

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

207

CWP-23387-2016
Date of Decision: 29.04.2024

Sachin Kumar

...Petitioner

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Lalit Attri, Advocate
for Mr. Vinod Kumar, Advocate for the petitioner
Mr. Pawan Kumar, Deputy Advocate General, Punjab

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of action of the respondents for not extending reservation as per notification dated 01.09.1998 (Annexure P-1).

2. This Court on 17.04.2017 passed the following order:-

“Before proceeding any further it is deemed necessary to direct the State Counsel to apprise the Court as to how proviso added vide Notification dated 24.08.1998 (P-1) to the Punjab Recruitment of Ex Servicemen Rules 1982, providing for reservation to one grandchild of a gallantry award winner, would operate.

Copy of the Writ petition supplied to the Ms. Sudeepti Sharma, Deputy Advocate General, Punjab who is present in Court.

List on 03.05.2017.”

3. On 03.05.2017, the following further order was passed:-

“In compliance of the question posed on the previous date, Counsel for the State submits that the added proviso for reservation to grandchildren of Gallantry Award winner would operate only if the vacancy reserved for ex-servicemen is not claimed by the ex-servicemen or dependents of ex-servicemen. He, however concedes that there is a case of omission to that extent in the added proviso. He prays for time to file affidavit of the secretary concerned after getting the necessary amendment made in the added proviso.

Notice of motion for 29.08.2017.

On the asking of the Court Mr. Anant Kataria, Deputy Advocate General, Punjab accepts notice.”

4. Mr. Pawan Kumar, Deputy Advocate General during the course of hearing produced notification dated 08.05.2020 issued by Governor of Punjab in exercise of powers conferred by proviso to Article 309 read with Articles 234 and 318 of the Constitution of India. By the said notification, third proviso to Sub-Rule(1) of Rule 4 of Punjab Recruitment of Ex-serviceman Rules, 1982 has been inserted. The said proviso is reproduced as below:-

“Provided further that when an ex-serviceman is not available for recruitment against a reserved vacancy and further no wife or dependent child of an Ex-serviceman is available for recruitment against a reserved vacancy, such a vacancy shall be reserved to be filled in by recruitment of the grand child of a Gallantry Award Winner, in case the benefit of reservation has not been availed of by any of the children or dependents of such winner or by the winner himself subject to the conditions specified in the second proviso.”

5. In view of aforesaid proviso, the first right of reservation for Ex-serviceman is created in favour of the Ex-serviceman himself and thereafter in favour of his children and thereafter grandchildren. The respondent has selected available Ex-servicemen and their children whereas petitioner is grandson of Ex-serviceman.

6. In the wake of aforesaid amendment, the petition stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

29.04.2024
Mohit Kumar

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