

CWP-19782-2019

Date of Decision: 14.07.2022

Jagat Pal

....Petitioner

VS

Financial Commissioner (Revenue) Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Suresh Kumar Aneja, Advocate for the petitioner

Mr. Arun K. Kaundal, DAG Punjab

None for respondent No. 4

SUDHIR MITTAL, J. (Oral)

Vide order dated 11.12.2014 respondent No. 4 was appointed as Lambardar of village Kathera, Tehsil and District Fazilka by the Collector, Fazilka. Appeal filed by the petitioner was dismissed by the Commissioner vide order dated 04.03.2016 and further revision was dismissed by the Financial Commissioner vide order dated 08.10.2018. Thus, the present writ petition has been filed.

Learned counsel for the petitioner submits that the Collector has erred in law in appointing respondent No. 4 as Lambardar. The petitioner is more educationally qualified being 10+2 pass. He is also younger in age being 32 years old only as compare to respondent No. 4 being 62 years old. The father of the petitioner had worked as Lambardar and, thus, the petitioner has knowledge of the work. The finding of the Collector that respondent No. 4 had knowledge of the work of Lambardari is perverse as no one in his family has ever been a Lambardar earlier. The order is also perverse because of examining the comparative merits and demerits of the candidates. No person of ordinary prudence could have come to the conclusion that respondent No. 4 is a better choice. Thus, the order deserves to be interfered with. The appellate and revisional orders also deserve to be set aside as while passing the said orders the legal position has not been

None has appeared for respondent No. 4 despite service.

The record indicates that the petitioner possesses better educational qualification than respondent No. 4 being 10+2 pass. It is also a fact that he is 30 years younger than respondent No. 4 and consequently more energetic to perform the job of Lambardari. His father was the previous Lambardar and, thus, the petitioner can be expected to have knowledge of the job requirements of the said post. The finding that respondent No. 4 had knowledge of Lambardari work is patently perverse as there is nothing on record to support the same. A comparative evaluation of the merits and demerits of the petitioner and respondent No. 4 shows that no person possessing ordinary prudence could have selected respondent No. 4 as the Lambardar. Thus, the order of the Collector is perverse and deserves to be set aside. It may be noted that the Collector has also held that the petitioner being the Clerk of an Advocate would not be able to discharge the duties of Lambardar. In this regard learned counsel for the petitioner has relied upon Division Bench judgment passed in *Tripat Singh vs. Financial Commissioner and others, 2014(3) RCR(Civil) 725*. In this case the Division Bench has held that the fact that a candidate works as Clerk of an Advocate does not debar him from being appointed as Lambardar. Infact, the same would be an asset to him in the discharge of his duties.

In view of the above position in law the finding that the petitioner would not be able to perform his duties as Lambardar being the Clerk of an Advocate is not sustainable in law.

The writ petition is allowed and impugned orders are set aside. It is directed that the petitioner be appointed as a Lambardar.

14.07.2022

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(SUDHIR MITTAL)
JUDGE

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No