

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

LPA-7737-2018 (O&M)
Date of decision:- 22.01.2019

Bhajna Ram and others
Versus
...Appellants

Hussan Pal and others
...Respondents

LPA-7-2019 (O&M)

Karma through LR Gurdev Kaur and others
Versus
...Appellants

Hussan Pal and another
...Respondents

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

Present:- Mr. Saurabh Garg, Advocate,
for the appellants in LPA-7737-2018.

Mr. Gursimran Singh Bhatia, Advocate,
for the appellants in LPA-7-2019.

Mr. Dinesh Nagar, Advocate,
for respondent No. 1.

Mr. Shireesh Gupta, Senior Deputy Advocate General, Punjab,
for respondent No. 2.

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KRISHNA MURARI, C.J. (ORAL)

CM-5157-LPA-2018 in LPA-7737-2018
CM-10-LPA-2019 in LPA-7-2019

For the reasons mentioned in the applications, the delay of 47 days in filing LPA-7737-2018 and 49 days in filing LPA-7-2019 is condoned.

The applications stand disposed of.

LPA-7737-2018 and LPA-7-2019

The appellants, who have filed this intra court appeal being LPA-7737-2018 under Clause X of the Letters Patent, were not

parties to the writ petition before learned Single Judge. Hence, the appeal is accompanied by an application seeking permission to file the same, which after hearing learned counsel for the parties stands allowed.

LPA-7737-2018 is directed against the judgment and order dated 03.10.2018 passed by the learned Single Judge whereby the writ petition has been rendered infructuous on account of death of the petitioner (Karma) therein, now represented by his legal representatives, who are arrayed as respondent No. 3 (i to iv) and have also filed LPA-7-2019 against the same judgement and order of the learned Single Judge. Both the appeals have been tagged and heard together and are now being dealt with by this common order.

2. Facts giving rise to the disputes can be summarized as under:-

Karma (since deceased) was selected and appointed on the post of Lambardar by District Collector, Jalandhar vide order dated 11.05.1994. Aggrieved by the same, respondent No. 1- Hussan Pal went up in appeal before the Commissioner, Jalandhar Division, Jalandhar, which was dismissed vide order dated 09.12.1996. Thereafter, both the orders of the District Collector and the Commissioner were challenged by respondent No. 1 herein before Financial Commissioner, Cooperation, Punjab, by filing a revision petition which came to be allowed vide order dated 03.08.1998 and after holding that the orders of the District Collector and the Commissioner suffered from material deficiency, respondent No. 1 herein was directed to be appointed as Lambardar.

The aforesaid order of the Financial Commissioner was put to challenge before this Court by filing the writ petition by Karma (since deceased). An interim order was passed therein and that is how he continued to function as Lambardar till his death on 28.01.2017. Respondent No. 3 (i to iv) being his legal heirs made an application for impleadment which was allowed by the learned Single Judge and thereafter he proceeded to dispose of the writ petition

as having rendered infructuous on account of death of the petitioner (Karma) and also observed that necessary effect be given to the order of the Financial Commissioner dated 03.08.1998.

It is this part of the order of the learned Single Judge which has brought the heirs of Karma (since deceased) as well as the appellants, who claim to be residents of Village Daryapur, Tehsil Nawanshahar, District SBS Nagar, to file these appeals.

3. Admittedly, much water has flown since the selection and appointment on the post of Lambardar was made as long back as on 11.05.1994. Giving effect to the order dated 03.08.1998 passed by the Financial Commissioner while allowing the revision petition after about twenty four years to our mind would not serve any purpose. Furthermore, once the Financial Commissioner found that the order passed by the District Collector in selecting and appointing Karma (since deceased) suffered from material deficiency and there was also a dispute with respect to the post of Lambardar being reserved or not it was more appropriate for him to have remanded the matter back to the District Collector to consider the dispute afresh. Instead, the Financial Commissioner proceeded to pass an order to appoint respondent No. 1 herein as Lambardar. It would be in the fitness of things and in the deeper interest of everyone that after such a long lapse of time, instead of entering into all this controversy, the post of Lambardar is filled in afresh after inviting applications from the candidates who have become eligible during the interregnum period of twenty four years. By giving an appointment on the basis of the order dated 03.08.1998 to respondent No. 1 herein would in effect amount to denying an equal opportunity to the eligible persons.

4. Mr. Shireesh Gupta, learned Senior Deputy Advocate General, Punjab has also taken a stand that the facts and circumstances warrant an exercise for making a fresh appointment on the post.

5. In such view of the matter, we dispose of both the appeals by modifying the order of the learned Single Judge whereby a direction has been issued to give effect to the order dated 03.08.1998 passed by the Financial Commissioner.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

22.01.2019
Amodh

whether speaking/reasoned	Yes/No
whether reportable	Yes/No