

CWP No.20457 of 2016

[1]

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

**CWP No.20457 of 2016
Date of decision:16.08.2017**

Satwinder Singh

...Petitioner

Versus

Financial Commissioner, Punjab and another

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Onkar Rai, Advocate,
for the petitioner.

Ms. Deepali Puri, Addl. A.G., Punjab.

Mr. Arun Takhi, Advocate,
for respondent no.2.

Rakesh Kumar Jain, J.

Bhagat Ram, a Scheduled Caste Lambardar of village Nauneetpur, District Hoshiarpur died on 20.12.2001. In order to fill up the said vacant post, applications were invited on 22.12.2008. Number of applicants filed their applications and the Tehsildar, Garhshankar recommended the name of Dhanna Singh S/o Gurdial Singh, whereas the SDO(C), Garhshankar recommended the name of respondent no.2 Bakshi Ram S/o Kesar Ram to the Collector for appointment as Lambardar. The Collector considered the *inter se* merits of the candidates before him and found that the petitioner is 44 years of age, matric pass, having diploma from ITI in the trade of Electrician and is the son of deceased Lambardar. However, he was found to be a taxi driver, who used to park his taxi at village Barian Kalan, 3

kilometers away from village Nauneetpur and being a taxi driver, he would not be available to the general public for their day to day needs. Respondent no.2 was found to be 68 years of age, matric pass, medically and physically fit. There was allegation that he is hard of hearing but the Collector, while talking to him, did not find him as such and he was found economically sound, retired as Assistant Officer from JCT, Phagwara. He also donated ₹10,000/- to the Government Middle School, Nauneetpur and is a member of the Village Education Development Committee. He is holding a good reputation and living in the village and is easily accessible to the villagers, recommended by the SDO(C) and, thus, was appointed by the Collector as Lambardar vide his order dated 10.09.2009.

The appeal filed by the petitioner before the Divisional Commissioner was allowed on 09.06.2010 by observing that though both the petitioner and respondent no.2 are equally educated but the petitioner is younger in age and son of deceased Lambardar and respondent no.2 used to earn his livelihood by working in NAREGA.

Respondentno.2 filed revision before the Financial Commissioner, which was allowed on 12.04.2013 and the order of the Collector was maintained. The petitioner then approached this Court by way of CWP No.11463 of 2013, in which he referred to a decision of the Supreme Court rendered in the case of **Mahavir Singh vs. Khiali Ram**, 2009(1) R.C.R. (Civil) 757 (SC) as he was alleging that the age of the candidate is a relevant factor. The aforesaid writ petition was disposed of by this Court on 28.04.2014 with the observation that the issue regarding age has not been dealt with and the matter was remanded back to the Financial Commissioner to

reconsider the matter after considering decision of the Supreme Court rendered in **Mahavir Singh's case (supra)**. Thereafter, the Financial Commissioner decided the revision petition again vide his order dated 22.01.216, upholding the order of the Collector. It was basically found that the petitioner, being a taxi driver, was not fit for appointment to the post of Lambardar even if he was younger in age because, being a taxi driver, he would not be available to the villagers to solve their day to day problems.

Counsel for the petitioner has submitted that in **Mahavir Singh's case (supra)**, the Supreme Court has held that the age is a relevant factor and the person younger in age should be preferred.

On the other hand, counsel for the respondents have submitted that if everything is equal, then the age may be a factor, but the petitioner has not been found suitable by the Collector on the ground that he is running a taxi and being a taxi driver, he would not be available to the villagers and, thus, there is no use of his appointment as Lambardar.

I have heard learned counsel for the parties and examined the available record with their able assistance.

No doubt that in **Mahavir Singh's case (supra)**, the Supreme Court has held that the candidate younger in age should be given preference but that is not the end of the matter because the Collector has to consider other aspects as well to adjudge suitability of a candidate for appointment to the post of Lambardar. In this case, undoubtedly, the petitioner is younger in age than respondent no.2 but at the same time, this fact cannot be ignored that he is a taxi driver, who would not be available to the villagers at the relevant time as most of the time, he would be away with his taxi on his business.

Thus, the order passed by the Collector, appointing respondent no.2 as Lambardar, is without any fault as the Collector has to appoint a person after considering all aspects while adjudging his suitability to the post.

In view of the aforesaid, I do not find any merit in the present petition and hence, the same is hereby dismissed, being denuded of any merit.

August 17, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No