

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

**CWP No.926 of 2017
Date of decision : 11.05.2023**

Navdeep Dogra

....Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Naveen Batra, Advocate
for the petitioner.

Mr. Aman Dhir, Dy. Advocate General, Punjab.

PANKAJ JAIN, J. (ORAL)

The petitioner herein prays for issuance of a writ in the nature of certiorari for setting aside the communication dated 16th of December, 2015 holding the petitioner ineligible under the Freedom Fighter Category and further order dated 26th of December, 2016 vide which the appeal preferred by the petitioner against the aforesaid order also stands dismissed.

2. State of Punjab vide Public Notice dated 8th of September, 2016 invited applications for direct recruitment to the post of Intelligence Officers in the rank of Sub Inspector in the Intelligence Wing of Punjab Police. The petitioner was a candidate *qua* 1% seats reserved for the wards of the Freedom Fighter as the grandfather of the petitioner is stated to be Tamra Patra holder which has been placed on record as Annexure P-4. However the claim of the petitioner was declined holding him to be ineligible.

3. Counsel for the petitioner refers to the relevant Rule governing the reservation for the wards of Freedom Fighter as displayed on the website of the respondents themselves to contend that as per the same son, daughter, grandson, granddaughter, maternal grandson and maternal granddaughter of those Freedom Fighters will be eligible for reservation who either have been granted a Freedom Fighter pension from the Punjab Government or have been awarded Tamra Patras for their political sufferings during pre-independence freedom movements whereas petitioner has been wrongly non-suited merely on the ground that the Tamra Patra has not been awarded by the State of Punjab. He refers to pleadings raised in Para 4 of the writ petition and the response thereto filed by the respondents to submit that though the Rule has been admitted yet the reliance is being placed upon the opinion that too to supersede the import of the Rule.

4. Mr. Dhir on the other hand submits that the opinion was obtained by the respondents which has been placed on record as Annexure R-1/T and the reservation has to be given only to the children, grandson, granddaughter, maternal grandson and maternal granddaughter of the Punjab State Freedom Fighters.

5. I have heard counsel for the parties and have gone through records of the case.

6. Counsels are ad idem that the relevant instructions laying down requisite qualification to avail benefit of reserved category of wards of Freedom Fighter read as under :

“As per Government Instructions issued by the Punjab Government from time to time son, daughter grandson, granddaughter, maternal grandson and maternal granddaughter of Freedom Fighter-wards of those Freedom Fighters will be eligible for reservation who have either been granted a Freedom Fighter pension from the Punjab Government or have been awarded Tamra Patras for their political sufferings during pre-independence freedom movements. The Deputy Commissioner of District to which a Freedom Fighter belongs will be the only competent authority to provide an eligibility certificate to this effect i.e. for grant of all types of those concessions to a Freedom Fighter or his/her wards.

The wards proposed to be covered would include dependents son, daughter, brother and sister or any other dependent family member.”

7. It is thus evident that the relevant instructions contemplate two situations :

- (i) Where a Freedom Fighter Pension has been granted by the Punjab Government; and
- (ii) The Freedom Fighter has been awarded 'Tamra Patra' for his physical suffering during pre-independence freedom movements.

8. Furthermore, the instructions require that the Deputy Commissioner of District to which the Freedom Fighter belongs will be the only competent authority to provide an eligibility certificate to this effect. It has also been provided that the wards proposed to be covered would include dependent sons, daughter, brother and sister or any other dependent family member. The petitioner is grandson of Jhondu Ram who was a

Freedom Fighter and was awarded Tamra Patra by the Prime Minister of the Country on 15th of August, 1972. The instructions nowhere contemplate that the certificate as required has to be issued by the Deputy Commissioner of a District in the State of Punjab only. Admittedly, the petitioner is in possession of a certificate issued by the concerned Deputy Commissioner and the same has been placed on record as Annexure P-3. Tamra Patra is on record as Annexure P-4.

9. In view of above, impugned orders (Annexures P-5 & P-6) rejecting the claim of the petitioner cannot be sustained and is hereby set aside. Writ petition is allowed.

10. Respondents are directed to consider the claim of the petitioner in the category of ward of Freedom Fighter within a period of four weeks from the date of receipt of certified copy of this order.

May 11, 2023		(Pankaj Jain)
Dpr		Judge
Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No