

In the High Court of Punjab and Haryana at Chandigarh.

**CWP-18540 of 2015
Decided on 27.7.2017**

Kabal Singh

--Petitioner

Vs.

State of Punjab and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.Mehtab Khaira, Advocate,for the petitioner

Mr. Saurav Khurana, DAG, Punjab

Ms.Amandeep Soni,Advocate,for respondent No.4.

Rakesh Kumar Jain,J: (Oral)

This petition is filed to challenge the order of the Financial Commissioner dated 02.07.2015 by which the appeal filed by respondent No.4 has been allowed.

In short, the post of Scheduled Caste Lambardar fell vacant after the death of previous Lambardar Balbir Singh of village Shahpur Piran, Tehsil and District Kapurthala.

The Tehsildar recommended the name of the petitioner to the Collector for the post of Lambardar. However, after perusing the inter-se merit, the Collector appointed respondent No.4 as Lambardar.

Aggrieved against that order, the petitioner filed the appeal before the Commissioner, who allowed it considering the fact that the petitioner is an Ex-serviceman, coming from a disciplined force and respondent No.4 being a shop keeper would not be available to the people as he has to attend to his shop through out the day.

Be that as it may, it was now the turn of respondent No.4 to go in appeal before the Financial Commissioner, who reversed the order of the Commissioner observing that respondent No.4 is a shop keeper which is not a disqualification for the post of Lambardar because it was observed that in the present scenario, it is possible that a person who may be at his shop can always be contacted on mobile phone. He has further observed that once the Collector has chosen respondent No.4 for the post of Lambardar, therefore, the said choice should not be interfered with.

Learned counsel for the petitioner has submitted that the choice of the Collector has also been set aside by the Commissioner who had found the petitioner to be more meritorious and physically fit having an edge over respondent No.4 and keeping in view his suitability, was appointed as Lambardar.

The Financial Commissioner while reversing the order of the Commissioner did not even discuss the fact that as on what ground the petitioner was appointed as Lambardar by the Commissioner. It is submitted that there is no observation that the petitioner who is an Ex-serviceman and physically fit, is not found suitable.

On the other hand, learned counsel for respondent No.4 has submitted that the choice of the Collector should not be disturbed. It is also

submitted that the Financial Commissioner has referred the fact in his order that the petitioner is an Ex-serviceman.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that the order of the Collector has been set aside by the Commissioner who has stated that the petitioner is more suitable than respondent No.4 and also found him physically fit but there is no observation of the Financial Commissioner in this regard while reversing the order of the Commissioner. To my mind, the order passed by the Financial Commissioner is not a speaking one as reasons have not been given for rejecting the petitioner and finding respondent No.4 more suitable.

Consequently, the present petition is hereby allowed. The order of the Financial Commissioner dated 02.07.2015 is set aside and the case is remanded back to him to pass fresh order after comparing the suitability of the petitioner as an Ex-serviceman.

The parties are directed to appear before the Financial Commissioner (Appeals-1) Punjab, Chandigarh on 14.08.2017.

27.7.2017
rr

(Rakesh Kumar Jain)
Judge

Whether Speaking/Reasoned:

Yes/No.

Whether Reportable:

Yes/No