

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

Civil Writ Petition No. 12657 of 2010

Date of decision : 26.07.2010

Harjit Singh

.....Petitioner

VERSUS

PEC University of Technology and another

....Respondents

**CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH**

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

Present: Mr. Anurag Goyal, Advocate  
for the petitioner.

Mr. R.S. Bains, Advocate  
for the respondents.

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*RANJIT SINGH, I.*

This is unfortunate case of son of a Army person, who lost his life while he was fighting for the nation. The petitioner finds himself in a situation, which is his own creation. If he had been a bit vigilant, he would have not only avoided the situation but would have avoided the present litigation as well. Father of the petitioner while serving with the Indian Army lost his life, while being participating in operation RHINO. He expired on 14.10.1995. His widow and the mother of the petitioner has brought up the petitioner perhaps with certain odds. The petitioner passed matriculation and subsequently 10+2 in the year 2009. He had applied for admission to B.E. And B.

Arch. courses with six institutions of Chandigarh and Hoshiarpur. Last date of the application was 26.06.2010. The petitioner was a candidate for 15% seats reserved for All India quota. Overall 5 % seats in this All India quota are reserved for candidates who fall in one of the following categories, which are given in order of precedence:

(a) Sons/Daughters/Spouses of such defence personnel, para-military personnel like CRPF/BSF and Police personnel etc. who died in action while on duty. Only those who were wholly dependent on such personnel shall be considered.

(b) Sons/Daughters/Spouses as are wholly dependent on such Defence personnel, who were incapacitated/died while in service. Defence personnel incapacitated (will mean incapacitation leading to the discharge of the person by authorities concerned) while in service.

(c) Such Sons/Daughters/Spouses of ex-servicemen (Defence and para-military personnel like CRPF/BSF etc. ) as are wholly dependent on them.

(d) Defence personnel incapacitated (will mean incapacitation leading to the discharge of the person by authorities concerned) while in service.

(e) Such Sons/Daughters/Spouses of serving defence personnel and para-military personnel like CRPF/BSF etc. as are wholly dependent on them.

(f) Ex-servicemen

Ex-servicemen means a person who has served in any

rank whether as a combatant or non-combatant in the regular Army, Navy and Air Force of the Indian Union:-

(a) who has retired from the service after earning his/her pensions;OR

(b) who has been boarded out of the service on medical grounds attributable to military service or circumstances beyond his control and awarded medical or other disability pension OR

(c ) who has been released from the service as a result of reduction in establishment OR

(d) who has been released from the service after completing the specific period of engagement (otherwise than at his own request or by way of dismissal or discharge on account of misconduct or inefficiency) and has been given a gratuity.

Territorial Army Personnel of the following categories shall also be considered as ex-servicemen;

(a) pension holders for continuous embodied service;

(b)Disabled Territorial Army Personnel with disability attributable to military service.

(c ) Gallantry award winners.

Since the father of the petitioner had died in action while serving in Army, the petitioner would be entitled to be considered for admission under category (a) above. To become eligible for being considered in this regard, the petitioner was required to annex the certificate, proforma of which is given in the Brochure and has been

annexed with the petition, which is as follows:

3.(a) CERTIFICATE OF DEATH/DISABLEMENT OF  
MILITARY /PARAMILITARY PERSONNEL  
(FOR PEC/CCET/CCA only)

Certified that Mr. Ms. \_\_\_\_\_, is the  
son/daughter/spouse of Shri \_\_\_\_\_ rank  
\_\_\_\_\_.

Shri \_\_\_\_\_ was killed/disabled to the extent  
of 50% or more, in action/not-in-action but otherwise,  
while being in service, on \_\_\_\_\_ (date). His  
death/disability is entirely attributable to military service.

Date                      Seal                      Signature of Authorised Officer

Instead, the petitioner placed certificate Annexure P-2 with this form which only gives particulars of his father showing that he had died due to bullet injury and his death was attributable to battle casualty. Concededly, this certificate would not satisfy the requirement of the prospectus. The petitioner, accordingly, was not considered for admission in the reserved category of 5% meant for children of those who were from the Army and were killed in any action. Going strictly by book, there cannot be any fault on the part of the University in not considering the case of the petitioner in the reserved category for which he had applied. The fact also cannot be denied that the petitioner was eligible for being considered in this reserved category as his father was killed in action of operation RHINO and as such the petitioner was eligible for grant of admission

in the said category.

On being put to notice, Mr. Bains has appeared for the University. Mr. Bains points out that cases of those candidates who did not submit the requisite certificate have not been considered eligible and their applications have, accordingly, been rejected for being considered in the respective reserved categories. Mr. Bains, in this regard, drawn my attention to part of the prospectus, which reads as under:-

“ Important Note: All the certificates claiming reservation under various categories must have been issued on or before the closing date, i.e. 26<sup>th</sup> June, 2010.”

It is not disputed that the petitioner did submit the certificate on the lines required in the prospectus but on later date the copy of this certificate has been annexed with the petition as Annexure P-9 dated 14.07.2010. Going purely by requirement of the prospectus, the University is fully justified in not considering the case of the petitioner, however, being eligible for reserved category in which he had applied.

Counsel for the petitioner, at this stage, would submit that young child who has lost his father and had no one to guide him except an illiterate mother, should not be made to suffer further because of his unintended mistake, which has happened because of ignorance. Counsel would also point out that the petitioner was under impression that the certificate, Annexure P-2, which gave the particulars of his mother to be the widow of Naik Gurnam Singh, his father, whose name is also reflected in the 10<sup>th</sup> class certificate issued by the Board could sufficiently co-relate his identity as son of

deceased Gurnam Singh to consider him in the reserved category. Normally in such like situation, the person may not require consideration as the necessary document had not been supplied alongwith the application form. Considering the fact that the petitioner is son of deceased army person, who died while fighting for the nation and that he had placed on record some material which showed him to be son of an deceased employee, some concession may be called for as an extraordinary measure and not as a routine in the normal course. I am persuaded to take this view because of the fate of one helpless widow, who is illiterate and must have undergone great difficulty in bringing up the young son with the petitioner. It can be expected that the petitioner had no one to guide his mother being illiterate. The petitioner is a young person who has no one to guide and in this background some infirmity on his part would deserve to be ignored, as a special case, which would not be cited as precedent in any manner and would not otherwise to become a precedent to be followed.

I am inclined to issue direction to the University to consider the case of the petitioner in the reserved category in which he has applied. This is more as an act of consideration for a person, who has lost his life while serving the nation rather than anything else and that is why little indulgence may be called for.

The writ petition is, accordingly, disposed of.

July 26, 2010  
rts

( RANJIT SINGH )  
JUDGE