

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

Sr. No.588

CWP-16321-1999 (O&M)

Date of decision: May 19, 2022

Rajpal Singh

...Petitioner

Versus

State of Haryana and Others

...Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: None for the petitioner.

Mr. R.D. Sharma, Deputy Advocate General, Haryana.

ARUN MONGA, J. (ORAL)

Petition was filed in the year 1999, *inter alia*, for issuance of a writ in the nature of mandamus directing the respondents to consider and appoint the petitioner as Naib Tehsildar against the reserved vacancy meant for the Ex-servicemen as per policy instructions of the State, under which the dependents of service personnel killed in action were to be given preference for appointment to the State service over other Ex-servicemen.

2. Petition has been lying admitted since 24.05.2003.

3. When called out for hearing, there is no representation on behalf of petitioner. It seems that by sheer effluxion of time and pendency of the writ petition for more than 22 years before this Court, it has been rendered infructuous and/or petitioner seems to have lost interest in pursuing the same.

4. In any case, it appears that even on merits, claim of the petitioner is not admissible in view of the following stand taken in para No.1 of preliminary submissions of the written statement filed on behalf of respondent No.3, which is reproduced herein for ready reference:

“1. That the Hon’ble High Court in their judgment dated 5.12.96 delivered in cWP No.13309 of 1995- Rajpal Singh vs. State of Haryana and others directed the respondents to consider the case of the petitioner for appointment as Naib Tehsildar strictly in accordance with the reservation policy framed by the Government of Haryana for ex-servicemen and their dependents. The Hon’ble High Court further directed to consider the case of the petitioner according to the order of priority indicated in circular letter dated 6.3.72. In this connection it is respectfully submitted that in

compliance of the directions of the Hon'ble High Court in the aforesaid writ petition the case of the petitioner was considered by the Respondent Commission and a detailed order was passed on 19.9.97 (Annexure P-3) whereby the petitioner was held ineligible for selection under the priority category No.(ii) under the instructions dated 6.3.1972 which is as under:-

ii) Upto 2 dependents of service personnels killed/disabled beyond 50%.

In this connection it is further submitted that the petitioner no longer remains entitled to the priority category No.(ii) of reservation policy for ex-servicemen for the post of Naib Tehsildar after 1.4.91 because after 1.4.91 he is already in the regular service of the Haryana Government as Clerk in the consolidation Department Haryana having been selected against ex-servicemen reservation. Now again the petitioner in the present writ petition has contended that the decision of dependent is applicable in case of sons of ex-servicemen and not in case of sons of service men who were killed in action.....”.

5. Furthermore, learned State Counsel has placed reliance on Supreme Court judgment dated 5.5.1998 rendered in *Civil Appeal No.1701 of 1993-Haryana Public Service Commission vs Harinder Singh and Another*, wherein it was held as under:-

“The whole idea of the reservation is that those who are dependent for their survival on men who have lost their lives or became disabled in the service of the nation should not suffer. The public purpose of such reservation would be totally lost if it were to be made available to those who are gainfully employed. There is no justification for construing the words “dependents of ex-serviceman: in any manner other than that in which the appellant has construed them. This is accord with the reservation policy itself as shown by the quotation therefrom aforestated.

The appeal is allowed. The order under appeal is set aside and the writ petition filed by the respondent is dismissed.”

6. I am in agreement with the stand taken by the respondent-State as aforesaid. The same in any case has not been controverted either by way of replication or by way of any additional affidavit. In the aforesaid background, the petitioner can not claim the benefit as sought by him in the petition.

7. In view of the aforesaid, no ground for interference is made out. Petition is dismissed.

8. Since the main case has been decided, pending civil miscellaneous application, if any, also stands disposed of.

(ARUN MONGA)
JUDGE

May 19, 2022
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Whether speaking/reasoned:
Whether reportable:

Yes/No
Yes/No