

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

**CWP No.15833 of 2018
Date of Decision:21.09.2018**

Buta Singh

...Petitioner

Versus

Financial Commissioner (Appeals), Civil Secretariat, Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA

Present: Mr. Naveen Batra, Advocate
for the petitioner.

G.S. SANDHAWALIA, J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India challenging the order dated 01.03.2018 (Annexure P-3), of the Financial Commissioner, Punjab whereby the matter has been remanded to the District Collector, Hoshiarpur to decide the case afresh on merits after giving opportunity of being heard while allowing the revision of Chanchal Singh.

The primary reason for remand and in not accepting the order of the appointment dated 30.11.2011 (Annexure P-1) in favour of the petitioner which had been upheld by the Commissioner (Appeals) on 22.04.2016 (Annexure P-2) is that the private respondent Chanchal Singh had 26 years of service as an ex-serviceman. The Punjab Land Revenue Rules provides that under Rule 15(c) the service rendered to the State by himself or by his family is an aspect which is to be kept in mind and regard has to be given to the said fact.

This aspect had not been kept in mind by the District Collector and the order suffered from perversity due to which reason the Financial Commissioner (Appeals) exercised his jurisdiction which vested under law as per settled principle by holding that the District Collector had not passed a well reasoned order. Reference can be made to the judgment of the Apex Court in **Mahavir Singh Vs. Khiali Ram 2009 (3) SCC 439** wherein it has been held that while exercising jurisdiction under Article 226 of the Constitution of India, Courts are concerned of the correctness of the decision making process and not the merits of the decision. It was further held that where the finding of the Collector is not perverse and all the relevant factors have been taken into consideration, interference would not be justified, especially where the principles of natural justice have been complied with and the procedures laid down under the Rules, have also been kept in mind. In the said case, even though the respondent was a person who had experience in the Armed Forces, which aspect had also been noticed by the Collector, but still had not been appointed, the order of the Collector was upheld by the Apex Court.

The said view was followed by the Division Bench in **Phool Kumar Vs. State of Haryana & others 2010 (2) RCR (Civil) 819**, by restoring the order of the Collector and setting aside the order of the Financial Commissioner and the Single Judge.

Resultantly, this Court is of the opinion that the petitioner has not been prejudiced in any manner as the issue has only been remanded, as the Financial Commissioner has found a patent perversity in the order of the District Collector, as the merits and demerits had not

been properly considered.

Accordingly, in view of the above, there is no merit in the present writ petition and the same is dismissed in limine.

21.09.2018
pvd

(G.S. SANDHAWALIA)
JUDGE

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