

132 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-28083-2023

Date of decision: 14.12.2023

Som Raj

... Petitioner

Versus

State of Punjab and other

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJESH BHARDWAJ

Present: Ms. Amandeep Soni, Advocate, for the petitioner.

RAJESH BHARDWAJ, J.

Prayer in the present petition is for quashing the impugned order dated 20.03.2023 (Annexure P-9) passed by learned Financial Commissioner, whereby the revision filed by the petitioner was dismissed against the order dated 12.07.2021 (Annexure P-8) passed by learned Commissioner, Jalandhar Division, Jalandhar, whereby, the appeal filed by the petitioner was dismissed against the order dated 07.08.2018 (Annexure P-5) passed by learned District Collector, Jalandhar, who has wrongly and illegally appointed respondent No.5 as SC Lambardar.

Adumbrated facts of the case are that on the demise of Surinderpal, earlier SC Lambardar of the village Allowal, Tehsil Nakodar, District Jalandhar, post of new SC Lambardar fell vacant. Thus, the process for the appointment of new Lambardar was initiated and resultantly, *Mushtri Munadi* was conducted in the village for inviting applications from the interested candidates. In pursuance to the same, nine applications were received from the candidates including Som Raj (petitioner) and Dalbir Singh (respondent No.5). Character verifications of all the candidate were conducted. On the appreciation of the applications received, Som Raj (petitioner) was found to be 62 years old and BA II pass by qualifications. So far as Dalbir

Singh (respondent No.5) is concerned, he was found to be 61 years of age and 9th class pass. Besides this, he was found to be ex-service man as well. On the evaluation of the merits and demerits of the candidates, the learned Collector found respondent No.5-Dalbir Singh to be more meritorious candidate and thus, appointed him as new SC Lambardar of the village vide order dated 07.08.2018 (Annexure P-5). Aggrieved by the same, the petitioner and co-applicant Hans Raj filed their independent appeals before the Commissioner, Jalandhar Division, Jalandhar. Both the appeals were heard together. After hearing both the sides, learned Commissioner found no merit in the appeals filed and thus, dismissed the same vide order dated 12.07.2021 (Annexure P-8). Aggrieved by the same, the petitioner filed a revision petition before the learned Financial Commissioner, who also found no merit in the same and dismissed the revision petition vide order dated 20.03.2023 (Annexure P-9). Thus, the order passed by the Collector has been upheld by both the Appellate and Revisional authorities. Hence, the petitioner has approached this Court by way of filing the present petition.

Learned counsel for the petitioner has vehemently contended that the as is apparent from the comparison of the inter-se merits of both the candidates, the petitioner was 62 years of age and BA II pass by qualification and thus, he was more qualified than respondent No.5, who was only 9th class pass. She submits that the petitioner was found non-suited on the ground that he was working in a sugar mill and not financially sound. She submits that the petitioner was retired from Nakodar Cooperative Sugar Mill on 30.11.2023 and drawing pension but the same was ignored by the Collector. She has submitted that the learned Collector has appointed respondent No.5 on the ground that his name was recommended by the Tehsildar and SDM, however, the same was

not binding upon the District Collector thus, he has failed to evaluate the merits and demerits of both the candidates. She has submitted that the learned Commissioner as well as the learned Financial Commissioner have totally failed to appreciate the inter-se merits of both the petitioner and respondent No.5 and thus, have drawn wrong conclusion in appointing respondent No.5 as Lambardar. She further submits that the order of the Collector can be interfered, if the same is patently illegal. She submits that now in the light of the facts and circumstances of the case and the law settled, it is apparent that the order of the Collector was patently illegal. She submits that the impugned orders being against the evidence on record and the law settled deserve to be set aside.

Heard.

As is evident from the comparison of the inter-se merits of both the petitioner and respondent No.5 there was no substantial difference between their age. So far as qualification of both the candidates is concerned, the petitioner was more qualified than respondent No.5. however, respondent No.5 is an ex-service man, who retired from Army. The case in hand pertains to the appointment of SC Lambardar. Qualification of respondent No.5 may be less than that of the petitioner but his experience while serving in Army granted him edge in view of the provisions of Rule 15 of the Punjab Land Revenue Rules which reads as under:-

“15. Matters to be considered in first appointments :- In all first appointment of headman, regard shall be had among other matters to-

- (a) his hereditary claims;
- (b) the property in the estate possessed by the candidate to secure the recovery of land revenue;
- (c) services rendered to the State by himself or by his family;

- (d) his personal influence, character, ability and freedom from indebtedness;
- (e) the strength and importance of the community from which selection of a headman is to be made;
- (f) services rendered by himself or by his family in the national movements to secure freedom of India.”

Learned Collector on the evaluation of the merits of both the candidates found respondent No.5 to be more meritorious. There is no gainsaying that both the Appellate and Revisional authorities have taken a consistent decision on the view taken by the learned Collector.

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.”

As per law settled, the Collector is the main authority for appointment of the Lambardar. It is the Collector, who not only appreciates the antecedents of all the candidates in the fray, but also personally interacts with them. Thus, the subjective satisfaction of the Collector cannot be ignored in a cavalier manner.

All the three subordinate authorities have taken consistent view and thus, order passed by the Collector is found to be suffering from no perversity. This Court in Hakam Singh vs. Financial Commissioner (Revenue), Punjab and others, 2016(4) RCR (Civil) 335 while dealing with the same question has held as under:-

“3. Having heard the learned counsel at considerable length, after careful perusal of the record of the case and giving thoughtful consideration to the contentions raised, this Court is of the considered opinion that since all the three revenue authorities have recorded their concurrent findings of fact, which have been found duly supported by sound reasons, the impugned orders deserves to be upheld.”

In view of the facts and circumstances of the case and on the anvil of law settled, this Court does not find any perversity in the impugned orders and thus, the present petition is dismissed being devoid of any merit.

(RAJESH BHARDWAJ)
JUDGE

14.12.2023
sharmila

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