



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

**LPA-658-2011 (O&M)
Date of Decision: 14.10.2025**

NEHA RATHI

... APPELLANT

VS.

STATE OF HARYANA AND ORS

.. RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present: Mr. R.K.Malik, Senior Advocate with
Mr. Varun Veer Chauhan, Advocate,
for the appellant.

Mr. Pankaj Middha, Addl. A.G.Haryana.

ROHIT KAPOOR, J. (ORAL)

1. The present appeal has been filed against the judgment and order dated 08.12.2010 passed by the learned Single Judge in CWP-21872-2010, whereby the writ petition filed by the appellant has been dismissed. Prayer in the writ petition was for setting aside the order dated 20.10.2009, whereby the claim of the appellant-petitioner for appointment to the post of Deputy Superintendent of Police (DSP), out of the sports quota had been rejected by the official respondents. A further prayer was made for quashing the appointment of the private respondents as DSP's in Haryana Police.

2. The facts involved in the matter are not in dispute. The appellant has excelled in the sport of wrestling and was appointed in the Haryana Police on the post of Sub-Inspector, out of the sports quota, and she joined as such on 11.11.2008. The appellant is M.A in English and is also holding a Master's degree in Physical Education. She claims to be an

outstanding sports person, having won several medals in international and national sporting events, in the field of Wrestling. She was also awarded the Bhim award in the year 2005-2006 by the Haryana Government in recognition of her achievements as a sports person.

3. It is alleged by the appellant that on having learnt that the private respondents were offered appointments to the post of DSP despite the fact that they had not been awarded the Bhim award and were less meritorious than her, she filed representations before the official respondents to appoint her to the post of DSP under the quota reserved for outstanding sports persons of Haryana State who win a gold, silver or bronze medal in the Olympic Games, or those sports persons who bring extraordinary laurels to the country and the State of Haryana. Ignoring her superior claim, the official respondents rejected her application vide order dated 20.10.2009.

4. The appellant submitted a detailed representation dated 03.03.2010, protesting the alleged arbitrary and discriminatory treatment meted out to her. Aggrieved by the failure of the official respondents to consider her claim, she approached the Writ Court under Article 226 of the Constitution of India by filing the aforementioned writ petition with the prayers as mentioned hereinabove.

5. The learned Single Judge, vide its judgment and order dated 08.12.2010, dismissed the writ petition filed by the appellant by, *inter alia*, making the following observations:-

“Appointment of sports person is made de hors merit. Should there be consideration of merit amongst this category, where appointment is made ignoring merit?”

At the outset, counsel for the Petitioner was asked to explain as to how writ for seeking preference amongst preferred class would be justified. The appointment of an outstanding sports person is made in

exercise of a discretionary power. Once the Petitioner pleads for her appointment as DSP, she is asking for exercise of that discretion in her favor. She is, thus, complaining of discrimination but at the same time, is seeking preferential treatment, which in a way would lead to discrimination only. Plea of equality in such cases in itself sounds contradictory.

The appointments in this category are not made on the basis of open competition. There is no competition amongst this preferred class while making appointments, which are offered to outstanding sports persons as a class in itself. There may be a policy framed by the State to regulate such appointments in police but that alone is not the field where the State is empowered to make appointment. Apparently, there may not be a right to such appointment as sports person. There may still be many in the State who have excelled in their respective sports and may be better placed than the Petitioner. They then can come forward to challenge her claim on that ground.

How, the Court can do a fair adjudication in such cases/Sporting event of the Petitioner and the private Respondents are different. There can not be a fair assessment of different events for determining merit. To seek an appointment in this preferred category, no open or fair assessment can be made. No allegations of any motive are made in the petition and it is only pleaded that the Petitioner has a preferential or better right in comparison to private Respondents, who concededly have excelled in their respective fields of sports. No doubt, that the power may have to be exercised legally, properly and reasonably. If it is not so done, the action may be held bad. No challenge is made to the power and authority to make such appointment. Rather, prayer is to make appointment in exercise of these very powers. It is being urged that power is not properly exercised. It is to be presumed, unless contrary is shown that the administration of a particular law would be done "not with an evil eye and unequal hand..." (See A. Thangal Kunju Musaliar vs. M. Venkitachalam Potti, 1955 (2) SCR 1196). There is nothing to indicate that administration of these powers is done with an evil eye and unequal hand' and that the action is discriminatory. Long ago, it was observed in State of Rajasthan and Others Vs. Union of India and Others, (1977) 3 SCC 592 that it must be remembered that merely because power may sometime be abused, it is no ground for denying the existence of the power It is observed that the wisdom of man has not yet been able to conceive of a Government with power sufficient to answer all its legitimate needs and at the same time incapable of mischief. Courts of law can not be unmindful of hard realities

of life. It is worth remembering that sometimes a little wrong would be tolerable if aim is to do or achieve something good. Courts have to adopt a pragmatic realistic, functional and practical approach.

Since the existence of power is not disputed, the same would not call for interference that it is capable of some mischief. It is for the State to see the achievement and make appointment to recognize the achievement of a particular sports person and Court will have hardly any role.

The Writ Petition is, accordingly, dismissed.”

6. Shri R.K.Malik, learned senior counsel appearing on behalf of the appellant, submits that the learned Single has not appreciated the facts of the case in the correct perspective and has ignored that the appellant was far more meritorious than the private respondents, as is apparent from the material placed on record. He contends that the power to appoint a sports person as DSP out of the reserved quota cannot be exercised arbitrarily and on a pick and choose basis, as has been done by the official respondents. It is further contended that the appellant has been non-suited in violation of the applicable statutory rules. Shri Malik, has further argued that the findings of the learned Single Judge, that the appellant did not challenge the power of the authority to make appointments in exercise of its discretionary power, is a misreading of the averments and prayer made in the writ petition, wherein the appointment of the private respondents was categorically challenged. No other argument has been raised before us.

7. Per contra, Shri Pankaj Middha, learned Additional Advocate General, Haryana, submits that no legal, constitutional or fundamental right of the appellant has been violated, giving occasion to her to invoke the extraordinary jurisdiction of this Court. It is contended that the appellant cannot claim to be more meritorious than the private respondents, who are outstanding sports persons in the field of Cricket and Hockey, respectively,

only on the ground of higher educational qualification and on account of being bestowed with the Bhim award. It is lastly urged that the appellant has failed to show that the appointment of the private respondents was based upon any *mala-fide* consideration.

8. We have given our thoughtful consideration to the respective submissions advanced by the learned counsel for the parties, and have examined the material available on record, with their able assistance.

9. The issues requiring determination are: whether the rejection of the claim of the appellant to the post of DSP, out of the quota reserved for outstanding sports persons, is arbitrary and *de hors* the statutory rules? and, whether the appellant was more meritorious than the private respondents?

10. To answer the same, it is necessary to examine the relevant provision of the statutory rules providing for recruitment for the outstanding sports persons. The State of Haryana, in exercise of its powers under Article 309 of the Constitution of India, framed the 'Haryana Police Service Rules, 2002' (*hereinafter referred to as the '2002 rules'*). Sub rule (1) of Rule 6 came to be substituted vide notification dated 24.06.2008, and is extracted hereunder:-

“(1) 70% posts of Deputy Superintendents of Police shall be filled up by promotion from the rank of Inspectors and 27% by direct recruitment; Provided only those Inspectors will be eligible for promotion who (both promoted from subordinate ranks and directly recruited) have got six years regular satisfactory service as Inspector (Adhoc service will not be counted for the purpose of experience):

Provided further that 3% of the total permanent posts of Deputy Superintendents of Police, shall be reserved for outstanding sportspersons of Haryana who win a Gold, Silver or Bronze Medal in Olympic Games or those sportspersons who bring extraordinary laurel to the country and the State of Haryana.”

11. A further amendment to the said rule was carried out vide notification dated 06.01.2009, which is reproduced hereinbelow for the facility of reference:-

“(1) 70% posts of Deputy Superintendent of Police shall be filled up by promotion from the rank of Inspectors and 24% by direct recruitment:

Provided that only those Inspectors shall be eligible for promotion who (both promoted from subordinate ranks and directly recruited) have got six years regular satisfactory service as Inspector (Adhoc service will not be counted for the purpose of experience):

Provided further that 6% of the total posts of Deputy Superintendents of Police, shall be reserved for outstanding sportspersons of the Haryana State who win a gold, silver or bronze medal in olympic games or those sportspersons who bring extraordinary laurels to the country and the State of Haryana.”

12. Perusal of the 2002 rules would show that 3% of the total permanent posts of DSPs were reserved for OSP's of Haryana who have won gold, silver or bronze medals in the Olympic Games 'or' those sports persons who bring extraordinary laurels to the country and the State of Haryana. The said quota was increased to 6% in the year 2009. Undisputedly, the appellant has not won a gold, silver or bronze medal in Olympic Games. Although, it cannot be said that she is not a good sports person, having won several medals and honoured with the Bhim award, however, no provision in the Rules has been shown to us, whereby, preference is to be given to those sportspersons, who have higher educational qualification or have been bestowed with the Bhim award. In such circumstances, it cannot be said that the claim of the appellant has been rejected in violation of the Rules or that she is more meritorious than the private respondents, who admittedly are outstanding sportspersons in their own respective sporting events. In our considered view, some discretion will have to be exercised by the authorities to decide the deserving sports persons from different fields, who are to be given the benefit of reservation,

for the limited number of posts available under the quota for DSP's, and this Court cannot sit in appeal over the decision of the competent authority, while exercising its powers of judicial review.

13. We find force in the contention made on behalf of the State that, in the absence of any material showing that the appointment of the private respondents was based on any *mala fide* consideration, the same cannot be interfered with lightly.

14. The matter can be examined from another angle. The appellant accepted the post of Sub-Inspector in the Haryana Police out of the reserved quota for sports persons, on her own volition and joined as such on 11.11.2008, without raising any protest or demur. Concededly, respondent No.4, who was a Cricketer, already stood appointed in the year 2007 as per the averments in the writ petition. It was only after a period of 2 years that the appellant approached the Writ Court against rejection of her claim to the post of DSP while also seeking the quashing of appointment of the private respondents. The appellant had the option of not accepting the post of Sub-Inspector, at the relevant point of time, which could have been offered to some other deserving candidate. After getting appointment on the said post under the reserved category for sports persons and having joined as such, she acquiesced in accepting the post and cannot blame the authorities to have acted in an arbitrary manner.

15. Further, the sport of the appellant and the private respondents are undisputedly different. We may take note that although the appellant has also mentioned the names of sportspersons from the field of wrestling in her petition, who were appointed as DSP's, and claimed that she was more meritorious than them, yet has not challenged their appointment, for the

reasons best known to her. Be that as it may, we are in agreement with the observations made by the learned Single Judge that the Court cannot adjudicate or make an assessment of different sporting events to determine merit.

16. In that view of the matter, we do not find that the judgment and order passed by the learned Single Judge warrants any interference and therefore, the present Letters Patent Appeal is dismissed and consigned to the records.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

14.10.2025

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Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No