

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 19156 of 2003 (O&M)
Date of Decision: 28.9.2016

Kuldip Singh

.....Petitioner

Vs.

State of Punjab and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Puneet Pali, Advocate for
Mr. Suinder Mohan Sharma, Advocate
for the petitioner.

Mr. Yatinder Sharma, Additional A.G. Punjab.

Mr. Som Nath Saini, Advocate
for respondent No.3.

RAMESHWAR SINGH MALIK J. (ORAL)

Feeling aggrieved against the impugned order dated 15.10.2003 (Annexure P-4), passed by the Deputy Commissioner, Rupnagar, whereby appeal of respondent No.3 against the order of appointment of petitioner as Chowkidar, was allowed appointing him as Chowkidar of the village, petitioner has approached this Court by way of instant writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Certiorari, for quashing the impugned order.

The writ petition was admitted by a Division Bench of this Court, vide order dated 11.12.2003. Written statement was filed on behalf respondent No.3.

Heard learned counsel for the parties.

A bare perusal of the impugned order passed by the Deputy

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Commissioner would make it crystal clear that petitioner as well as respondent No.3 were the candidates for the post of Chowkidar of village Chintgarh. Despite the fact that petitioner was not a permanent resident of village Chintgarh, as earlier he had been residing in village Kishanpura, he was appointed as Chowkidar by Sub Divisional Magistrate, Rupnagar, vide order dated 26.2.2003 (Annexure P-3). Feeling aggrieved, respondent No.3 filed his appeal which was rightly allowed by the Deputy Commissioner, Rupnagar, vide impugned order dated 15.10.2003 (Annexure P-4), which deserves to be upheld.

Before arriving at a definite conclusion, the Deputy Commissioner discussed each and every relevant aspect of the matter, recording cogent findings. It is also a matter of record that respondent No.3 was a retired military personnel and was 42 years of age when he was appointed as Chowkidar of the village. It has also been recorded in the impugned order that respondent No.3 was 7th class pass, whereas the petitioner was an illiterate person. Another strong reason which rightly weighed with the Deputy Commissioner, while passing the impugned order, appointing respondent No.3 as Chowkidar, was that petitioner was not a permanent resident of village Chintgarh, as he had been residing in village Kishanpura.

Once the petitioner was not permanently residing in village Chintgarh, he would not be in a position to perform his duty in the village, thus, he would be ineligible for the post of Chowkidar of village Chintgarh. In addition to the above, respondent No.3 was having knowledge about the work of Chowkidar as his family had been doing the work of village Chowkidar since long.

Considering the comparative merits of both the candidates, Deputy Commissioner rightly accepted the appeal of respondent No.3, appointing him

Chowkidar of village Chintgarh. This seems to be the reason that, while admitting the writ petition for regular hearing, Division Bench of this Court did not think it appropriate to grant any interim order in favour of the petitioner, meaning thereby that respondent No.3 is working as Chowkidar, pursuant to the impugned order Annexure P-4.

In fact, impugned order passed by the Deputy Commissioner has not been found suffering from any patent illegality or perversity, which may warrant interference at the hands of this Court, while exercising its writ jurisdiction under Articles 226/227 of the Constitution of India. Further, no prejudice of any kind, whatsoever, has been pointed out which might have been caused to the petitioner by passing of the impugned order. Having said that, this Court feels no hesitation to conclude that the impugned order has been rightly passed by the Deputy Commissioner and the same deserves to be upheld, for this reason as well.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that instant writ petition is wholly misconceived, bereft of merit and without any substance, thus, it must fail. No case for interference has been made out.

Resultantly, with the abovesaid observations made, present writ petition stands dismissed, however, with no order as to costs.

28.9.2016
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(RAMESHWAR SINGH MALIK)
JUDGE

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No

Amit Kumar
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