

CWP No.15314 of 2017

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

**CWP No.15314 of 2017  
Date of decision:25.07.2017**

Charanjit Singh

...Petitioner

Versus

Financial Commissioner Revenue (Appeals-I), Punjab & ors. ...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain**

Present: Mr. Krishan Singh Dadwal, Advocate,  
for the petitioner.

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**Rakesh Kumar Jain, J.**

The office of Lambardar of village Kohja, Tehsil Jalandhar-2, District Jalandhar of General category fell vacant on the demise of previous Lambardar Sohan Singh. In order to fill up the said vacant post, applications were invited through proclamation, pursuant to which six persons including the petitioner and respondent no.4 applied for the said post. The Naib Tehsildar, Bhogpur and the SDM, Jalandhar-2, recommended name of respondent no.4 to the Collector for his appointment as a Lambardar. The Collector, Jalandhar, vide his order dated 31.07.2014, found respondent no.4 more suitable and concurring with the recommendations made by the Naib Tehsildar, Bhogpur and the SDM, Jalandhar-2, appointed him as Lambardar.

The petitioner was not found suitable by the Collector as he was found working as a Guard in State Bank of Patiala, Nasrula, District Hoshiarpur and according to him, he would not be available to the residents of the village when his services would be required by the inhabitants of the

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village as well as by the revenue or police authorities. The appeal filed by the petitioner to the Divisional Commissioner was dismissed on 25.07.2016 and his revision before the Financial Commissioner was also dismissed on 28.02.2017.

Counsel for the petitioner has submitted that the petitioner is younger in age than respondent no.4 and his being in service is not a disqualification for appointment to the post of Lambardar. In support of his submission, he has relied upon two Division Bench judgments of this Court rendered in the cases of **Amarjeet Singh vs. Financial Commissioner Appeals and others**, 2000(2) PLJ 456, **Sukhminder Singh vs. Financial Commissioner**, 1992(2) PLR 73 and a Single Bench judgment of the this Court rendered in the case of **Bishan Dass vs. Financial Commissioner etc.**, 2009(2) L.A.R. 112. In respect of the appointment of a Lambardar of a younger age, he has relied upon a judgment of the Supreme Court rendered in the case of **Mahavir Singh vs. Khiali Ram and others**, 2009(3) SCC 439 and a Single Bench judgment of this Court rendered in the case of **Nirmala Devi vs. State of Punjab and others**, 2017(2) R.C.R. (Civil) 19.

I have heard learned counsel for the petitioner and examined the available record with his able assistance.

In **Mahavir Singh's case (supra)**, it has been observed by the Supreme Court that the Lambardar is defined in Advanced Law Lexicon, 3<sup>rd</sup> edition 2005, page 2616 as a 'headman of a village or of a patti or section of a village'. It is also observed in the said judgment that though the post of Lambardar is governed by the Punjab Land Revenue Act and the Rules framed thereunder but holder of the said post is not a government servant as he does

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not hold a civil post within the meaning of Article 309 of the Constitution of India.

There are two categories of Lambardar recognized under the Punjab Land Revenue Rules, as applicable to Punjab (hereinafter referred to as the “Rules”); one belonging to the General category and the other to the reserved category. The appointment of Lambardar of General category, to which we are concerned in this case, is regulated by Rule 15 of the Rules, which is reproduced as under:-

**“15. Matters to be considered in first appointments.--** In all first appointments of headman, regard shall be had among other matters to--

- (a) his hereditary claims;
- (b) the property in the estate possessed by the candidate to secure the recovery of land revenue;
- (c) services rendered to the State by himself or by his family;
- (d) his personal influence, character, ability and freedom from indebtedness;
- (e) the strength and importance of the community from which selection of a headman is to be made;
- (f) services rendered by himself or by his family in the national movements to secure freedom of India.”

Rule 16 deals with the dismissal of headman, Rule 17 lays down the matters to be considered in appointment of successors and Rule 19 deals with the appointment of a Lambardar of Scheduled Caste category.

Rule 20 of the Rules provides the duties to be performed by the Lambardar, which are also relevant in this matter and are reproduced as under:-

**“20. Duties of headman.--** In addition to the duties imposed upon headman by law for any purpose, a headman shall--

- (i) collect by due date all land revenue and all sums, recoverable as land revenue from the estate, or sub-division of an estate in which he holds office, and pay the same

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personally or by revenue money order or by remittance of currency notes through the post or at places where treasury business is conducted by the State Bank of India, by cheque on a local Bank at the place and time appointed in that behalf of the Revenue Officer or assignee empowered by Government to receive it;

- (ii) collect the rents and other income of the common land, and account for them to the persons entitled thereto;
- (iii) acknowledge every payment received by him in the books of the landowners and tenants;
- (iv) defray joint expenses of the estate and render accounts thereof as may be duly required of him;
- (v) report to the tehsildar the death of any assignee of land revenue of Government pensioner residing in the estate, or the marriage or re-marriage of a female drawing a family pension and residing in the estate; or the absence of any such person for more than a year;
- (vi) report to the tehsildar all encroachments on roads including village roads or on Government waste lands and injuries to, or appropriation of nazul property situated within the boundaries of the estate;
- (vii) report any injury to Government buildings made over to his charge;
- (viii) carry out, to the best of his ability, any orders that he may receive from the Collector requiring him to furnish information or to assist in providing on payment supplies or means of transport for troops or for officers of Government on duty;
- (ix) assist in such manner as the Collector may from time to time direct at all crop inspections, recording of mutations, surveys, preparation of records of right, or other revenue business carried on within the limits of the estate;
- (x) attend the summons of all authorities having jurisdiction in the estate, assist all officers of the Government in the execution of their public duties, supply to the best of his ability any local information which those officers may require, and generally act for the landowners, tenants and residents of the estate of sub-division of the estate in which

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- he holds office in their relations with Government;
- (xi) report to the patwari any outbreak of disease among animals or human beings;
  - (xii) report to the patwari the deaths of any right-holders in their estates;
  - (xiii) report any breach or cut in a Government Irrigation canal or channel to the nearest canal officer or canal patwari;
  - (xiv) under the general or special direction of the Collector, assist by the use of his personal influence and otherwise all officers of Government and other persons, duly authorized by the Collector, in the collection and enrolment of recruits for military service whether combatant or non-combatant;
  - (xv) render all possible assistance to the village postman, while passing the night in the village, in safeguarding the cash and other valuables that he carries.”

There is no dispute that the petitioner is working as a Guard in the State Bank of Patiala and hence, he cannot absent himself from his duty even for a minute. The contention of the petitioner that being a government servant, aspiring for the post of Lambardar, is not a disqualification is of no relevance in the facts and circumstances of this case.

In **Sukhminder Singh's case (supra)**, Jiwan Singh was an Inspector working in the Cooperative Societies, under the Cooperative Department of the Punjab Government. The Collector declined to appoint him as a Lambardar only on the ground that he was a government servant. He unsuccessfully filed appeal before the Divisional Commissioner but his revision was accepted by the Financial Commissioner on the ground that being a government servant is not a disqualification provided he is suitable for the post. It was held by the Division Bench that the post of Lambardar is itself a civil post and dismissal or removal therefrom also attracts the provisions of Article 311 of the Constitution of India. It was further observed that

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*“moreover, the provision for appointment of a Sarbrah Lambardar itself indicates that the actual performance of duties of the office of Lambardar can be done by the person other than the Lambardar himself, meaning thereby that if a government servant is appointed as a Lambardar his appointment as Lambardar will not in any way interfere in the discharge of his duties as a Government servant. Therefore, we are in complete agreement with the view taken by the learned Financial Commissioner, Appeals that a Government servant is fully eligible for appointment as Lambardar and he cannot be ignored only on that account if he is otherwise eligible and suitable for that post”.*

The observation of the Division Bench that the actual duties of the office of Lambardar can be done by the person other than the person who himself has been appointed as Lambardar and a government servant can be appointed as a Lambar is *per inquirium* because the work of a Lambardar cannot be performed by a person who is not the Lambardar and the Sarbrah Lambardar performs the work of the Lambardar in the absence of the Lambardar as a care taker.

In **Amarjeet Singh's case (supra)**, the petitioner was one of the candidates for appointment as a Lambardar. He was not selected upto the Court of Financial Commissioner. He was rejected on the ground that he was already employed in the Punjab State Electricity Board. The argument raised on behalf of the petitioner was that it was not a valid consideration for rejecting his claim and has placed reliance upon **Sukhminder Singh's case (supra)**. The Division Bench held that the mere fact of employment cannot be *per se* a disqualification for appointment as a Lambardar but the onus of determining

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the suitability of a person for appointment as a Lambardar rests with the prescribed authority. It was held that all the authorities were unanimous in their views and found that the private respondent is the suitable person and as such, the writ petition was dismissed.

In **Bishan Dass's case (supra)**, the post of Lambardar was of the reserved category for which five applications were received. The Collector appointed Chaman Lal as Lambardar. The petitioner challenged his appointment on the ground that he is a government employee. The learned Single Judge, while dismissing the writ petition, observed that the choice of Lambardar is primarily the prerogative and administrative act of the District Collector and his selection is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in his appointment. It was held that the fact that the candidate is a government employee is not a disqualification. As per the observations made in this judgment, the choice of the Collector has been respected, who has found Chaman Lal as more suitable candidate than the others despite the fact that he was a government servant.

On the other hand, in another Division Bench judgment of this Court rendered in the case of **Neeraj Kumar vs. State of Haryana and others**, 2013(2) L.A.R. 526, it has been held that where a person is in service whether government or private, his service may not by itself be a disqualification, but his availability in the village, would be a relevant factor to be considered by the Collector.

In the present case, as I have already observed, the petitioner is working as a Guard in the State Bank of Patiala. It is such an onerous duty

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from which the petitioner cannot spare even a minute during his working hours for the villagers in order to perform a large number of duties imposed upon him under Rule 20 of the Rules, which I have already mentioned in the earlier part of this order.

Practically speaking, a Lambardar is required throughout the day for various functions to be performed, such as he is called upon by the residents of the village to attest documents, identify them when they register document etc. and he has to assist the revenue as well as police authorities in various matters like disputes regarding possession of land, demarcation of land, identification of accused persons and attending to revenue and police officers when they visit the village for inspection of crops or for other official matters. These are the few practical aspects but otherwise he has to perform a large number of duties, which he cannot do until and unless he is available throughout the day in the village and not working as a Guard in a centralized bank.

Insofar as the issue regarding age is concerned, the Supreme Court in **Mahavir Singh's case (supra)** has though observed that the age of a candidate is a relevant factor and the learned Single Judge in **Nirmala Devi's case (supra)** has also observed that a person younger in age has more energy and potentiality to render the assistance to the villagers viz-a-viz the old age persons, but there is no allegation by the petitioner that the appointed candidate is unable to perform the duties of the office of Lambardar because of his age.

The fact would again be of the suitability to be adjudged by the Collector of the candidate and in this case, all the authorities under the Rules, namely, the Collector, the Divisional Commissioner and the Financial



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Commissioner, have been unanimous in appointing respondent no.4 as Lambardar of the village.

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

**July 25, 2017**  
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**(Rakesh Kumar Jain)**  
**Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No