

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

CWP-4666-2015 (O&M)
Date of decision : 28.07.2015

Ram Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. J.P. Sharma, Advocate for the petitioner.

JITENDRA CHAUHAN, J. (Oral)

The petitioner seeks quashing of the order dated 17.02.2012, passed by respondent No.3 (Annexure P-1) whereby, the petitioner had been ordered to be removed from the post of Lamberdar; order dated 26.07.2013, passed by respondent No.2 (Annexure P-2) vide which the appeal preferred by the petitioner against order dated 17.02.2012 (Annexure P-1) was dismissed; and order dated 15.01.2014, passed by respondent No.1 (Annexure P-3), whereby, the review petition moved by the petitioner against orders dated 17.02.2012 and 26.07.2013, was also dismissed.

It is alleged that the petitioner, while being underage, received the old age pension and despite the directions, he has not deposited the amount of Rs.41,800/- received as pension. It is contended that the the parents of petitioner, being illiterate, could not give the exact date of birth of the petitioner. The petitioner was

appointed as Lamberdar in the year 1969. If the date of birth mentioned in the school record i.e. 06.10.1954 is taken to be true, then it is not possible for a person to become Lamberdar at the age of fifteen.

Heard.

In **Anand Kumar Vs. State of Haryana, 2009(4) R.C.R. (Civil) 844**, this Court has held as under:-

“5. This Court in exercise of its supervisory writ jurisdiction does not sit in appeal over the findings reached at by the revenue authorities. It may be noticed that the Commissioner, Rohtak Division, Rohtak and the learned Financial Commissioner have on appreciation of the material on record reached at the conclusion that Rajender (respondent No.4) is more meritorious for appointment as Lambardar. Nothing is shown that the decision reached at by the revenue authorities that is the Commissioner, Rohtak Division, Rohtak and the Financial Commissioner, is, in any manner, erroneous or perverse which would warrant interference of this Court in exercise of its writ jurisdiction under Articles 226/227 of the Constitution of India. It may be noticed that the Commissioner, Rohtak Division, Rohtak in his order dated 24.4.2009 (Annexure-P.2) has observed that respondent No.4 is the son of the deceased Lambardar. Although a hereditary claim for appointment of Lambardar for appointment as

Lambardar is not the sole factor on which appointment of Lambardar is to be made but it may be noticed that the same is a relevant factor to which regard is to be had in the consideration process in terms of Rule 15 of the Punjab Land Revenue Rules ('Rules' – for short). The said rule reads as under:-

“15. Matters to be considered in first appointments.-- In all first appointments of headman, regard shall be had among other matters to—

(a) his hereditary claims;

(b) extent of property in the estate possessed by the candidate;

(c) services rendered to the State by himself or by his family;

(d) his personal influence, character, ability and freedom from indebtedness;

(e) the strength and importance of the community from which selection of a headman is to be made;

(f) services rendered by himself or by his family in the national movements to secure freedom of India.”

6. A perusal of the above Rule 15 of the Rules shows that in first appointment of Headman regards shall be had among others to hereditary claims. Therefore, even though the claim based on hereditary for consideration for appointment of Lambardar is not the sole factor for consideration for appointment as Lambardar but it is one of the factors to which regard is to be had to. The Commissioner and the

Financial Commissioner having taken the said factor into consideration which is in consonance with the Rules, this Court is not to upset the decision validly reached at in the consideration process. In exercise of the powers of judicial review of this Court, the Court is concerned more with the decision making process rather than the decision reached at. The decision having been validly reached at on the consideration of the material and evidence on record and the said decision is not, in any manner, shown to be illegal or perverse would warrant no interference by this Court in exercise of its supervisory jurisdiction.”

In the instant case, a complaint was moved by one Vikram before the Collector, Mahendergarh, alleging therein that the petitioner received old age pension w.e.f. December, 1999, claiming to be 60 years of age, whereas, he was of much lesser age. An inquiry was conducted and the Collector ordered to petitioner to deposit Rs.41,800/- received as old age pension. However, for the non-compliance of the order, he was removed from the post of Lamberdar vide order dated 17.02.2012. The appeal and revision petition filed by the petitioner against the said order also stood dismissed.

Before this Court, on 17.03.2015, it was contended on behalf of the petitioner that the petitioner was more than 60 years of age in the year 1999, thus, eligible to receive the old age pension.

Time was sought to place on record the relevant documents.

Thereafter, three adjournments have been granted and this is the fourth time when the matter has come before this Court for hearing, however, order dated 17.03.2015 has still not been complied with.

Keeping in view the allegation against the petitioner, his conduct in not depositing the amount ordered by the Collector, despite there being no stay in his favour and not complying with the order passed by this Court on 17.03.2015, no relief can be granted to him.

In view of the above, this Court does not find any ground to interfere in the orders passed by the Executive Authorities. Impugned orders dated 17.02.2012 (Annexure P-1), 26.07.2013 (Annexure P-2) and 15.01.2014 (Annexure P-3) are hereby affirmed.

Consequently, the present petition is hereby dismissed.

28.07.2015

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(JITENDRA CHAUHAN)

JUDGE

Note : Whether to be referred to Reporter : Yes