

CWP No.22975 of 2017

[1]

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

**CWP No.22975 of 2017
Date of decision: 07.11.2017**

Jaswinder Singh

...Petitioner

Versus

The Financial Commissioner (Revenue), Punjab and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. B.S.Seemar, Advocate,
for the petitioner.

Mr. Harpreet S. Multani, Advocate,
for respondent no.4-caveator.

Rakesh Kumar Jain, J.

The post of Lambardar of village Mawa, Tehsil Anandpur, District Rupnagar fell vacant after the demise of Ashok Kumar S/o Nanak Chand on 27.09.2014. Pursuant to the proclamation inviting applications to fill up the said vacancy, 6 persons from the village applied but ultimately, 3 persons remained in contest, namely, the petitioner, respondent no.4 and one Lekh Raj. The Naib Tehsildar, Nurpur Bedi and Sub Divisional Magistrate, Rupnagar recommended the name of the petitioner to the Collector, who found him suitable and appointed him to the post of Lambardar vide his order dated 04.05.2016. Two appeals were filed before the Divisional Commissioner against the order of the Collector, one by respondent no.4 and the other by Lekh Raj. The Divisional Commissioner, vide his impugned order dated 30.05.2017, appointed respondent no.4 after accepting his appeal. The petitioner challenged the order of the Divisional

Commissioner before the Financial Commissioner in appeal, which was dismissed on 27.09.2017 and hence, the present petition.

Learned counsel for the petitioner has submitted that respondent no.4 was 72 years of age at the time of his appointment, whereas the petitioner was 45 years of age. It is submitted that age is a relevant factor and in this regard, he has referred to a decision of the Supreme Court rendered in the case of **Mahavir Singh vs. Khiali Ram & Ors.**, 2009(1) R.C.R. (Civil) 757. It is also submitted that the petitioner has been illegally ignored on the ground that he is working away from the village, therefore, he would not be available to the villagers. In this regard, he has relied upon a decision of this Court rendered in the case of **Manjit Kaur vs. Financial Commissioner(Appeal), Punjab and others**, 2015(1) PLJ 474.

On the other hand, counsel for respondent no.4-caveator has submitted that respondent no.4 is an Ex-serviceman, who could not have been ignored by the Collector only because of his age and in this regard, reference has been made to a decision of this Court in the case of **Rati Ram vs. Financial Commissioner, Haryana and others**, 2013(1) PLR 247. It is further submitted that the Divisional Commissioner and the Financial Commissioner have given due weightage to respondent no.4 being an Ex-serviceman and also belonging to the same community and has referred to a Division Bench judgment of this Court rendered in the case of **Jagjit Singh vs. State of Punjab and others**, 2011(53) R.C.R. (Civil) 895. He has also submitted that the person, who is available in the village, should have been given preference than the person who is an absentee and has

referred to a decision of this Court rendered in the case of **Harsharan Singh vs. Financial Commissioner Appeal-I Punjab and others**, 2009(1) R.C.R. (Civil) 909.

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

The Collector, while appointing the petitioner, had ignored respondent no.4 on the ground that he is 72 years of age and as per the decision of the Financial Commissioner in ROR No.440 of 2001 dated 09.01.2006, reported as 2007(2) LAR 38, found him unfit for the post of Lambardar. However, the Divisional Commissioner had found that respondent no.4 is more educated than others and having 5 acres of land, which is also more than other candidates. He is the nephew of the deceased Lambardar and earlier his father was also Lambardar of the village and, thus, he is having the knowledge regarding the work of Lambardar. He is an Ex-serviceman and belongs to the Rajput community, whereas the Lambardari also pertains to the Rajput category. Though he is 72 years of age but he is physically fit and mentally active, whereas the petitioner was not having any land at the time when he filed the application, which was given to him by his father after filing of the application on 15.10.2015 just for the purpose of giving him a little fillip. It was also found that the petitioner is running a shop at Nurpur Bedi and could not be available to the villagers at the time when he would be required. Considering all the aforesaid facts, respondent no.4 was appointed as Lambardar.

Similar views have been expressed by the Financial Commissioner while upholding the findings of the Divisional

Commissioner.

The argument of the petitioner that respondent no.4 is an aged person and should not have been appointed as Lambardar cannot be accepted because even in **Mahavir Singh's case (supra)**, the Supreme Court has held that if all factors are equal, only then the person younger in age should be preferred, whereas in the present case, it is not the situation because the petitioner is an absentee from the village as he is running a shop at Nurpur Bedi and is not available to the villagers. The decision relied upon by the petitioner in **Manjit Kaur's case (supra)** is not of much help to the petitioner as he, being a shopkeeper, has to stay at his shop throughout the day and would not be in a position to move with the villagers for the performance of his duties as enshrined under Rule 20 of the Punjab Land Revenue Rules (as applicable to Punjab), which is reproduced here-as-under for the ready reference:-

“20. Duties of headman.-- In additional 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 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 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.”

On the other hand, in **Rati Ram's case (supra)**, this Court had taken a view that if the candidate is an Ex-serviceman, may be of the age of 70 years, he can still be considered for appointment as Lambardar if there is no allegation against him that he cannot perform the duties of Lambardar.

Similar is the view expressed by this Court in **Jagjit Singh's case (supra)** pertaining to the Ex-serviceman.

Thus, looking from any angle, I do not find any reason to interfere in the concurrent findings recorded by the Divisional Commissioner and the Financial Commissioner while appointing respondent no.4 as Lambardar of the village.

Consequently, the present petition is hereby dismissed being denuded of any merit, though without any order as to costs.

November 07, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No