

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No. 146 of 2017
Date of decision: 17.07.2019

Mange Ram

... Appellant

Versus

Deputy Commissioner, Sirsa and others

... Respondents

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

Present: Mr. S.K.Verma, Advocate for the appellant.

Mr. Sharad Aggarwal, AAG, Haryana.

Mr. P.S.Jammu, Advocate for respondent No.4.

ARUN PALLI, J. (oral)

This is an *intra* Court appeal under Clause-X of the Letters Patent, against an order and judgment dated 27.09.2016, 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.

A post of Chowkidar in village Mohammadpuria, Tehsil Rania, District Sirsa, fell vacant owing to the death of Guljari Lal (Chowkidar) on 04.12.2013. Pursuant to the order dated 05.08.2014, passed by the Deputy Commissioner (respondent No.1), the process to fill up the said post was initiated. The candidates were required to submit their applications on or before 11.02.2015. As many as eight (8) candidates including the appellant and respondent No.4 submitted their claims for consideration. However, the

Deputy Commissioner (respondent No.1) upon a comparative analysis and evaluation of the candidates found Brij Lal (respondent No.4) to be most suitable for appointment. Accordingly, vide order dated 03.08.2016, Brij Lal (respondent No.4) was appointed as Chowkidar. Aggrieved by said order the appellant approached this Court, vide a writ petition, referred to above, which has been dismissed. Thus, this appeal.

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

In context of the limited issue that arises for consideration it indeed would be expedient to refer to the conclusion recorded by the learned Single Judge at the outset:-

“The relevant observations made by the Deputy Commissioner in the operative part of the impugned order which deserves noticed here, read as under:-

“I have carefully heard the arguments addressed by the candidates and their respected counsels and perused the record carefully. After careful examination of record it is found that candidate Sh. Channan Ram and Rajesh Kumar are passed up to 8th class. Candidate Sh. Mange Ram has passed 10+2 and his age is 35 years, in fact candidate Brij Lal is young person of age 24 years, two other candidates have withdrawn their applications in his favour. Gram Panchayat has also passed a resolution for his appointment as Chowkidar of the village and he is the grandson of deceased chowkidar, therefore, he has the experience regarding the working of Chowkidar. Besides this his name has also been recommended by court of Tehsildar Rania and court of Sub Divisional Officer (Civil), Ellenabad hence he prayed for his appointment as Chowkidar of village Mohammadpuria, Tehsil Rania District Sirsa. Therefore, I agree with the reports sent by court of Tehsildar Rania and SDO (civil) Ellenabad and hereby appoint Sh. Brij Lal s/o Jagdish as suitable candidate

as compare to other candidates for the post of Chowkidar after the death of Sh. Guljari Lal Chowkidar of the village Mohammadpuria, Tehsil Rania, District Sirsa.”

Another argument raised by learned counsel for the petitioner was that respondent No.4 did not apply well within time. In this regard, he refers to Annexure P-5 to contend that respondent No.4 applied on 15.12.2015, whereas his application was wrongly shown to have been received on 15.12.2014. He also refers to the zimni order dated 15.12.2014 (Annexure P-3) passed by the Tehsildar, Rania, to contend that once last date for submission of application was 11.2.2015, application dated 15.12.2015 submitted by respondent No.4 could not have been shown to have been received on 15.12.2014.

However, a close perusal of the impugned order passed by the Deputy Commissioner shows that the petitioner did not raise this issue before the competent authority at the time of passing of the impugned order. Further, once the application of respondent No.4 has been shown to have been received on 15.12.2014 (Annexure P-5), typed date as 15.12.2015 might be at the most a typographical mistake. Further, no prejudice of any kind, whatsoever, has been shown which might have been caused to the petitioner, by passing of the impugned order.”

Ex facie, the appellant was 35 years of age at the time of consideration of his candidature whereas respondent No.4 was barely 24 years old. Further, even Tehsildar, Rania (respondent No.2), upon perusing the records of the candidates recommended Brij Lal (respondent No.4) for appointment as Chowkidar. Likewise, even SDO (Civil) Ellenabad

(respondent No.3) endorsed his name. Not just that Gram Panchayat had also passed a resolution recommending Brij Lal (respondent No.4) for appointment as village Chowkidar. Further, he also happened to be the grand son of the deceased Chowkidar, and thus, was familiar with the working and duties of Chowkidar. Even two of the candidates in the fray had withdrawn their candidature in support of respondent No.4. The plea set out by the appellant that respondent No.4 did not submit his application within the stipulated time was also held to be erroneous as the learned Single Judge concluded that although the application of respondent No.4 was received on 15.12.2014, but owing to a typographical error the date depicted on the application was 15.12.2015. Further, no such plea was ever raised before the Deputy Commissioner alleging that the application of Brij Lal (respondent No.4) was entertained in back date. This fact is further fortified since Reader of the Tehsildar (respondent No.2) made an endorsement upon the said application on 15.12.2014. The order dated 03.08.2016, passed by the Deputy Commissioner, also reveals that the matter was examined in depth considering every relevant factor before appointing respondent No.4. Learned counsel for the appellant referred to a letter dated 16.05.2016 (Annexure P-7), purport to have been written by Sh. Ranjit Singh Bhatti, National Media Reporter, addressed to Sub Divisional Officer, Ellenabad (Sirsa), recommending the candidature of respondent No.4 for appointment and, thus, it was urged that the name of respondent No.4 was recommended by respondent No.3 under political influence. The respondents-authorities have categorically denied to have recommended

and/or appointed respondent No.4 on the basis of letter (Annexure P-7). Concededly, the appointing authority happened to be the Deputy Commissioner (respondent No.1) and the order dated 03.08.2016, passed by him shows that the candidature of all the four candidates in fray was considered from every conceivable angle and upon evaluating their candidature, in context of the requirement of the post of village Chowkidar, Brij Lal (respondent No.4) was found to be most suitable. That being so, even the letter dated 16.05.2016 (Annexure P-7) completely pales into insignificance.

Upon being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the order dated 03.08.2016 (Annexure P-10) as also the impugned order and judgment, rendered by the learned Single Judge was either contrary to the record or suffered from any material illegality. Thus, the appeal being devoid of merit is accordingly dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

17.07.2019
Manoj Bhutani

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