

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

CWP No.17998 of 2015

Date of Decision:12.09.2017

Raj Kumar

.....Petitioner

vs.

Commissioner Jalandhar Division and others Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr. K.S. Dadwal, Advocate for the petitioner.

Ms. Sunint Kaur, AAG, Punjab.

Mr. Sunil Agnihotri, Advocate for respondent No.4.

Rakesh Kumar Jain (Oral)

The post of Chowkidar of Village Depur, Tehsil Mukerian District Hoshiarpur became available on the death of previous Chowkidar Mela Ram.

There were three candidates in contest for the post. The Tehsildar, Mukerian sent their case to respondent No.3 who after considering the comparative merit appointed the petitioner to the post of Chowkidar by his order dated 28.01.2010. The said order was challenged by respondent No.4 in appeal which was accepted and the case was remanded back vide order dated 24.09.2010. After remand, the respondent No.3 concluded that the petitioner is handicapped and has failed in 8th Class whereas respondent No.4 is younger in age and has passed 10th Class, therefore, appointed respondent No.4 vide his order dated 2.2.2011. The said order was challenged by way of an appeal by the petitioner inter-alia on the ground that his age has not been noticed and respondent No.4 does not belong to Village Depur rather he belongs to Village Repur which is a different village. However, respondent No.2 dismissed the appeal on

25.07.2011. This order was challenged by the petitioner by way of revision. The revision petition was dismissed on 20.03.2015 on the ground of being not maintainable. The petitioner challenged the said orders by way of this writ petition in which it is submitted that he was appointed by respondent No.3, knowing fully well that he is handicapped person and after remand by the Appellate Authority, appointed the other person on the ground that the petitioner is handicapped person. It is submitted that a totally contradictory view has been taken without any reason and knowing the fact that respondent No.4 does not belong to the Village for which the Chowkidar was to be appointed. Counsel for the respondents has submitted that after the remand, respondent No.3 has considered respondent No.4 for appointment because the petitioner was found to be handicapped and was less educated.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that the subsequent order passed, after the remand is unsustainable because initially when the petitioner was appointed by respondent No.3, at that time, the appointing authority had observed that he is a competent candidate, aged 40 years and a permanent resident of the Village. He is 5th Class pass and can read and write in Punjabi and Hindi. He is also having knowledge of the work of Chowkidar and is not attached with any political party nor having relation with any political group and is thus having good character. He was appointed because he was found to be resident of Village Depur, Tehsil Mukerian. However, on remand, the respondent No.3 has rejected the candidature of petitioner on the ground that he is not physically well and is lessor in

education than respondent No.4, who is 10th Class pass. The physical condition of the petitioner was known to respondent No.3 when he was initially appointed. Therefore, to my mind, the order passed by respondent No.3 on remand on 02.02.2011 is totally perverse and hence the same is hereby set aside and the subsequent orders passed by the Appellate Authorities are also set aside and the writ petition is hereby allowed.

September 12, 2017
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(Rakesh Kumar Jain)
Judge

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No