

2024.PHHC:104143-DB



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

LPA-1758-2023 (O & M)
Reserved on: 06.08.2024
Pronounced on: 13.08.2024

SAHIL SHARMAAppellant
Versus

STATE OF PUNJAB & ANOTHERRespondents

CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Argued by: Mr. Avinit Avasthi, Advocate
for the appellant.

Mr. Maninder Singh, Sr. DAG, Punjab.

SURESHWAR THAKUR, J.

1. Through the filing of the instant Letter Patent Appeal, the appellant herein prays for quashing of the order dated 17.08.2023, as passed by the learned Single Judge upon CWP No. 15645 of 2023, titled as “Sahil Sharma Vs. State of Punjab and Another”, whereby the said writ petition became dismissed.

2. In the said writ petition, a prayer was made for setting aside the order dated 20.05.2022 (Annexure P-22), whereby the claim made by the father of the petitioner for issuance of certificate in favour of his son, thus claiming 2% quota for *Wards of Police Personnel*, has been rejected by the respondent No. 2, rather on the ground that the same is not covered under the relevant instructions.

Brief facts of the case.

3. The father of the petitioner served in the Punjab Police and

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87 commendation certificates from 1982-1998 for maintenance of law and order and various works done by him, during the period of militancy in the State of Punjab. The father of the petitioner after serving as Sub Inspector superannuated from service on 30.05.2020.

4. The State of Punjab vide its letter dated 12.09.2016 has issued instructions with regard to providing the benefit of 2% reservation to the *Wards of Police Personnel* in direct recruitment to the Police Department. The said instructions are ad verbatim extracted hereinafter.

“Subject : Policy to streamline the cases for grant of 2% reservation for “Wards of Police Personnel” in direct recruitment in Punjab Police.

In accordance with Govt. of Punjab instructions issued by Department of Home Affairs and Justice vide No.1(211)94- 2H/(1)/10176 dated 11.6.1996, wards of police personnel belonging to the following categories shall be covered:

I. Who have suffered casualty of one or more of the following relatives on the anti terrorist front:

(a) Father

(b) Mother

(c) Sister/Brother

(d) Son/Daughter

(e) Any other dependent family member

II. Who have suffered permanent disability on account of action against terrorists or attack by terrorists.

III. Who have been awarded President's Police Medal for Gallantry or Police Medal for Gallantry for showing bravery in action(s) against terrorists.

IV. Who have taken part in at least 3 encounters with terrorists.

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V. Who otherwise in the opinion of the Director General of Police have been in forefront in fight against terrorism

5. In view of the commendable service record of the father of the petitioner, he was issued a certificate dated 23.02.2021 (Annexure P-3) by the then Director General of Police, PSPCL/Punjab. The contents of the said certificate are extracted hereinafter.

“ Certified that SI/LR Parkash Chand No. 343/LDH was posted in Ludhiana during the period of terrorism in Punjab. He has taken part in various Anti-terrorist operations.

He was attached with me during my tenure as SSP Ludhiana.

- 20.03.1992 to 20.09.1993
- 20.12.1996 to 18.06.1997

He has a very good service record and has been rewarded with almost 95 Commendation Certificates along with various cash prizes.”

6. In view of the afore certificate, the father of the petitioner, as per instructions dated 12.09.2016, submitted an application seeking issuance of a certificate in favour of his son. The said application became rejected by the respondent vide letter dated 20.05.2022 (Annexure P-22).

7. Feeling dis-satisfied from the afore order dated 20.05.2022, the petitioner filed CWP-15645-2023, whereby he challenged the order (supra). The said writ petition became dismissed by this Court vide order dated 17.08.2023.

8. Aggrieved from the said dismissal order, the petitioner has filed thereagainst the instant appeal before this Court.

Grounds of Appeal.

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9. a) A certificate (Annexure P-3) as mandated under Category (v) has already been issued in favour of the petitioner by the Competent Authority i.e. the DGP Punjab, thereby the petitioner is fully entitled for issuance of certificate of 2% quota of *Ward of Police Personnel*.

b) The respondent has adopted 'Pick and Choose Policy' for granting certificates, inasmuch as, the respondent has granted certificate to one Dr. Gopal Misra vide letter dated 02.01.2019 (Annexure P-24), who had done similar work during the terrorism phase in Punjab as done by his father. The petitioner being similarly situated with the above said person therebys he is entitled to be considered for the 2% reservation quota kept for the Wards of Police Personnel.

Inferences of this Court.

10. The only ground which is taken to reject the non granting of the relevant certificate to the petitioner, thus as stated by the learned State counsel, is that, the earlier certificate (Annexure P-3), as was issued to the father of the petitioner, was not issued by the Director General of Police, Punjab, having regular charge of the said office, but was issued by the Director General of Police, PSPCL/Punjab. However, the said ground does not at this stage find favour with this Court. The reason being that it was not open for the learned Single Judge concerned, to totally disregard the said certificate (Annexure P-3), thus on the grounds as stated in paragraphs No. 6 and 7 of the verdict. The said paras are ad verbatim extracted hereinafter.

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6. *A perusal of the policy would indicate that Clauses IV and V are independent of each other. While in Clause IV, it is stated in unambiguous terms, that only those persons, who had participated in 3 encounters, who would be entitled for such certificates, Clause V is a kind of discretionary power vested with the Director General of Police, who in exceptional cases of bravery and valour could issue such certificate.*

7. *The job of police officer, undoubtedly, would involve risks as a police officer has to deal with persons who have no respect for law and are criminals, who could use force & cause harm. All the police officers in routine performance of duties incur these risks and are expected to be bold and brave. As such, the mere factum of commendation certificates or tracking criminals ipso-facto may not be sufficient to be categorized as Wards of Police Personnel. It is some acts of valour beyond normal risks involved, which could justify invoking of Clause V. It is the Director General of Police, who has to form opinion in this regard to extend benefit of reservation. However, the respondents having considered the matter and not having found sufficient grounds for issuing any such certificate, this Court does not find it to be a case fit enough to exercise extra ordinary jurisdiction.*

11. The reason for forming the above conclusion also stems from the factum, that only after the exercisings of the discretion, as vested in the Director General of Police, State of Punjab, but against the present petitioner-appellant, that therebys the petitioner may become facilitated to contend that the said discretion becoming ill exercised rather on ill informed grounds. However, even before the exercising of the said discretion by the Director General of Police, Punjab, the

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learned Single Judge, rather has forbidden the exercisings of the said vested discretion by the appropriate authority, thereby, *prima facie*, gross injustice has been done to the petitioner-appellant herein.

Final Order of this Court.

12. In aftermath, the appeal is allowed. The impugned judgment passed by the learned Single Judge is quashed and set aside. Furthermore, the declining order dated 20.05.2022 (Annexure P-22), as made on the application filed by the father of the petitioner for the relevant purpose is quashed and set aside, thus on the ground that at this stage, it is banked upon an ill informed reason.

13. Moreover, a direction is passed upon the Director General of Police, Punjab, to re-consider the application filed by the father of the petitioner for issuance of the relevant certificate, and, to pass a reasoned decision thereons, thus in view of the relevant instructions and rules, but within a period of two weeks from today.

14. Since the main case itself has been decided, thus, all the pending application(s), if any, also stand(s) disposed of.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

13.08.2024

kavneet singh

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