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

CWP-12576-2014

Date of decision : 21.02.2017

Darshan Lal

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. H.R. Bhardwaj, Advocate
for the petitioner.

Mr. Sandeep Singh Mann, Sr. DAG, Haryana.

Ms. Sunita Nambiar, Advocate for
Mr. Balkar Singh, Advocate
for respondent No.5.

AMIT RAWAL, J. (ORAL)

Mr. H.R. Bhardwaj, learned counsel for the petitioner submits that the Tehsildar and Sub-Divisional Officer, Jagadhari, concurred with the report of the Assistant Collector, 2nd Grade and recommended the name of the petitioner for the appointment of Lambardar and the Collector vide order dated 12.08.2009 appointed the petitioner as Lambardar. The respondent No.5 challenged the said order in an appeal before respondent No.3, which was illegally accepted and the matter, vide order dated 29.01.2010, was remanded back to respondent No.4 for fresh proclamation. However, after valuating the merits of the candidates, respondent No.4 vide order dated 14.10.2010 (Annexure P-3) again ordered for appointment of petitioner as

Scheduled Caste Lambardar. The aforementioned order was again assailed by respondent No.5 by filing the appeal and the Commissioner vide order dated 30.08.2011 (Annexure P-4) set aside the order. The petitioner challenged the order before respondent No.2, who had illegally rejected the revision/appeal vide order dated 31.12.2013 (Annexure P-5) and hence, the present writ petition. The golden rule for the purpose of appointment of the Lambardar is the recommendation, which is sacrosanct. Two different Collectors have already recommended the appointment of the petitioner as Lambardar, therefore, no prejudice has been caused to respondent No.5. As regards the educational qualification of the petitioner and respondent No.5, he has drawn the attention of this Court to chart culled out in paragraph 8 of the writ petition which reads as under:-

	<i>Petitioner</i>	<i>Respondent No.5</i>
<i>Age</i>	<i>45 years</i>	<i>62 years</i>
<i>Educational Qualification</i>	<i>Matric</i>	<i>8th</i>
<i>Agricultural Land</i>	<i>6 Marlas</i>	<i>Nil</i>
<i>Small Saving</i>	<i>₹ 12,000/-</i>	<i>₹ 6,000/-</i>
<i>Family Planning Cases</i>	<i>One</i>	<i>Nil</i>
<i>Recommendations</i>	<i>A.C. 1st Grade, A.C. 2nd Grade, (Twice appointed by the Collector.</i>	

to contend that the Appellate/Revisional Authority has no jurisdiction to set aside the choice of the Collector on the ground that the other candidate is more meritorious. As per Rule 19-B of the Haryana Panchayati Raj Rules, the petitioner has an edge over the respondent No.5 in each and every aspect such as age, educational qualification and services

rendered to the State and personal influence. The sole reason assigned by the authority is that the petitioner is a seasonal worker in Saraswati Sugar Mill, therefore, he would not be available for rendering the services to the villagers. He on instructions from his client, submits that in case, he is appointed as Lambardar, he will not work as seasonable employee.

Per contra, Ms. Sunita Nambiar, learned counsel appearing on behalf of the respondent No.5 submits that the preference has to be given to respondent No.5 being an Ex-serviceman. He has been in Indian Navy, though he is elder in age more than 60 years and a matured person and served the Indian Navy for 15 years. It is one of the reasons, which weighed in the mind of the Financial Commissioner being sufficient for setting aside the order of the Collector and urges this Court for dismissal of the present writ petition.

I have heard the learned counsel for the parties and appraised the paper book and of the view that there is no merit and force in the submission of Mr. H.R. Bhardwaj, for, as per the *ratio decidendi* culled out by this Court in "**Davinder Singh V/s Financial Commissioner (Appeals- I) Punjab and others**" **2012 (2) PLR 291**, the Ex-servicemen have to be given a preference than the ordinary person for the purpose of rendering the services as Lambardar and they have more disciplined. No doubt respondent No.5 is 62 years' old, but has rendered the service for 15 years in Indian Navy, whereas the petitioner, owing to the seasonable worker, would not be available for rendering the services to the villagers. For the purpose of appointment of Lambardar from Scheduled Caste category, there is no requirement of law of possessing a land. Respondent No.5 had also worked for the State of Haryana and having impeccable record. It itself is clincher

or the matter of consideration for the appointment of Lambardar by the Commissioner and the Financial Commissioner. The orders, under challenge, in my view, are not susceptible to the "Judicial Review" and therefore, are perfectly legal and justified. Resultantly, the same are upheld.

No ground is made out for interference and accordingly, the present writ petition is dismissed.

21.02.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

	✓
Whether speaking/reasoned	Yes/ No
	✓
Whether Reportable	Yes/ No