

LPA No. 1297 of 2019 (O&M)

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

**LPA No. 1297 of 2019 (O&M)
Date of decision: 17.07.2019**

Vijay Kumar Rana

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present: Mr. Sunil Agnihotri, Advocate,
for the appellant

ARUN PALLI, J. (ORAL)

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 13.2.2019, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.

The facts that are required to be noticed are limited.

Post of a Lambardar fell vacant in village Rajpur, Tehsil Mukerian, District Hoshiarpur, owing to death of Lambardar (Gurdit Singh), on 21.1.2014. Pursuant to the process initiated by the respondent authorities to fill up the said post, as many as eight candidates, including appellant (Vijay Kumar Rana) and respondent (Sukhdev Singh), also submitted their respective claims. However, upon a comparative analysis of candidature of the candidates in fray, the District Collector, vide order dated 12.3.2015, found respondent (Sukhdev Singh) to be most suitable, and accordingly, he

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was appointed as Lambardar. Aggrieved by the said order, appellant and two other candidates, namely, Yograj Karan Singh and Onkar Singh, filed three separate appeals, which were dismissed, vide order dated 14.12.2016, by the Commissioner. Whereafter, appellant filed a revision, which too was dismissed by the Financial Commissioner (Appeals), vide order dated 27.7.2017. That is how, the appellant approached this Court vide a writ petition, referred to above, assailing the appointment of respondent (Sukhdev Singh), which has been dismissed, vide impugned order and judgment. Thus, this appeal.

We have heard learned counsel for the appellant and perused the records.

Ex facie, the District Collector, while evaluating the candidatures of appellant and respondent (Sukhdev Singh), concluded that Sukhdev Singh was a permanent resident of village Rajpur, and was merely 44 years of age. He was a matriculate and a graduation certification had also been issued by the Army Authorities in his favour. In fact, he happened to be an Ex-serviceman, who served the Indian Army for 22 years. He also owned a land measuring 32 kanals 9 marlas, situated in the village. Besides that, he would take deep interest in the development works of the village, and was a social worker. He was also a member of Bhai Ghanaiya Service Society Bhangala and a regular blood donor. Whereas, the appellant was 59 years of age and possessed a small land holding measuring 12 kanals 5 marlas only. Thus, respondent (Sukhdev Singh) was more suitable for appointment. The plea set out by the appellant that he too was an Ex-serviceman and had retired as Naib Subedar, and further remained Sarbrah Lambardar for a period of 10 years, owing to the ill health of his father, was duly considered

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and rejected by the learned Single Judge, upon a comparative analysis of the two candidates. It was observed that appellant was 59 years old, whereas, Sukhdev Singh was much younger, being only 44 years of age and also owned a bigger land holding measuring 32 kanals 9 marlas.

Undoubtedly, the appellant remained a Sarbrah Lambardar, but upon that basis alone, he could not claim appointment to the office, as a matter of right. Other factors, like age, qualification, land holding etc., were also to be factored in to make a suitable choice. Further, it was observed that it is only in an eventuality, where two candidates are similarly placed, the factor that one of them had served as a Sarbrah Lambardar would enure to his advantage and not otherwise. In so far as the argument that respondent (Sukhdev Singh), would not be available to the inhabitants of the village to perform his duties for he was running a shop of spare parts at village Bhangala, it was concluded that merely because a shop was being run by him in the adjoining village, and no material was brought on record to indicate the exact distance, in the present day and age and ever evolving technologies, it could not be construed as disqualification. Undoubtedly, respondent (Sukhdev Singh) remained in custody in a criminal complaint registered under SC/ST Act, but it is equally true that he earned honourable acquittal in the said case.

The position of law is settled that unless the discretion exercised by the District Collector, preceded by a due evaluation of the candidature of the respective candidates in appointing a Lambardar, is demonstrated to be perverse and contrary to any statutory provisions, the same cannot be interfered with. As indicated above, appointment of respondent (Sukhdev Singh), as Lambardar, by the District Collector was affirmed by the

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Commissioner, Financial Commissioner and even by the learned Single Judge.

In the wake of the above, we too are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge as also the orders passed by the authorities below. The appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 17, 2019
AK Sharma

Whether speaking / reasoned: YES
Whether Reportable: NO