

IN THE HIGH COURT OF PUNJAB AND HARAYANA AT CHANDIGARH
141

CWP-23976-2019

Date of decision: 02.09.2019

ZILE SINGH

...PETITIONER

VS.

STATE OF HARYANA AND OTHERS

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Munish Mittal, Advocate,
for the petitioner.

AUGUSTINE GEORGE MASIH, J. (ORAL)

Petitioner has approached this Court challenging the order dated 26.10.2016 (Annexure P-2) passed by the Collector, Karnal-respondent No. 3 appointing respondent No. 4-Jaidev as Lambardar of Village Badarpur, appeal against this order, which has been preferred by the petitioner, has been dismissed by the Commissioner, Karnal Division, Karnal-respondent No. 2 vide order dated 06.12.2018 (Annexure P-1) and similar has been the fate of the revision petition preferred by the petitioner to the Financial Commissioner, Haryana-respondent No. 1 vide order dated 01.04.2019 (Annexure P-3).

It is the contention of the learned counsel for the petitioner that the petitioner has been ousted on the ground that he was Principal of the Government Senior Secondary School, Kalsora at the relevant time and, therefore, could not be appointed. He contends that merely because the petitioner is Government employee cannot be treated as a disqualification to be considered for appointment to the post of Lambardar. He, thus, contends

that the petitioner is more qualified and fulfils the requirements for appointment to the post of Lambardar and, therefore, should have been appointed as Lambardar instead of respondent No. 4-Jaidev. He places reliance upon a judgment of the Division Bench of this Court in the case of **Sukhminder Singh vs. Financial Commissioner**, 1992 (3) SCT 28, to contend that the stand of the respondents for rejecting the candidature of the petitioner would be against the said judgment.

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

The basic principle and the purpose for appointment to the post of Lambardar for the performance of his duties and discharge thereof in a more efficient and effective manner. It is on this basis that apart from the minimum qualifications, which have been laid down for appointment to the post of Lambardar, the suitability of the said candidate has to be assessed. Here it is not a case where the candidature of the petitioner has not been considered, what has ultimately weighed on the mind of the Collector is that the petitioner would not be suitable for appointment to the post of Lambardar because of the fact that he would not be available for performing his duties and responsibilities which have been required and expected to be performed by him.

It cannot be disputed that the Principal of a Government school cannot, during the period when the school is working, leave the classes especially in the light of the fact that he is holding such a responsible post and the career of the students is involved. Any inaction at the relevant time or lethargy and delay in such matters where immediate strict remedial steps

required to be taken would be fatal for the education of the students. Petitioner would not be able to leave the premises and thus, would not be available for the villagers. The Collector as well as the other revenue authorities have rightly come to a conclusion that the petitioner would not be a suitable candidate for appointment to the post of Lambardar in the light of the nature of Govt. job which he was performing.

The judgment, on which reliance has been placed by the counsel for the petitioner, was where the candidature of the applicant was rejected on the ground that he was a Government employee. The Division Bench had proceeded to hold that merely because he was a Government servant would not be a disqualification for consideration for appointment to the post of Lambardar. It has further been observed that the suitability of the candidate and the nature of work performed by him should not interfere in the discharge of his responsibilities as a Lambardar as also as a Government servant.

This very aspect has been duly considered by the authorities on the basis of which he has been found not suitable. The decision of the revenue authorities being in consonance with law, appointment of respondent No. 4-Jaidev cannot be faulted with. The Division Bench judgment of this Court in the case of Sukhminder Singh (supra), therefore, would not be of any help to the case of the petitioner.

Finding no merit in the present writ petition, the same stands dismissed.

September 02, 2019

pj

**(AUGUSTINE GEORGE MASIH)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No