

CWP No.26921 of 2016

[1]

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

**CWP No.26921 of 2016
Date of decision:09.08.2017**

Bhola Singh ...Petitioner

Versus
Financial Commissioner, Punjab and others ...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. G.L.Bajaj, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner has challenged the appointment of respondent no.4 to the post of Lambardar of village Baghapurana, Patti Bagha, District Moga, which became available due to dismissal of the earlier Lambardar Nirmal Singh S/o Jagir Singh.

Counsel for the petitioner has submitted that the petitioner is 45 years of age, whereas respondent no.4 is 60 years of age and, therefore, he should have been given preference by the appointing authority and in this regard, he has relied upon a decision of the Supreme Court rendered in the case of **Mahavir Singh vs. Khiali Ram & Ors.**, 2009(1) R.C.R. (Civil) 757.

In brief, there were seven candidates in the fray including the petitioner and respondent no.4. As many as 5 candidates withdrew their candidature in favour of respondent no.4. However, the SDM, Baghapurana recommended the name of the petitioner to the Collector for appointment. The Collector, Moga, after considering the *inter se* merits of the petitioner and

respondent no.4, found respondent no.4 more suitable for the said post and appointed him as such. The findings recorded by the Collector in this regard are reproduced as under:-

“I have closely considered the record of the case and heard the candidates in detail and scrutinized the record. On considering the record, it has been found that so far as the appointment of candidate Bhola Singh is concerned, he holds less land than other candidates and lower in study, candidate Jugraj Singh is quite considerable in age and remained in service and studied more than other candidate, holds more land. So far as his old age, this candidate being old residents of the City Bagha Purana knows the old persons very well. Candidates while submitting the applications, five candidates have withdrew their candidature ship in favour of Jugraj Singh, from this it is found that this candidate owns a good reputation in public, this candidate during personal hearing has replied satisfactory to the questions relating the duties of Lambardar and candidate Bhola Singh being quite young in age will not recognize the old person easily when required. Candidate Jugraj Singh fulfills all the conditions for the appointment of Lambardar, according to police report, he is having good conduct and Tehsildar, Bagha Purana has recommended his name, though Sub Divisional Magistrate, Bagha Purana has not recommended the name of Jugraj Singh only on the ground that he resides in abroad but from the photocopy of passport of Jugraj Singh available on the record and during hearing, he made it clear that he obtained visa to go abroad to his family from 20.04.2012 to 20.10.2012 and now from return to India, he resides in City Bagha Purana (Patti Bagha), Punjab. Therefore, this fact should not be ignored to his merits that he resides in abroad. So, I considered candidate Jugraj Singh is fit for Lambardar and by agreeing with the report of Tehsildar, Bagha Purana, hereby appoint Sh. Jugraj Singh son of Ajmer Singh, resident of Bagha Purana (Patti Bagha) as Lambardar of village Baghapura Purana (Patti Bagha) as permanent Lambardar in place of the vacancy became vacant due to dismissal of Nirmal Singh. Copy of the order be sent to the concerned CRO and after the expiry of the period of appeal, Sanad

Lambardar be issued.”

The appeal filed by the petitioner before the Divisional Commissioner was also dismissed on 17.03.2016 with the following order:-

“4. I have considered the arguments advanced by the learned counsel for the parties and have gone through the record of the case. The record of the case reveals that Jagraj Singh respondent is aged about 60 years, owns 69 kanals 16 marlas of land and has passed Prep. (Pre-University Examination). He knows the older persons of the village very well. The five candidates have withdrawn their candidatures in favour of the respondent, which shows his popularity in the village. His name has been recommended by the Tehsildar, Baghapurana. His name has also been recommended by respectable persons of the village. He has retired as Cashier of Marketing Society, Baghapurana. On the other hand, the appellant owns only 20 kanals 14 marlas of land and has passed Matric. Thus, he owns less land and is less educated as compared as compared with the respondent. The District Collector, Moga, found the respondent as most suitable for the post of Lambardar. He, therefore, vide his order dated 30.09.2014, has rightly appointed the respondent as Lambardar of the village. It is well settled law that the choice of the District Collector in the matter of appointment of Lambardar should not be interfered with, unless the order is illegal or perverse in nature. I do not see any illegality or perversity in the impugned order. I, therefore, dismiss the appeal of the appellant.”

Ultimately, the revision petition filed by the petitioner before the Financial Commissioner was also dismissed in *limine* with the following observations:-

“5. I agree with the Commissioner's findings quoted above since the Collectors detailed order dated 30.09.2014 contains all the facts mentioned by petitioner as well as reasons for selecting respondent as Lambardar. It is not for this revisionary authority to replace its judgment for that of Collector when it comes to assessing relative merits of candidates for Lambardari. Petitioner

having failed to show any illegality or perversity in this order, the petition fails and is dismissed in limine.”

It is, thus, apparent that all the revenue authorities have chosen to appoint respondent no.4 as Lambardar on account of his suitability.

The only argument raised by counsel for the petitioner is that the petitioner should have been chosen because he was younger in age being 45 years old as against the age of respondent no.4, who was 60 years old.

In **Mahavir Singh's case (supra)**, the Supreme Court has also maintained the order of the Collector on the ground that it was not found to be perverse. In the said case, the Collector appointed the appellant therein as Lambardar on the ground that he was a graduate, owned 8 Kanals land and his age was suitable being 36 years as against the age of the contesting candidate, who was 62 years of age. Thus, the age by itself was not the only consideration for the Collector to choose the Lambardar in that matter rather the educational qualification also supported him.

In the present case, the Collector, while choosing respondent no.4 as Lambardar, has also found that he is more educated than all other candidates, holds more land and because of his age, all residents of City Bagha Purana supported him and 5 out of 7 candidates withdrew their candidature in his favour, which has been found to be an additional feather in his cap of having good reputation in the public. The Collector has also considered that respondent no.4 had also replied the questions satisfactorily put to him during the personal hearing relating to the duties of Lambardar. The choice of the Collector, thus, does not suffer from any perversity because he has found the appointed candidate better in all respects having an edge over the petitioner in the matter of appointment and, therefore, appointed him to the post of

Lambardar.

The decision of the Supreme Court rendered in **Mahavir Singh's case (supra)**, relied upon by the petitioner, might have been of some relevance on the issue of age had the other qualifications of both the candidates were equal.

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

August 09, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No