

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

**CWP No. 20139 of 2012
Date of Pronouncement: 01.02.2017**

Jagtar Singh

...Petitioner

Versus

State of Punjab & Others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Naresh Kaushik, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab
for respondent Nos. 1 and 2.

Mr. Ajay Jain, Advocate
for respondent No. 3

JAISHREE THAKUR, J.

The instant writ petition has been filed to challenge the selection of respondent No. 3 on the post of Constable in the Freedom Fighter category.

2. In brief, the facts are that the respondent-State advertised 5578 posts later reduced to 5293 posts for male Constables in Punjab Police and District Police cadre by the advertisement published on 11.09.2010 (Annexure P-2). The petitioner applied and furnished all the necessary certificates required under the advertisement as well as an eligibility certificate, however, his name was not reflected in the merit list prepared under the Freedom Fighter category. Respondent No. 3 came to be selected against the said reserved post. It is contended that the selection of respondent No. 3 is illegal as he did not have the necessary qualification nor did he have the necessary certificates on the date the application form was to be submitted. Aggrieved against the said selection of respondent No. 3, the

instant writ petition has been filed seeking a writ in the nature of Certiorari to quash the said selection and with a prayer that the letter of appointment be issued to the petitioner.

3. Learned counsel appearing on behalf of the petitioner contends that the selection of respondent No. 3 is against the terms as mentioned in the advertisement. It is contended that the respondent No. 3 did not have the requisite documents on the date of submission of the application form. In fact, respondent No. 3 did not possess the certificate issued by the competent authority that he was the ward of a Freedom Fighter. It is also contended that the advertisement specifically mentioned that the application form completely filled in all aspects along with necessary documents/certificates must reach the Chairman, District Recruitment Board by 5.00 PM on 7th of October, 2010 and any application submitted thereafter would not be taken into consideration and as such the eligibility certificate furnished thereafter could not be relied upon to offer appointment to respondent No. 3.

4. Per contra, learned counsel appearing on behalf of the state and the private respondent contend that the application submitted by the respondent No. 3 specifically mentioned that he was the ward of a Freedom Fighter. It is contended that respondent No. 3 is the grandson of Freedom Fighter Rattan Singh who had been issued a *Tamra Patra* by the Government of India, while also submitting that while applying he was in possession of the *Tamra Patra* in original which had been issued by the Government of India in the year 1972 to his grandfather. It is also submitted that with the application form, he had enclosed a photocopy of the pension being drawn by his grandfather through State bank of India pension PPO No. 1182/FF/Punjab.

The recruitment Board asked for an eligibility certificate from the Deputy Commissioner, Hoshiarpur which certificate was also supplied. Counsel for respondent No. 3 argues that there is no irregularity in his appointment.

5. Counsel for the petitioner relies upon a judgment ***Indu Gupta versus Director Of Sports Punjab reported as 1997 (4) S. C. T. Page 113***, wherein, it has been held that a candidate is obligated to submit all the certificates required along with the application and submit the same before the cut-off date. It is argued that in the instant case the ratio as held in the aforesaid judgment would be fully applicable since the petitioner had not submitted his application form complete in all respects. In fact the eligibility certificate which had to be annexed along with the application was only issued in the year 2013 and, therefore, the appointment offered is liable to be quashed.

6. Further Reliance has been placed upon ***Jagjeet Singh versus State of Punjab, 2008 (1) S. C. T. Page 169*** to contend that any application which has been received incomplete and documents have been accepted after the cut-off date would be tantamount to irregularities and fraud in the selection process.

7. I have heard the learned counsel for the parties and have also perused the original record.

8. Clause 4 of the advertisement delineated the eligibility criteria. Sons and grandsons of Freedom Fighters would be eligible to apply under this category and it was wards of those Freedom Fighters who have either been granted a Freedom Fighter's pension from the Punjab government or have been awarded *Tamra Patra* for their political sufferings, who would be eligible. Furthermore, it is the Deputy Commissioner of a District, to which a

Freedom Fighter belongs, who is the competent person to provide an eligibility certificate. Clause 4d has to be read in its entirety and a reading of it will clearly indicate that eligibility certificate is to be issued by a Deputy Commissioner of the District where the Freedom Fighter resides. Only the term Freedom Fighter has been qualified as to being a person who has been granted a Freedom Fighter's pension from the Punjab Government or has been awarded a *Tamra Patra*. Clause 8 of the advertisement specified that the application had to be completed in all respects along with necessary documents/certificates and must reach the office of the Chairman, District Recruitment Board by the 7th of October 2010 which date was subsequently extended by a corrigendum issued.

9. The record produced before this Court clearly reveals that the pension papers of the Grandfather were annexed with the application form though there is no eligibility certificate. In fact the petitioner had tick marked (✓) the column which shows that he was a ward of a Freedom Fighter. However, he had not affixed the eligibility or any other certificate other than the pension papers of his grandfather as issued by the State of Punjab.

10. There is no doubt that the petitioner is the grandson of Rattan Singh, a Freedom Fighter who had been given a *Tamra patra*, and had a pension as given by the state of Punjab. He certainly did fulfill the eligibility criteria of being a ward of a Freedom Fighter on the date when the application was submitted. The Recruitment Board in its wisdom asked the respondent No. 3 to submit an eligibility certificate which was duly furnished. The grievance of the petitioner that such a certificate cannot be taken into

consideration, as it was not furnished before the cut of date, is not sustainable. The eligibility criteria as mentioned in the advertisement is not happily worded since it does not specify that furnishing of the certificate is mandatory. Advertisement only specifies as to who is the competent authority to furnish the eligibility certificate. The respondent being the ward of a freedom fighter certainly fulfilled the eligibility criteria when he supplied the pension papers of his grandfather and being more meritorious than the petitioner was offered appointment. At best, it can be said that the selection is irregular but cannot be held to be vitiated on account of any fraud. Respondent No. 3 did not acquire the status of being the ward of a freedom fighter on submission of the eligibility certificate, so there is no fraud that has been perpetuated. The judgments relied upon by the counsel for the petitioner are distinguishable from the facts of the present case.

11. Therefore, the selection of respondent No. 3 being more meritorious than the petitioner herein is sustained since indisputably he was the ward of a Freedom Fighter and had annexed pension papers of his grandfather as stipulated in the advertisement along with his application form.

12. In view of above, the present writ petition is dismissed being devoid of any merit.

February 01, 2017

Ansari

(JAISHREE THAKUR)

JUDGE

Whether speaking/reasoned

Whether reportable

Yes/No

Yes/No