

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

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OA No. 060/00697/2017 Date of decision- 13 -2-2018.

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**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MRS. P. GOPINATH, MEMBER (A)**

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Navdeep Kaushal aged 25 years S/o Sh. Jagdish Chand R/o House No. 4225/A, Sector 46, Chandigarh.(Group C).

...APPLICANT

BY ADVOCATE : Mr. Jagtar Kureel.

VERSUS

1. Chandigarh Administration through its Home Secretary, U.T, Secretariat, Sector 9, U.T. Chandigarh.
2. Inspector General of Police, Chandigarh, Police Head Quarter, Sector 9, Chandigarh.
3. Senior Superintendent of Police, Chandigarh, Police Head Quarter, Sector 9, Chandigarh.

...RESPONDENTS

BY ADVOCATE: Mr. Mukesh Kaushik.

ORDER

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SANJEEV KAUSHIK, MEMBER(J):-

The applicant assailed the decision of the respondents disqualifying him for recruitment to the post of Constable on physical standard by not granting the benefit of relaxation of 5 cm in height as provided to the children of Chandigarh Police employees.

2. Facts which led to filing of the present O.A are that respondent-Chandigarh Police issued an advertisement dated 19.11.2015 inviting applications from eligible candidates for filling up 520 vacancies of Constables in Chandigarh Police. Along with advertisement, they have also uploaded the Standing Order No.

1/2015 on the official website. The applicant whose father is a permanent employee of state of Punjab and on deputation with Chandigarh police applied. He was subjected to written examination in which he was declared pass and thereafter, he was called for physical endurance & measurement test where he was disqualified for the post for not meeting out the physical standard as prescribed in the advertisement. The solitary grievance of the applicant as borne out from the record is that as per the advertisement, wards of Chandigarh Police employee are entitled for relaxation to 5cm either in height or in chest. Since the applicant was short of this standard and being ward of Chandigarh Police, is entitled for relaxation of 5cm in height which the respondents have not granted, therefore, their decision in declaring the applicant disqualified is illegal and liable to be invalidated.

3. Mr. Jagtar Kureel, learned counsel for the applicant, in support of above plea, attacked the decision of the respondents on two counts. Firstly, once an advertisement is clear for grant of 5 cm relaxation to the wards of the Chandigarh Police employees then the respondents cannot deny him relaxation on the plea that his father is on deputation with the Chandigarh Police. Secondly, that the respondents have also not granted him relaxation as provided in clause IV (E) (ii) which is available to the resident of hilly area despite the fact that the applicant had already furnished document to this effect to the competent authority, thus, he also prayed that their decision be invalidated. To substantiate his first plea, he submitted that as per the Standing Order, relaxation is to be granted to wards of police employees then the respondents cannot be allowed to raise the plea of deputation, once it does not find mention in the standing order.

He also argued that though father of the applicant is an employee of Punjab Police but since applicant's father is on deputation and getting salary from Chandigarh Police, therefore, being an employee working with the Chandigarh Police, the applicant is entitled for relaxation as available to the wards of Chandigarh Police personnels. He further argued that in terms of clause 1.5 of Standing Order no. 1/2015, the benefit is available to any employee of Chandigarh Police and as per dictionary meaning, all employee whosoever working with the Chandigarh Police is entitled for grant of the benefit in respect of the fact that whether he is on deputation or not.

4. The respondents while resisting the claim of the applicant by filing written statement vehemently opposed the prayer of the applicant. They submitted that since the applicant's father is on deputation with Chandigarh Police, therefore, he is not entitled for grant of benefit as available to the Chandigarh Police employees. It has also been submitted therein that as per Standing Order, they have already defined the 'wards of Police personnel' means the sons and daughters of serving Chandigarh Police Personnel. Chandigarh Police personnel has already been clarified which only includes wards of Chandigarh Police. Since father of the applicant is on deputation and his parent department is Punjab Police, therefore, he cannot be granted this benefit, therefore, his candidature has rightly been cancelled.

5. Mr. Mukesh Kaushik, learned counsel for the respondents argued in the same lines as noticed above.

6. Having completed all the formalities, having heard learned counsel for the parties, having gone through record and legal provision with their valuable assistance.

7. Solitary issue that arose for our consideration is as to whether action of the respondents in not extending the relaxation as envisaged in clause IV(E) of the advertisement to the applicant who is son of a deputationist is illegal or not?

8. For better understanding of controversy, clause IV (E) of the advertisement reads as under :-

(E) i) 5 cm relaxation (either in Height or in Chest) to the wards (sons and daughters only) of working/retired/deceased (except dismissed, compulsory retired or removed from service) Chandigarh Police employees will be available. Not more than two wards (sons and daughters) will be entitled to claim relaxation in height or chest.

ii) 5 cm relaxation in Height (male/female) to the resident of hill area will be available on production of certificate (at the time of physical measurement test) to this effect (Hill area certificate) issued by the Competent Authority i.e. DC/DM/SDM or Tehsildar of their place of hill area residence.

iii) For claiming relaxations, as above, please consult standing order 01/2015 available on the Chandigarh police website www.chandigarhpolice.nic.in."

Clause 1.4 & 1.5 of the Standing order No. 1/2015 also reads as under:-

"1.4 **"Wards of Police Personnel" (WPP)** means the sons and daughter of serving Chandigarh Police Personnel, or of Chandigarh Police personnel who died while in service and the sons and daughters of retired Chandigarh Police personnel (on superannuation or by voluntary retirement whether living or deceased). The sons and daughters of Chandigarh Police personnel dismissed, discharged, removed from service or given compulsory retirement shall not be considered as 'wards of police personnel'. Intending candidates applying under this category must obtain a certificate from the competent authority in the proforma given in Annexure 'WP'.

1.5 "**Chandigarh Police personnel** " shall mean any employee of Chandigarh police of whatever rank and group including Group D (formerly Class IV) employees."

9. Above extracted relevant para of advertisement and standing order make it crystal clear that benefit of relaxation has been extended to the wards of employees of Chandigarh Police working/retired/deceased. This benefit has not been made admissible to those employees who are dismissed, compulsory retired or removed from service. Even otherwise the word 'ward' of Police personnel has been defined in para 1.4 of the standing order which defines that it is only the sons and daughters of serving Chandigarh Police Personnel. Chandigarh Police personnel has also been defined in para 1.5 of the Standing Order which means any employee of Chandigarh Police. If we read definition of wards and Chandigarh police personnel then it is clear that employees who are recruited in Chandigarh Police and are permanent employee are called as Chandigarh Police personnel. By no stretch of imagination any employee who is on deputation with Chandigarh Police can be said to be an employee of Chandigarh Police as he is on deputation with his lien with his parent department/state.

10. We may also note here that word "deputation" means service outside the cadre or outside the parent department. Deputation is deputing or transferring an employee to a post outside his cadre, that is to say, to another department on a temporary basis. After the expiry period of deputation, an employee has to come back to his parent department to occupy the same position unless he has earned promotion in his parent Department as per the Recruitment Rules. Thus, it is clear that a person who is sent on deputation is on temporary basis and has to come back to his parent department on

expiry of deputation period, therefore, argument at the hands of the applicant that though his father is on deputation with Chandigarh Police but he be treated an employee of U.T and be given the benefit which is only available to the employees of Chandigarh Police, cannot be accepted.

11. We are afraid that the second contention of the applicant for grant of age relaxation as available to residents of hilly area can be accepted. Neither the applicant has applied under the said category for availing benefit available to hilly area candidates nor he furnished the relevant documents at the relevant point of time as per instructions. Therefore, the candidature of the applicant has rightly been rejected.

12. Accordingly, we find no reason to interfere with the impugned decision taken by the respondents. The O.A is dismissed being devoid of merit. No order as to costs.

(P. GOPINATH)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: February 13 , 2018.

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