

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 17283 of 2017 (O&M)
Date of Decision: October 25, 2017

Kabul Singh

.....Petitioner

versus

Panjab University and another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE SUDHIR MITTAL.**

Present: Mr. D.P. Balda, Advocate
for the petitioner

Mr. Indresh Goel, Advocate
for the respondents

Sudhir Mittal, J.

1. The petitioner is an ex-serviceman who has earned honorable discharge with pension after putting in 18 years of service. He was discharged on 30.06.2003. The petitioner was matriculate at the time of joining Army service. He completed 10+2 while in service. After his discharge, he completed his Graduation i.e. Bachelor of Arts from Kurukshetra University in the year 2017. Thereafter, the petitioner wished to enroll for the LL.B. 3 years course in the Academic Session 2017-18. He applied for the entrance test against 5% defence quota and secured 49.75% marks. Thus, he was placed at Serial No. 45 in the merit list of defence category. The reservation for defence category, as provided in the prospectus was 5% which translated into 15 seats for defence category out

Of total of 300 seats. Since the petitioner was way down in the merit list, he

could not secure admission in the LL.B. 3 years course.

2. The grievance of the petitioner is that according to the terms of the prospectus, preference has been given to wards of ex-serviceman/defence personnel in the quota of 5% for defence category, whereas it should be the other way round. The relevant part of the prospectus relating to 5% quota of defence category and the priorities mentioned therein is reproduced below:-

(vi) 5% (for all the under-mentioned categories taken together) for candidates who fall in one of the following categories (which are given there in order of precedence):-

- 1. Son/Daughter/Spouse of such Defence personnel and CAPF personnel who died in action. (Only those who were wholly dependant on such personnel shall be considered).*
- 2. Son/Daughter/Spouse as are wholly dependant on such Defence Personnel and CAPF Personnel who were incapacitated/died while in service.*
- 3. Defence and CAPF personnel who were incapacitated while in service.*
- 4. Son/daughter/spouse of ex-serviceman who are wholly dependent on them.*
- 5. Son/daughter/spouse of serving Defence personnel and CAPF who are wholly dependant on them.*
- 6. Ex-servicemen*
- 7. Serving Defence personnel and CAPF personnel.*

3. Learned counsel for the petitioner contended that reservation is provided to ex-servicemen to enable them to get rehabilitated in civil life after

leaving service and in case they are not granted preference over the wards of ex-servicemen, the very aim of the reservation stands defeated. Learned counsel has relied upon judgment of the Hon'ble Supreme Court of India titled as *Dilwan Singh vs. State of Haryana, 1996(8) SCC 369* and a Division Bench judgment of this Court titled as *Ishwar Singh vs. Kurukshetra University and others, 2013(3) SCT 493*.

4. On the other hand, learned counsel for the respondent-University submits that 5% defence quota is to be filled in accordance with the terms of the prospectus which have been incorporated after a thorough analysis by the concerned authorities keeping in view the need of the reservation and the intent behind the same.

5. We have given thoughtful consideration to the submissions made by either side.

6. The object of any reservation is to provide equal opportunity to people who are otherwise placed in a disadvantageous situation. Defence personnel who have either lost their lives in action/while in service or have been incapacitated are not in a position to provide for their families and, therefore, their wards (son/daughter/spouse) are entitled to be given the highest preference where quota is provided for defence personnel. An ex-serviceman can not claim preference over such wards for the simple reason that they draw pension and are looking for a second job avenue after having exhausted the avenue chosen by them in the first instance, the benefit of which has been reaped by their families. On the contrary, wards of defence personnel killed in action/while in service and wards of incapacitated defence personnel are at the threshold of their lives and are seeking to acquire qualification to equip themselves for providing support not only to their families which may be acquired in future, but also to provide for their widowed mothers (in case the defence personnel has died) and/or parents

(in case defence personnel has been incapacitated). Thus, the need of such wards is much higher and they are surely entitled to preference. Moreover, the younger generation needs adequate support to be able to grow up to become useful citizens. Wards of ex-serviceman and defence personnel are invariably educated in bits and pieces. It is well known that the ex-serviceman and defence personnel are transferred very frequently as a condition of their service which results in untimely interruption of the education of their children. Thus, they too, need an additional helping hand at the stage of acquisition of degree qualification. This is the most crucial stage of their lives and if the policy makers have deemed it appropriate to grant a reservation to a limited extent, preference should be given to such wards. As stated earlier, ex-serviceman although entitled to support in the form of reservation for the purposes of rehabilitation, their need is comparatively less.

7. Considerations are altogether different when it comes to recruitment in service. Here, an ex-serviceman is being rewarded for his services to the nation and is given an opportunity for early rehabilitation. Such a person has limited avenues and social needs dictate that such persons should be absorbed into civil society at the earliest. Children/wards, on the other hand, have greater opportunity and flexibility to explore various avenues.

8. Thus construed, the judgment of the Supreme Court in ***Dilwan Singh case (supra)*** does not come to the rescue of the petitioner because the Supreme Court was examining the case of an ex-serviceman who was seeking public employment. The judgment in ***Ishwar Singh case (supra)*** also does not support the petitioner because it is noticed in that case that the Government policy itself provided for preference to ex-serviceman. The decision has been rendered in the light of the policy decision of the Government and not against it whereas in the

arbitrary, illogical nor does it violate the Constitution or any other law.

9. The writ petition does not have any merit and the same is dismissed, however, without any order as to costs.

[SUDHIR MITTAL]
JUDGE

[SURYA KANT]
JUDGE

October 25, 2017

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No