by
Army/Navy/Air Force Headquarters or the Commanding

Officer of the Unit, countersigned by the Director, Defence Services Welfare, Punjab in case of the serving Defence Personnel. In case of Ex-Servicemen certificate should be signed by the concerned District Defence Services Welfare Officer, countersigned by the Director, Defence Services Welfare, Punjab.”

Similarly, reference can also be made to the letter dated 09.02.2016, issued by the Directorate of Defence Services Welfare, Punjab, Sainik Bhawan, Chandigarh, whereby communication has been addressed to the University that the benefit is only for the Wards of Punjab State Defence Personnel and in the case of Ex-servicemen, certificate should be signed by the concerned District Sainik Services Welfare Officer, countersigned by the Director, Defence Services Welfare, Punjab. The same reads as under:

“Registered Post
DIRECTORATE OF DEFENCE SERVICES WELFARE PUNJAB
PUNJAB SAINIK BHAWAN, SECTOR 21 D
CHANDIGARH

To

Registrar
Baba Farid University of Health Science
Faridkot-151203

Memo No: 11(8) 1W/2016/409
Dated, Chandigarh the 09 Feb 2016

Sub: Regarding -Benefit of reservation meant for wards of Defence personnel

Reference your letter No: 03 BFUHS/Asst/PMET/
2016/1713 dated 13/01/2016 on the subject cited above.

2. It is intimated that the candidates seeking admission against the following category of defence personnel in case of 85% state quota who are bonafide resident of Punjab State should produce a certificate from the Army/Navy/Air Force Headquarters or the Commanding Officer of the Unit countersigned by the Director, Defence Services Welfare

Punjab in the case of Serving Defence Personnel. In the case of Ex-Servicemen certificate should be signed by the concerned District Defence Services Welfare Officer countersigned by the Director, Defence Services Welfare Punjab:-

- (a) Killed in action.
- (b) Disabled in action to the extent of 50% or above & Boarded out of service
- (c) Died while in service & Death attributable to military service.
- (d) Disabled in service & boarded out with disability attributable to military Service.
- (e) Gallantry award/other award winners both retired in service.
- (f) Ex-serviceman/Serving defence personnel.

3. The above said benefits is only for the wards of Punjab State Defence personnel only.”

Thus, it is apparent that the respondents themselves were aware of the fact that there was lacuna, as such, and there was no requirement of signatures, of which, they were insisting for, for the earlier year. The certificates which were produced, in the above facts and circumstances, were a valid proof of the fact that the petitioner was dependent of an Ex-Serviceman who had been killed in an action and a *bona fide* resident of the State of Punjab, as per the eligibility conditions prescribed in letter dated 06.06.1996, mentioned in Clauses 15 & 16 of the prospectus. Unnecessarily objections had been raised by the respondents, putting the petitioner and her family to further hardship, despite the sacrifice the father had given by way of his life to the country.

Accordingly, in view of the above discussion, the present writ petition is allowed, the interim order dated 24.09.2015 is hereby confirmed and petitioner is permitted to continue in her course. Respondent No.3 shall pay costs of Rs.20,000/-, on this account, within a period of 2 months from the receipt of the certified copy of this order.

AUGUST 2nd, 2016
sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No