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

CWP No.14688 of 2023

Date of Decision: 14.07.2023

Surinder Singh

..... Petitioner

Versus

**Financial Commissioner Appeals Punjab
Civil Secretariat Punjab and others**

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Mehak Sood, Advocate
for the petitioner.

RAJESH BHARDWAJ J. (ORAL)

The present writ petition has been filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of order dated 17.11.2022 (Annexure P-7) passed by respondent No.1, order dated 20.04.2018 (Annexure P-6) passed by respondent No.2 as well as order dated 12.11.2014 (Anexure P-5) passed by respondent No.3.

Learned counsel for the petitioner has vehemently contended that the respondents-authorities have totally fallen in error in not appreciating the case of the petitioner, who was much more meritorious than respondent No.4 for the appointment of Lambardar of village Bamnara and thus, has drawn a wrong conclusion which is beyond the facts and circumstances of the case and the law settled and thus, the impugned orders deserve to be set aside by setting aside the

appointment of respondent No.4 and appointing the petitioner as a Lambardar of village Bamnara.

She submits that on the death of Sh. Kartar Singh- Lambardar of village Bamnara on 23.12.2009, the post of Lambardar fell vacant. To fill the vacancy, the approval dated 16.01.2013 was given by the District Collector, Rupnagar. The Mustri Munadi was conducted and seven candidates from the village applied for the post. The Naib Tehsildar Morinda vide his order dated 27.05.2013 recommended the name of candidate Sham Singh, i.e., respondent No.4 for the post of Lambardar of village Bamnara. Resultantly, the District Collector appointed respondent No.4-Sham Singh for the post of Lambardar vide his order dated 12.11.2014. It was assailed by the petitioner by way of filing the appeal before the Commissioner. However, the same was dismissed by the Commissioner vide his order dated 20.04.2018. It was further assailed by the petitioner by way of filing the revision before the Financial Commissioner. However, the same was also dismissed by the learned Financial Commissioner vide his order dated 17.11.2022 and thus, upholding the impugned orders dated 12.11.2014 and 20.04.2018.

Learned counsel for the petitioner has vehemently contended that as per facts and circumstances of the case, the petitioner was more meritorious than respondent No.4. She has submitted that as per candidature of respondent No.4, he was 61 years of age and retired as Superintendent Grade II from the Government Department. She vehemently argued that the Subordinate Authorities have failed to appreciate that respondent No.4 is a retired Government employee, and is aged person but the same has been ignored by the respondents-

authorities. Wife of respondent No.4, namely Smt. Gian Kaur was 53 years of age as per voter list of the year 2017 but she was getting the senior citizen pension which she was not entitled, thus, there was misstating of the facts regarding the senior citizen pension being taken by wife of respondent No.4. She submits that the petitioner was younger in age than respondent No.4 and has a good reputation in the village but the same has been ignored by the respondents-authorities. She submits that post of Lambardar was to be filled for the Scheduled Caste category and the petitioner was more meritorious amongst all the candidates, who applied for this post. She submits that the impugned orders passed are cryptic and non speaking and thus, assigned no reason for the appointment of respondent No.4 as Lambardar of village Bamnara. She submits that in view of the overall facts and circumstances of the case and the law settled, the impugned orders being totally illegal and unsustainable in the eyes of law and thus, deserve to be set aside.

I have heard learned counsel for the petitioner and perused the material on record.

Evidently, post of Lambardar was to be filled up for Scheduled Caste category. The respondents-authorities followed the due procedure for filling up the same and mushtri munadi was also conducted in the village. The applications were invited from the eligible candidates. On receipt of the applications, the antecedents and character of all the applicants were verified. The petitioner was found to be 48 years of age and he was 11th class pass whereas respondent No.4 was 61 years of age and graduate. He was retired as Superintendent Grade II from Technical Training & Industry Department, Punjab and was getting

pension from the Government. On appreciation of the merits of all the candidates, the Collector found respondent No.4 to be more meritorious than all the candidates, who were in the race.

Contentions raised by learned counsel for the petitioner that wife of respondent No.4 was getting senior citizen pension had also been raised before the Subordinate Authorities and was appreciated. There is no denial to the fact that respondent No.4 was most qualified amongst all the candidates and he was found to be a retired Government employee having more experience. There is nothing on the record produced by the petitioner before the Subordinate Authorities in support of the allegations levelled against respondent No.4.

In “*Sukhjinder Pal Singh Vs. State of Punjab and others*”, **2016(3)R.C.R.(Civil)725**, this Court while dealing with the same question has held as under:-

14. It is pertinent to mention here that the appointment of Lambardar is primarily the prerogative and administrative act of the District Collector. The selection made by him is normally not to be undone unless and until it is shown that the same suffers from gross irregularity, perversity or there is some patent error in the appointment.”

It is apparent that the choice of the Collector has been appreciated by the Appellate Authority and the Divisional Authority and the same has been upheld throughout.

Thus, in the facts and circumstances of this case, this Court does not find any perversity in the opinion arrived at by the Collector and the higher authorities thereafter. Thus, the impugned orders found to

be suffering from no infirmity are upheld. Resultantly, this petition, being devoid of any merit is hereby dismissed.

(RAJESH BHARDWAJ)
JUDGE

14.07.2023
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Whether speaking/reasoned : Yes/No
Whether reportable or not : Yes/No