

CWP Nos.10978 & 19707 of 2014

[1]

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

**(1) CWP No.10978 of 2014
Date of decision:02.08.2017**

Kuljit Singh ...Petitioner

Versus

State of Haryana and others ...Respondents

**(2) CWP No.19707 of 2014
Date of decision:02.08.2017**

Surmukh Singh ...Petitioner

Versus

State of Haryana and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Chanakya Pandit, Advocate,
for the petitioner in CWP No.10978 of 2014.

Mr. Arvind Mittal, Advocate,
for the petitioner in CWP No.19707 of 2014.

Ms. Tanisha Peshawaria, DAG, Haryana.

Ms. Savita Rana, Advocate, for
Mr. Rishi Pal Rana, Advocate, for respondent no.4.

Rakesh Kumar Jain, J.

This order shall dispose of two petitions bearing CWP Nos.10978 and 19707 of 2014 as both are inter-connected. However, for the sake of convenience, the facts are being extracted from CWP No.10978 of 2014.

In brief, the office of Lambardar (Backward Class Category) of village Masana, Tehsil Thanesar, District Kurukshetra, for which there were

four candidates in competition, namely, Kuljit Singh, Surmukh Singh, Mukhtiar Singh and Narinder Singh. The Tehsildar, Thanesar recommended the name of Mukhtiar Singh to the Sub Divisional Officer (Civil) who, however, recommended the name of Kuljit Singh to the Collector. The Collector appointed Kuljit Singh as Lambardar on 30.06.2010. The said appointment was challenged by other two candidates, namely, Mukhtiar Singh and Surmukh Singh by way of appeal before the Divisional Commissioner, who vide his order dated 21.12.2010, after setting aside the order of the Collector, remanded the case back to him to re-decide the matter. The order of the Divisional Commissioner was challenged by Kuljit Singh before the Financial Commissioner but his revision petition was dismissed on 22.07.2010.

In the second round, the Collector, vide his order dated 20.12.2011, appointed Mukhtiar Singh. The appointment of Mukhtiar Singh was challenged by way of appeals filed by Kuljit Singh and Surmukh Singh before the Divisional Commissioner. The appeal filed by Kuljit Singh was allowed and he was appointed as Lambardar, whereas the appeal filed by Surmukh Singh was dismissed. Now it was the turn of Mukhtiar Singh along with Surmukh Singh to file two revision petitions before the Financial Commissioner. The Financial Commissioner dismissed the revision filed by Surmukh Singh and accepted the appeal of Mukhtiar Singh and reversed the order of the Divisional Commissioner and restored the order of the Collector. As a result thereof, these two petitions have been filed, one by Kuljit Singh and the other by Surmukh Singh, to challenge the appointment of Mukhtiar Singh.

In the case of Kuljit Singh bearing CWP No.10978 of 2014, counsel for the petitioner has submitted that Mukhtiar Singh has been wrongly

given the benefit of hereditary claim, which has already been struck down as *ultra vires*, therefore, there is a perversity in the order of the Collector.

In reply, counsel for respondent no.4 Mukhtiar Singh has submitted that the Collector has not given any preference on the basis of hereditary claim rather the observation made by the Collector in his order is that "*Mukhtiar Singh is son of deceased Lambardar for which he knows the work of Lambardari*". It is submitted that the Collector has only recognized that being the son of Lambardar, Mukhtiar Singh might be having some kind of experience of the work of Lambardar, which he might have gained after observing his father while discharging the said functions of Lambardar. It is further submitted that otherwise, the observations made by the Collector in favour of Mukhtiar Singh are that there is no criminal case pending against Mukhtiar Singh, whereas criminal cases are pending against Kuljit Singh and Surmukh Singh; Mukhtiar Singh is 10th class pass and having 58 Kanal 18 Marlas of land in the village, which is more than both the applicants, namely, Kuljit Singh and Surmukh Singh. It is also observed that if the qualifications of all the three candidates are evaluated, then Mukhtiar Singh is the suitable candidate for the post of Lambardar.

Surmukh Singh, petitioner in CWP No.19707 of 2014, has also challenged the appointment of Mukhtiar Singh by alleging that Mukhtiar Singh is 10th class pass and he is B.A. 1st pass and is a retired person from the Indian Navy. It is submitted that being an Ex-serviceman, he deserves the attention of the authorities below as he had been a member of the disciplined force.

On the contrary, counsel for Mukhtiar Singh has submitted that Surmukh Singh is 68 years of age, whereas Mukhtiar Singh is 61 years of age;

Surmukh Singh is B.A. 1st pass, whereas Mukhtiar Singh is 10th class pass, Mukhtiar Singh is having 58 Kanal 18 Marlas of land, whereas Surmukh Singh is having 34 Kanal 07 Marlas of land in the village. The only additional qualification, which is sought to be projected by the petitioner Surmukh Singh, is that he has retired from Indian Navy but it has been found by the Financial Commissioner that Surmukh Singh is not maintaining his wife who had to file a petition under Section 125 of the Cr.P.C. for seeking maintenance from the Court of Judicial Magistrate 1st Class, Ambala and on that account, the Financial Commissioner had opined that the character of this candidates is not fit for the post of Lambardar. It is, thus, submitted that the Financial Commissioner has found that in view of the fact that there was no perversity in the order of the Collector, the Divisional Commissioner should not have set aside his order and remanded the case back and upheld the order of the Collector.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is no merit in both the petitions because the Collector has not appointed Mukhtiar Singh on the basis of hereditary claim rather an additional benefit has been given to him only of having some kind of experience of the work of Lambardar being in the company of his father, who was the earlier Lambardar. Insofar as Surmukh Singh is concerned, he might be a retired personnel from the Indian Navy, yet he has a litigation with his wife inasmuch as she had filed a petition under Section 125 Cr.P.C. for claiming maintenance, which Surmukh Singh was not paying and reflects upon his character and has rightly been observed by the Collector in this regard. The Collector has rightly chosen Mukhtiar Singh as

Lambardar as he has been found most suitable candidate for that post.

In view of the aforesaid discussion, I do not find any merit in the present petition and hence, the same is hereby dismissed, though without any order as to costs.

August 03, 2017
vinod*

(Rakesh Kumar Jain)
Judge

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No