

**CM-8805-CWP-2016 in
RA-CW-228-2016 in
CWP No.1183 of 2016**

SHIV RATTAN VS STATE OF HARYANA AND ORS

Present:- Mr.Pritam Singh Saini, Advocate, for the applicant/State.

Mr.Shailendera Sharma, Advocate, for the petitioner.

The State has come up in review in the judgment dated 13.05.2016, whereby, the present writ petition filed by Sh.Shiv Rattan had been allowed with a direction to the respondents to allot constabulary number to the petitioner with all consequential benefits, within a period of two weeks from the date of receipt of certified copy of this order.

The petitioner had applied for the post of General Duty Constable under BC-A/Ex-serviceman category in 2nd IRB, Bhondsi (Gurgaon) and according to the report dated 11.03.2005 (Annexure R-1) given by the Secretary, Zila Sainik Board, Narnaul, the eligibility certificate issued as per letter No.50/4/96-SE-1/RSB dated 11.10.2001 of Haryana Rajaya Sainik Board, Panchkula, which was valid for appointment of dependent of Ex-servicemen in Haryana Government Services. This certificate has been placed on record in the main petition as Annexure R-1.

The learned counsel for the State is seeking review in the final order on the grounds that the father of the petitioner i.e. Sh.Ram Chander Sharma had already given appointment in PWD and BR Department, Haryana vide memo No.3575/Ei dated 20.08.1971, a copy of which was already annexed as Annexure R/5. Subsequently, one dependent (namely Shiv Kumar son of Sh./Ram Chander Sharma and brother of the petitioner) of Sh.Ram Chander Sharma had also availed the benefit of DESM by getting

the job of Constable in 1st India Reserve Battalion of Haryana Police. A copy of his application form for the post of Constable was annexed as Annexure R/9 vide which in point No.11, he had clearly mentioned that he was applying under the category of DESM. Similarly, a copy of his appointment letter was annexed as Annexure R/10 vide which his category clearly mentioned as ESM-DEP-BC/A.

Learned counsel for the petitioner submits in the reply that father of the petitioner was discharged from Indian Army on account of his disability and his disability is assessed as 50% as per the certificate issued by the Record Office on 21.08.2012. Copy of the Disability Certificate of the father of the petitioner has been annexed as Annexure P-1. Thus, the two dependents were eligible for appointment in Government service being dependant of ex-serviceman. He further submits that respondents have totally overlooked the instructions Annexure R/2 issued by the Principal Controller of Defence Accounts whereby, it has been conveyed that after the implementation of the recommendation of the 5th Pay Commission w.e.f. 01.01.1996, the disability of less than 50% has been rounded off upto 50%. It was further submitted by the counsel for the petitioner in the reply that father of the petitioner was appointed in Haryana Govt. Service in General Category and not against the post reserved for ex-service and father of the petitioner availed the benefit of Military Service rendered during emergency which is not a bar.

Learned State counsel has further referred to the instructions dated

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one dependent child of the ex-serviceman only.

In view of the above, the review application is allowed and order dated 13.05.2016 is being recalled. The present writ petition be posted for hearing as per roster.

01.12.2016
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(RITU BAHRI)
JUDGE