

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

113

Civil Writ Petition No.30078 of 2018
Date of Decision: November 29th, 2018

Avtar Singh

...Petitioner

Versus

Financial Commissioner (Appeals-II), Punjab and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Balbir Singh Jaswal, Advocate
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 30.11.2017 (Annexure P-10) passed by the Financial Commissioner (Appeals), Punjab, order dated 22.04.2016 (Annexure P-8) passed by the Commissioner, Jalandhar Division, Jalandhar, order dated 05.11.2013 (Annexure P-6) passed by the Collector-cum-Deputy Commissioner, Hoshiarpur, whereby the Collector on the remand of the case by the Financial Commissioner vide order dated 22.03.2013 (Annexure P-5), has rejected the claim of the petitioner as also the other candidate Karam Singh on the ground that they were of old age and the physical capability is a relevant factor for appointment of Lambardar, which both the candidates did not possess as Karam Singh was of 81 years of age and Avtar Singh was 69 years of age. The District Collector had further proceeded to remand the case to the Sub Divisional Magistrate, Hoshiarpur, for calling the applications afresh by getting fresh proclamation made in Village Bhikhowal, Tehsil and District Hoshiarpur, for appointment of Lambardar.

2. Learned counsel for the petitioner has spelt out the facts that in

pursuance to the proclamation issued by the Sub Divisional Magistrate,

Hoshiarpur, in the year 2000 after the death of the then Lambardar of Village Bhikhowal on 07.03.1996, there has already been a delay of about four years in the same. 20 applicants submitted their claim for consideration for appointment to the post of Lambardar but only four candidates contested the same and pressed their respective claims. On consideration of the respective claims of the parties, the District Collector did not find any of the candidates suitable for appointment and ordered fresh proclamation on 30.04.2001. This order was challenged by the petitioner before the Commissioner, Jalandhar Division, Jalandhar, which appeal was allowed on 30.01.2002 and the matter was again remanded back to the District Collector for fresh decision. One of the candidates Surjit Singh preferred a revision petition before the Financial Commissioner, which revision petition was accepted on 25.07.2002, whereby the Financial Commissioner remanded the case back to the District Collector for fresh decision by considering the candidature of all 20 candidates, who had submitted applications. Petitioner challenged the said order of the Financial Commissioner by filing CWP No.6046 of 2009, which writ petition was allowed by the learned Single Judge of this Court vide order dated 28.03.2012 (Annexure P-3). The said order of the learned Single Judge was challenged by Surjit Singh by filing LPA No.836 of 2012, which was decided on 27.09.2012 (Annexure P-4), whereby the parties were directed to appear before the Financial Commissioner (Revenue) on 30.10.2012, who was ordered to consider rights of all the applicants and pass order in accordance with law within six months of the appearance of the parties. The Financial Commissioner, Punjab, proceeded to pass an order dated 22.03.2013 (Annexure P-5) remanding the case to the

District Collector, Hoshiarpur, and to consider the claim of all the applicants including Avtar Singh, especially in the light of the fact that in the meanwhile Surjit Singh, who was an appointee, had expired.

3. In pursuance to the said order of the Financial Commissioner, the Deputy Commissioner-cum-District Collector, Hoshiarpur, considered the claim of all other candidates including the petitioner and decided the same vide order dated 05.11.2013 (Annexure P-6). In the said decision, the claim of the petitioner was rejected on the ground that he is 69 years of age and, therefore, being an aged person, cannot perform the duties of Lambardar. Similar was the position with regard to Karam Singh, whose age was 81 years. Petitioner preferred an appeal before the Commissioner, Jalandhar Division, Jalandhar, who dismissed the said appeal vide order dated 22.04.2016 (Annexure P-8) leading to the filing of the revision petition by the petitioner, which was dismissed on 30.11.2017 (Annexure P-10).

4. On the basis of the above factual position, counsel contends, that the petitioner had no option but to approach this Court by filing the present writ petition because of the reason that the authorities below have not considered the candidature of the petitioner in the right perspective. He contends that the petitioner is an ex-serviceman and a decorated soldier and, therefore, his candidature should have been considered in the right perspective in the light of Rule 15(f) of the Punjab Land Revenue Rules. He contends that even the Collector and the Financial Commissioner have wrongly observed that the petitioner is 89 years of age, whereas the petitioner was only 69 years of age in the year 2013 when the claim of the petitioner was considered by the District Collector on 05.11.2013 rejecting

the same. Counsel, thus, contends that the authorities below have proceeded on a wrong assumption that the petitioner is of an old age and, therefore, his candidature has been not approved merely on this ground, which is unsustainable.

5. I have considered the submissions made by the counsel for the petitioner and with his assistance, have gone through the records of the case.

6. This is a case which has unfortunately led to a situation where the candidates were called upon to submit their respective claims in the year 2000 and in the litigation which has thereafter ensued, 18 years have gone by. The matter has been twice remanded back to the District Collector for fresh decision but unfortunately till date, no Lambardar has been appointed. The contention of the counsel for the petitioner may be correct if seen in the perspective and keeping in view the initial application which was submitted by the petitioner in the year 2000 but with the change of circumstances and the passage of time, which does not wait for anyone, the petitioner as of now would be 74 years of age, which by any standards, cannot be said to be an age which would be suitable for appointment to the post of Lambardar as the observations of the authorities below to the extent that the physical capability as well as the efficiency, which is required for performing the duties of a Lambardar, go hand in hand. With the efflux of time, the petitioner because of the age, would not be in a position to perform the duties of a Lambardar effectively and, therefore, this Court would not, in any case, like to interfere in the matter.

7. The present writ petition, therefore, stands dismissed.

November 29th, 2018

Puneet

AUGUSTINE GEORGE MASI(H)

JUDGE

Whether speaking/reasoned:

Yes

Whether Reportable:

No