

Before Rajiv Sharma and H.S. Sidhu, JJ.

MOHIT SATIJA—Appellant

versus

STATE OF PUNJAB—Respondents

LPA-462-2019

July 31, 2019

Constitution of India 1950, Article 14,226—Reservation and benchmark for sports persons—the appellant had won bronze medal in badminton and was denied reservation in sports category—held use of word “won” and won in first, second and third category would carry different meanings—Rules must be construed strictly and the word “won” would only mean having won a “gold medal”—LPA dismissed.

Held, that the sole point for consideration whether the appellant who had got the bronze medal could be considered as having won in the National Championship in team or individual events while representing the State of Punjab required in clause a above.

(Para 7)

Held, the learned Single Judge held against the appellant. According to the Ld. Single Judge the word won used in the said clause could only mean having won a gold medal.

(Para 8)

Held, The Rules clearly contemplate a distinction between mere use of the word won and won first, second or third position there was no necessity to amplify it by using the words first, second and third position.

(Para 15)

Bikramjit Singh Patwalia, Advocate
for the appellant.

Ayush Sarna, A.A.G., Punjab.

HARINDER SINGH SIDHU, J.

(1) This Letters Patent Appeal has been filed against the judgment dated 29.10.2015 in CWP No.11522 of 2012 'Mohit Satija vs. State of Punjab and another' whereby the writ petition filed by the appellant seeking a direction to the respondents to consider him for the

selection as Sub Divisional Engineer (Civil) under reserved sports quota has been dismissed.

(2) The appellant possesses the degree of Bachelor of Engineering (Civil) from Thapar University, Patiala. He won a Bronze Medal (Third position) in 47th National School Games 2001-2002 organised by the School Games Federation of India at Patiala in the sport of Badminton. For this he was issued a Grade 'B' certificate by the Sports Directorate, Punjab.

(3) On 28.12.2010 Punjab Public Service Commission, Patiala advertised 70 posts of Sub Divisional Engineers (SDE) (Civil/Mechanical/Electrical) in the Department of Public Works (B&R) Punjab. There were 53 posts of SDE (Civil). One post was reserved for B/M Sikh Sports Person, Punjab. One post was reserved for Sports Person, Punjab.

(4) The appellant applied for the post of SDE (Civil) in the Sports Category. As per the advertisement a candidate could claim reservation under Sports Category only if :

(i) he belongs to State of Punjab; and

(a) he has won National Championship in team or individual events while representing the State of Punjab in such sports events as have been conducted by such respective National Federations as are affiliated to the Indian Olympic Association; or

(b) he has won National Championship in team or individual events which are organised by the Indian Olympic Association; or

(c) he has won first, second or third position in team or individual events and/or he has won Gold or Silver or Bronze Medal, at International Sports meets, conducted by International Federations affiliated to the International Olympic Committee or by the International Olympic Committee itself.

(ii) If candidate belongs to Sports Person, Punjab Category, an attested copy of Gradation Certificate strictly in accordance with the Punjab Sportsman Rules, 1988 issued by the competent authority should be attached with the application form.

(iii) Director Sports, Punjab is the competent authority to issue Sports Gradation Certificate and any other Sports Certificate issued by any other authority will not be accepted a valid Certificate for claim of reservation under the Sports Person, Punjab Category.

(iv) Applicants claiming reservation under Sports Person, Punjab Category must submit Domicile Certificate from the competent authority. Failing so they will be considered as General Category candidates.”

(5) The appellant qualified in the Screening Test conducted by the Punjab Public Service Commission. He was issued interview letter dated 10.3.2012. He appeared before the PPSC on 19.3.2012. He was informed that he could not be considered under the Sports Category as only those persons who had won a 'gold' medal in a team/ individual event representing the team of State of Punjab could be considered as 'sports person'.

(6) He filed Civil Writ Petition challenging the action of the respondents which has been dismissed by the impugned order.

(7) The sole point for consideration was whether the appellant who had got the bronze medal could be considered as having 'won' in the National Championship in team or individual events while representing the State of Punjab as required in clause (a) above.

(8) The learned Single Judge held against the appellant. According to the Ld. Single Judge the word 'won' used in the said clause could only mean having won a 'gold' medal.

(9) The Ld. Single Judge reasoned as under:

“6. Mr. Joshi cites the dictionary meaning of the word “winner” to mean a person who gains something, especially by effort or merit; a person who is victorious in a contest, who wins a game, race, competition etc; in games of skill, a winning shot, piece, card, move, etc; he points to the noun “winning” which means an action or an act of gaining, getting or obtaining acquisition esp; victory in a game or contest. He submits that the petitioner fits into the dictionary meaning. However, I do not think one would need to go as far as the dictionary because the moot question has to ultimately concede to the criteria adopted in the present selection which uses the word “won”. When the word

“won” is in the past tense of the irregular verb to “win” then plain rules of grammar signify that the winner of the championship is the gold medallist unless there is a tie in the 1st position. Therefore, it would not be safe to widen the scope of the word “won” with the meaning of 'winner' and 'winning' as urged by the learned counsel and I would rather prefer such a construction of the word winner as is understood in the singular and not in the plural. Such an interpretation would be in harmony with the criteria of selection in the same recruitment rules when it speaks of international sports meets and open competition and sports persons who have won 1st, 2nd and 3rd positions in team or individual events in games and sporting events conducted by the National Federations as are affiliated to the International Olympic Committee or by the International Olympic Committee itself. There is intrinsic and valuable difference perceptibly in the quality of achievement of sportsmen in international events and it appears forthcoming from the criterion adopted that the employer State struck the difference in search of Sub-Divisional Engineers (Civil) in the sports quota to be limited only to such persons as had “won” in their respective events and carried home gold medals. Let me put it simply and in common parlance what winning means by an example which would strike the mind: To say that Michael Johnson is the only male athlete in history to 'win' the 200m and 400m race at the same Olympics is that he won gold medal and nothing short. It is quite another thing to say that this sportsman won a gold, silver or bronze medal at the games. The intention behind the rule is thus the governing principle, to be gathered from the collection of words used in the criterion After all, concessions, relaxations, standards and reserved quotas are meant to be strictly construed so that the object behind them is fulfilled and the purpose sought to be achieved is served. This is all the more stringent when Government pays the cost of employment for the next thirty years for the sake of governance.”

(10) The above reasoning is unexceptionable.

(11) The conclusion of the Ld. Single Judge is further supported if a reference is made to the *The Punjab Recruitment of Sportsmen*

Rules, 1988' which lay down different requirements to qualify as a sportsman as to where the post is a Class I or Class II Post or Class III or Class IV post. The accomplishments and level of participation required for Class I & Class II are the higher than those for a Class III post which in turn are higher than for a Class IV post. The Rules are as under:

“1. Short title and application:-

(i) These rules may be called the Punjab Recruitment of Sportsmen Rules, 1988.

(ii) They shall apply to all the services and posts connected with the affairs of the State of Punjab except the Punjab Vidhan Sabha Secretariat, Punjab Public Service Commission and Punjab and Haryana High Court.

2. Definitions:-

In these rules, unless the context otherwise requires:

(a) “direct appointment” means an appointment made otherwise than by promotion or by transfer of a person already in the service of Government of India or of a State Govt;

(b) “Government” means the Government of the State of Punjab;

(c) “reserved vacancy” means a vacancy reserved under sub-rule (i) of rule 3, to be filled in by the appointment of a sportsman.

(d) “Sportsman” means a person of either sex who fulfils the following conditions, namely:-

(a) In the case of recruitment to a reserved vacancy in Class I or Class II posts:-

(i) that he belongs to the State of Punjab; and

(ii) that he has won national championship in team or individual events while representing the State of Punjab in such sports events as have been conducted by such respective national federations as are affiliated to the Indian Olympic Association;

Or

(i) that he has won national championship in team of individual events which are organized by the Indian Olympic Association;

Or

(ii) that he has won first, second or third position in team or individual events and /or he has won Gold or Silver or Bronze Medals at International Sports meets, conducted by International Federations affiliated to the International Olympic Committee or by the International Olympic Committee itself.

(b) In the case of recruitment to reserved vacancy in Class III posts:-

(i) that he belongs to the State of Punjab : and

(ii) that he has won first, second or third position in team or individual events while representing the State of Punjab in a State Level Championship in any of the discipline affiliated to the Punjab Olympic Association organized by the State Level Federation. In case of non-Olympic disciplines such as Cricket and Tennis, a winner should have attained any of the first three positions in a State level Championship organised by the concerned

State Level Association affiliated to the concerned national Federation.

(c) In the case of recruitment to a reserved vacancy in Class IV post:-

(i) that he belongs to the State of Punjab ; and

(ii) that he has attained the first, second and third position in a District Level Championship organised by the concerned District Level Association affiliated to the State Level Association in the respective discipline.

(3) Reservation of vacancies:-

(1) Subject to the provisions of sub-rule (2) of rule 1, three percent of the vacancies to be filled in by direct appointment in all the State Civil Services and posts connected with the affairs of Punjab State, shall be

reserved for being filled in by, recruitment of Sportsmen.

Provided that the total number of reserved vacancies including those reserved for the candidates belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes, Ex-Servicemen, Physically handicapped persons and children/grand children of freedom fighters shall not exceed fifty percent of the posts to be filled in a particular year.

(2) Where a reserved vacancy remains unfilled for non-availability of sportsman eligible for recruitment under these rules, such vacancy may be filled in temporarily from any other sources in accordance with the rules regulating the recruitment, and the conditions of service of persons appointed to such posts as if the vacancy was not reserved;

Provided that the reserved vacancy so filled in shall be carried forward for the subsequent occasions arising during at least two years in each of which such occasion arises for recruitment, whereafter the vacancy in question shall be treated as unreserved.

4. Educational Qualifications and experience:-

(1) No person shall be eligible for recruitment to a reserved vacancy, unless he possesses the minimum educational qualifications and experience, if any, prescribed by the Govt. for direct appointment to such vacancy in the concerned service rules.

5. General:-

(1) In matters not specifically provided for in these rules a person appointed against a reserved vacancy shall be governed by the relevant service rules.

(2) All relevant service rules shall be subject to the provisions of these rules and the said rules shall be constructed accordingly.

6. Interpretation:-

If any question arises to the interpretation of these rules, the Chief Secretary to Govt. of Punjab in Personnel and

Administrative Reforms Department, shall decide the same.
P.N. Vaishnav Chief Secretary to Govt. of Punjab.”

(12) For recruitment to Class-I and Class-II posts the requirement is to have '*...won national championship in team or individual events while representing the State of Punjab...*' Whereas for international events the requirement is to have '*...won first, second or third position in team or individual events and/ or he has won Gold or Silver or Bronze Medals....*'

(13) For recruitment to Class-III the requirement is less stringent i.e., '*...he has won first, second or third position in team or individual events while representing the State of Punjab.....*'

(14) In case of recruitment to Class-IV posts the requirement is that '*..he has attained the first, second and third position in a District Level Championship organised by the concerned District Level Association...*'

(15) The Rules clearly contemplate a distinction between mere use of word 'won' and 'won first, second or third position'. Evidently, both terms would carry different meanings. If the word 'won' were also to mean to have 'won first, second or third position' there was no necessity to amplify it by using the words first, second and third position.

(16) The claim of the appellant based on certain persons having similar gradation as him having been considered in earlier selections has been rightly rejected by the Ld. Single Judge on the ground that no material had been placed on record to fully appreciate the ground of discrimination. Further, even if there has been any infirmity in the application of the criteria in one selection that is no reason to perpetuate that error.

(17) Thus there is no merit in this appeal and the same is dismissed.

Payel Mehta