

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.474 of 2016 (O&M)
Date of Decision:-31.3.2016.

Renu Kanwar

.....Petitioner

Versus

State of Punjab and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE P.B. BAJANTHRI**

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Manish Dadwal, Advocate for the petitioner.

SURYA KANT, J. (ORAL)

1.) This Letters Patent Appeal is directed against the order dated 20.1.2016 whereby learned Single Judge has dismissed the appellant's writ petition in which she sought a writ of *mandamus* for her appointment as English Lecturer in the reserved category of Ex-Serviceman/Dependent of Ex-Serviceman.

2.) The learned Single Judge has turned down the appellant's claim with the finding that her father is an Ex-Serviceman from the State of Himachal Pradesh, hence she is ineligible to claim the benefit of reservation meant for Ex-Servicemen of State of Punjab as per Clause 7 of the advertisement (Annexure P-10).

3.) The facts are not in dispute. The father of the appellant is a retired Subedar Major from Indian Army and he is a resident of Village Daulatpur Chowk, Tehsil Amb, District Una (H.P.). The Ex-Serviceman Certificate dated 15.5.2003 (P-4) as well as the revised Certificate dated 14.7.2010 (P-5) have been issued in favour of the appellant's father by the Sainik Welfare Board of District Una (H.P.).

4.) The Education Department of Punjab issued the advertisement dated 23.9.2009 (P-10) for recruitment of school Lecturers on contract basis. 80 such posts were in the subject of English. Besides the general conditions of eligibility, clause 7 of the advertisement reads as follows:-

“The reservation under the category of Ex-servicemen is available only for the residents of Punjab. If the Ex-serviceman is not the candidate himself, only then this reservation is applicable for the dependents. Such Ex-servicemen/dependents, at the time of counseling will produce the original certificate issued by the competent officer appointed by the Government, issued before the last date of application given in the advertisement.”

(emphasis applied)

5.) The appellant applied for the post of Lecturer in English and claimed the benefit of reservation meant for Ex-Servicemen she being dependent of an Ex-Serviceman. She was provisionally considered in that category but having realized that her father is not an Ex-Serviceman belonging to State of Punjab, the appellant was

treated in the general category and her overall merit in the open category being less than the last appointed candidate, she was not offered appointment.

6.) In the written statement, the respondents have clarified that out of 40 posts of Lecturer in English, 5 posts have been filled from the category of Ex-Servicemen and all the candidates who have been offered appointment as per their details given in para 2 of the written statement are permanent residents of State of Punjab to whom Ex-Serviceman Certificates have been issued by the Sainik Welfare Officers of Faridkot, Ludhiana, Moga, Hoshiarpur and Sangrur, respectively.

7.) Learned counsel for the appellant vehemently contends that firstly the respondents cannot be allowed to discriminate amongst the Ex-Servicemen on the basis of the place of their residence and secondly, the appellant is also a resident of Punjab State and cannot be denied the benefit of reservation in the Ex-Serviceman category. Reliance is placed on a Full Bench decision of this Court in **Abhishek Rishi Vs. State of Punjab and others 2013 (2) PLR 409.**

8.) Having considered the submissions made on behalf of the appellant, we do not find any ground to interfere with the order passed by the learned Single Judge.

9.) We have no reason to doubt that Clause 7 of the advertisement as reproduced in para 4 unequivocally provides that

the reservation was meant for only those Ex-Servicemen who are residents of State of Punjab. The reservation is essentially for Ex-Servicemen and their dependents could be considered only in the event of non-availability of the Ex-Servicemen. A mandatory eligibility condition applicable in the case of Ex-Serviceman himself surely would apply in the case of his dependent as well.

10.) Neither Clause 7 of the advertisement was under challenge nor any fault can possibly be found with the decision of the State Government restricting the benefit of reservation to the Ex-Servicemen of Punjab State only. Since no candidate lower in merit than the appellant in open category has been offered appointment, the desired *mandamus* cannot be issued.

11.) Dismissed.

**(SURYA KANT)
JUDGE**

**(P.B. BAJANTHRI)
JUDGE**

March 31, 2016.

sandeep sethi