

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Letters Patent Appeal No. 173 of 2016 (O&M)
Date of decision: 28.3.2016

Paramjit Singh

.. Appellant

v.

State of Haryana and another

.. Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Sanjay Verma, Advocate for the appellant.

...

Rajesh Bindal J.

By filing the intra-court appeal, the appellant, who was applicant for being appointed as Lambardar, has challenged the order passed by the learned Single Judge.

In the case in hand, a new post of Lambardar in the category of Scheduled Caste was sanctioned. The applications were invited. Seven candidates applied, out of which five withdrew their candidature, leaving the appellant and respondent No. 2 for consideration for the post. Vide order dated 27.4.2011, respondent No. 2 was appointed as Lambardar. The appellant challenged his appointment by raising a grievance that respondent No. 2 was in unauthorised possession of panchayat land, not educationally qualified as was not 8th pass and further being physically disabled to the extent of 70%. The Commissioner, Ambala Division, Ambala dismissed the appeal filed by the appellant, vide order dated 9.11.2011. Still aggrieved, the appellant filed revision petition before the Financial Commissioner, who vide order dated 27.11.2013, while upholding the order passed by the

authorities below, dismissed the same. Still being aggrieved, the appellant filed writ petition in this court, which was dismissed in limine vide order dated 15.10.2015. The order has been impugned by filing the present intra-court appeal.

The contention raised by learned counsel for the appellant is that educational qualification of respondent No. 2 is merely 7th pass, whereas the appellant is Matriculate and further respondent No. 2 is physically disabled to the extent of 70% and would not be able to discharge his duties properly.

After hearing learned counsel for the appellant, we do not find any reason to interfere with the order passed by the learned Single Judge. It is not only that the matter was examined by this court, rather, from the stage of Collector, then Commissioner and thereafter the Financial Commissioner considered the case and found respondent No. 2 to be more meritorious. No minimum qualification has been fixed for appointment as Lambardar. Rule 15 of the Punjab Land Revenue Rules (as applicable to Haryana) merely provides that the candidate should be literate and preferably Middle pass. Respondent No. 2 is 7th pass. Merely because respondent No. 2 is physically disabled to the extent of 70%, he cannot be ignored for appointment as Lambardar as it has not come on record or suggested by the appellant that disability is of the kind that he cannot perform his duties. There is no legal bar as such for appointment of a physically handicapped person as Lambardar. Inter-se merit of the candidates for appointment as Lambardar is to be considered by the Collector. This court does not sit in appeal in the matter of appointment of Lambardar by examining inter-se merits of the candidates. The scope of interference in the matter of appointment of Lambardar was considered by this court in Phool Kumar v. State of Haryana and others, 2010(2) RCR (Civil) 819 and was opined as under:

“7. In view of the judgment of the Apex Court in Mahavir Singh v. Khiali Ram and others, 2009(1) RCR (Civil) 757, there should be no interference with the choice made by the Collector in the matter of appointment of Lamberdar even if two views are possible in the matter of appointment on the

basis of merits of the candidates. In the present case, the appellant is alleging that he is not in possession.”

For the reasons mentioned above, we do not find any merit in the present appeal. Accordingly, the same is dismissed. Consequently, the application for condonation of delay is also dismissed.

(Rajesh Bindal)
Judge

(Harinder Singh Sidhu)
Judge

28.3.2016
mk