

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

LPA-1849-2019 (O&M)

Date of Decision: December 17, 2019

Surjit Kumar

... Appellant

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. Inderjit Sharma, Advocate
for the appellant.

RAVI SHANKER JHA, CHIEF JUSTICE, (ORAL)

This Letters Patent Appeal has been filed by the appellant-petitioner being aggrieved by order dated 30.09.2019 passed in CWP-1747-2019 whereby the petition filed by the petitioner claiming benefit of a special reservation for appointment in the establishment of the respondent, has been dismissed.

Learned counsel appearing for the appellant-petitioner submits that the petitioner's father was serving as Deputy Superintendent of Police in the Punjab Police, when he took part in an encounter involving participation in fierce encounter with the terrorist on 25.04.2010. It is submitted that other persons who were involved in the encounter along with the petitioner's father have been granted benefit of reservation and appointment, whereas, the petitioner has been denied the same. Learned counsel for the petitioner submits

that his father, who was a Deputy Superintendent of Police in the team involved in the encounter, directly participated in the encounter and therefore, the petitioner, who is a son, is entitled to the benefit of reservation and appointment in the establishment of the respondent as has been granted to other similarly situated persons who have participated in the encounter. Learned counsel for the petitioner submits that the learned Single Judge has failed to appreciate the aforesaid facts while dismissing the writ petition. Hence, this appeal.

We have heard learned counsel for the petitioner at length.

From a perusal of the order passed by the learned Single Judge, it is apparent that the learned Single Judge is taking into consideration the policy dated 11.06.1996 which provides for special case reservation to the police personnel who are involved in the encounters. Learned Single Judge has taken into consideration Clause 2(d) thereof which provides for 2% reservation in appointments for dependants of persons who have participated at least in 3 encounters with terrorists. Learned Single Judge has also taken into consideration Clause 2(e) which permits the Director General of Police to relax the aforesaid clause for granting reservation, where the personnel involved in the forefront of the fight against terrorism. The learned Single Judge has taken into consideration (Annexure P-21) wherein the authorities on examining the petitioner's prayer has recorded a finding that the petitioner's father was not directly involved in the operation, but reached the spot with additional force after the encounter was over. The aforesaid finding recorded by the learned Single Judge is duly borne out from the documents on record and the return filed by the respondents. Though, it is submitted by the learned counsel

appearing for the petitioner that persons similarly situated as the petitioner have been granted benefits including those who were involved in the same encounter, however, as the petitioner's case does not fall in any clauses of the policy dated 11.06.1996, the petitioner cannot claim any parity or benefit in the similar terms as the question of claiming negative equality does not arise in such matters and in case, some persons were wrongly given benefits, the same cannot be claimed as a right by the petitioner.

In the circumstances, we do not find any perversity or illegality in the order passed by the learned Single Judge warranting interference in it.

Accordingly, present appeal is dismissed.

(Ravi Shanker Jha)
Chief Justice

December 17, 2019
vkd

(Rajiv Sharma)
Judge

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