

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20218 of 2017 (O&M)

Date of Decision: 02.09.2019

Ramanjeet Singh

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR.JUSTICE RAJIV NARAIN RAINA

Present: Mr. Navdeep Singh, Advocate
for the petitioner

Mr. Saurabh Mohunta, DAG Haryana.

RAJIV NARAIN RAINA, J. (Oral)

1. None other than the Army itself defines Defence Security Corps as a Corps of Ex-Servicemen inducted from all the three services of Armed Forces. The Defence Security Corps Records 'record office instructions' ROI No. 01/2017 prescribing the terms and conditions for grant of periodical extension of service: JCOs and OR provides that the Defence Security Corps is a part of the Regular Army and constituted under Army Rule 187(r). The Army personnel serving in the Defence Security Corps also served under the Army Act 1950 and the organization is treated as a 'Corps' of the Indian Army as per the statutory Rules known as the Army Rules, 1954. "Corps" is defined in Section (3) (vi) to mean any separate body of persons subject to this Act, which is prescribed as a Corps for the purposes of all or any of the

provisions of this Act. The Defence Security Corps falls in Chapter III and Section 43 (a) of the Act and Chapters II and III of the Army Rules 1950 except Rule 13, namely, The Defence Security Corps. These averments found in the additional affidavit filed today by Col. Chand Saroha, Welfare Officer, District Sainik and Ardh Sainik Welfare Office, Yamuna Nagar and in paragraph 5 of the writ petition have not been specifically denied in the main written statement. All that the response and its contents plead are a matter of record and reproduction of parts of Army Acts and rules. It is well-settled that what is not specifically denied is admitted.

2. The facts of the case are that the petitioner's father was an Ex-serviceman. He served the Indian Army and was retired on pension. Thereafter, he was employed in the Defence Security Corps where he served for 4 years and retired from that post as well. The petitioner applied for a civil post in the Agriculture Department, Haryana and claims reservation on he basis of dependant of Ex-serviceman.

3. The question which arises is whether the petitioner is a dependant of an Ex-serviceman. The petitioner was provisionally interviewed under interim orders of this Court dated 03.04.2018. He has been selected for the post of Agricultural Inspector. His candidature has been put in doubt with the objection that his father was not an Ex-serviceman assuming that his father joined service in the State Government/Central Government/any other Public Sector Undertaking

therefore he falls out of the definition. But most certainly the Defence Security Corps does not fall in the category of Public Sector Undertaking, State or Central Government service as commonly known.

4. In the written statement at page No.55 of the paper-book, the respondent/State of Haryana states that it is absolutely wrong to say that the engagement for 4 years in the Defence Security Corps is not a 'service' per se. It is pleaded in defence that the father of the petitioner remained under service of PSU and he was covered by the Policy No. 50/4/96-SE-I/RSB. The interpretation placed by the State of Haryana on the Act/Rules and Instructions is wholly misconceived. This Court has no doubt that the petitioner falls under the eligibility criteria for the son of Ex-serviceman and dependant on him. There is no dispute about the dependancy on the Ex-Serviceman raised in the petition and this position is not disputed.

5. The impugned order passed by the Zila Sainik Board on the basis of which the petitioner's candidature has been shrouded is declared illegal, arbitrary and unconstitutional. The impugned order is set aside. The petitioner is held to be dependant of his father's 1st length of service in the Army and subsequently in Defence Security Corps being an ex serviceman. The State of Haryana will be free to offer appointment to the petitioner as an Agricultural Inspector in the Department of Agriculture, Haryana subject to satisfaction of other conditions and, if otherwise, eligible.

6. The present petition is allowed with the directions as above.
Let a fresh order be passed and offer of appointment be made within 06 weeks from the date of receipt of certified copy of the order.

(RAJIV NARAIN RAINA)
JUDGE

02.09.2019
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Whether speaking/reasoned : Yes
Whether reportable : Yes/No