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

CWP-1548-2017

Reserved on: 08.01.2024

Date of decision :19.01.2024

Udham Singh**.....Petitioner**

versus

**The Financial Commissioner Appeals Punjab Main Secretariat
Chandigarh and others**

..... Respondents**CORAM : HON'BLE MR. JUSTICE RAJESH BHARDWAJ*********

Present :- Mr. Sherry K. Singla, Advocate
for the petitioner.

Mr. Arun William, AAG, Punjab.

Ms. Sonia G. Singh, Advocate
for respondent No.4.

*********RAJESH BHARDWAJ, J.**

This petition has been filed praying for quashing the impugned orders dated 29.08.2016 (Annexure P-3) passed by respondent No.1, order dated 28.04.2015 (Annexure P-2) passed by respondent No.2 and order dated 28.05.2014 (Annexure P-1) passed by respondent No.3 i.e. District Collector Sangrur, vide which respondent No.4 has been appointed as Lambardar of Village Kalbanjara, by ignoring the claim and merits of the petitioner and thus, the impugned orders are illegal and contrary to the mandate of law laid down by this Court with regard to the appointment of Lambardar as per the judgment passed in **“Davinder Singh Vs. Financial Commissioner and others”**.

Adumbrated facts of the case are that on the death of earlier Lambardar namely, Ramlal Singh on 28.02.2013, the process for the

appointment of new Lambardar was initiated. The proclamation was made in the Village for inviting applications from the eligible candidates. In pursuance to the same, eight applications were received including that of the petitioner and respondent No.4. Their character antecedents were verified. After scrutiny, six candidates remained in the fray. On appreciation of the applications received, petitioner-Udham Singh was found to be 67 years of age and matric pass. Besides this, he owned 7 acres of land in the Village. He was ex-serviceman as he retired from the Army after serving from 23.07.1965 to 31.01.1982. So far respondent No.4-Kashmira Singh is concerned, he was found to be 56 years of age and matric pass. Besides this, he owned 16 acres of land in the Village. On receiving the report of all the candidates in the fray, they were found to be not convicted from any Court and they had sufficient land for the security of land revenue. The name of respondent No.4-Kashmira Singh was recommended by the Tehsildar, Lehra, Sangrur. Learned Collector, Sangrur on evaluation of merits and demerits of all the candidates, found respondent No.4-Kashmira Singh to be the most suitable candidate for the post and thus, appointed him as Lambardar of the Village vide his order dated 28.05.2014. Aggrieved by the same, petitioner filed the appeal under Section 13 of the Punjab Land Revenue Act, 1887 before the learned Commissioner, Patiala Division, Patiala. Learned Commissioner on hearing both the sides and re-appreciated the record and found no infirmity in the order passed by the Collector and thus, dismissed the same vide its order dated 28.04.2015. Aggrieved by the same, petitioner filed his revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before the learned Financial Commissioner, Punjab

Chandigarh. Learned Financial Commissioner on hearing both the sides and re-appreciating the record, finding no merit in the revision petition dismissed the same and thus, upheld the order passed by the Collector and the Commissioner vide his order dated 29.08.2016. Hence, aggrieved by the concurrent findings of the authorities below, petitioner is before this Court by way of filing the present petition.

Learned counsel for the petitioner has contended that on comparison of the *inter se* merits of all the candidates in the fray, it is apparent that the petitioner was the most meritorious candidate among all but he was illegally rejected by learned Collector by appointing respondent No.4 as Lambardar of the Village. He has submitted that petitioner was ex-serviceman who rendered service to the nation but the same has not been taken into consideration by learned Collector. He has submitted that in view of the mandate of Rule 15 of the Punjab Land Revenue Rules, petitioner was the only candidate who had rendered service to the nation but the Collector and thereafter the Appellate and Revisional Authorities have failed to appreciate the same and thus, the view taken by the learned Collector is perverse. To buttress his arguments, he has relied upon the judgments titled as **Davinder Singh Vs. Financial Commissioner (Appeal-I), Punjab and others passed in CWP-9520 and 15073-2011 decided on 16.01.2012** and **Sukhdev Singh Vs. Financial Commissioner (Appeals II), Punjab and others passed in CWP-2882-2011 decided on 21.03.2012**. He submits that petitioner had an exemplary career which has not been taken into consideration by the authorities below and thus, the impugned orders being totally in violation of the settled principles of law deserve to be *set aside*.

Per contra, learned counsel for respondent No.4 has opposed the submissions made by counsel for the petitioner. It is submitted that the only ground taken by the petitioner is that he is an ex-serviceman and thus, he has an unequivocal right to be appointed as Lambardar of the Village. She has submitted that admittedly respondent No.4 was younger in age and he had passed matric and Giani as well. Besides this, he owned 16 acres of land which was in any case more than that of the petitioner. She has submitted that name of respondent No.4 was recommended by the Assistant Collector 1st Grade (Sub Division Magistrate) finding him more meritorious. It is submitted that on appreciation of the merits and demerits of all the candidates, learned Collector finding respondent No.4 to be more meritorious and suitable appointed him as Lambardar of the Village which was upheld by both the Appellate and Revisional Authorities. It is submitted that as per the law settled, the view taken by the learned Collector cannot be interfered unless the same suffers from any material illegality. She submits that as there was no material illegality committed by the Collector, the Appellate and Revisional Authorities have rightly dismissed the appeal and revision filed by the petitioner. She has relied upon the judgments titled as *Ranbir Singh Vs. State of Haryana and others, 2015(36) RCR (Civil) 716; Gela Ram Chumber Vs. Financial Commissioner (Revenue), Punjab, Chandigarh and others, 2016(2) RCR (Civil) 277; Ranjit Singh Vs. Financial Commissioner, Animal Husbandry, Punjab and others, 2011(53) RCR (Civil) 573; Kuldeep Singh Vs. Jagjit Singh and others, 2014(2) RCR (Civil) 296; Om Parkash Vs. Financial Commissioner, Haryana and others, 2009(3) RCR (Civil) 690.* It is submitted that in the

overall facts and circumstances of the case and in view of the law settled, the petition filed being devoid of any merits deserves to be dismissed with costs.

Heard. On hearing counsel for the parties and perusing the record, comparison of the *inter se* merits of both the candidates is as under:-

Name	Udham Singh, petitioner	Kashmira Singh, respondent No.4
Age	67 years	56 years
Qualification	Matric	Matric+Giani
Agriculture Land	7 Acres	16 Acres
Recommendation by Lower Revenue Authority	--	By AC, Ist Grade and SDM, Lehra

On perusal of the *inter se* merits of both these candidates, it is apparent that respondent No.4 was younger in age than the petitioner. As per the law settled by the Hon'ble Supreme Court, candidate who is younger in age should be preferred as held in **Mahavir Singh Vs. Khiali Ram, 2009(1) RCR(Civil) 757.** Besides this, on comparison of their *inter se* merits, respondent No.4 had an edge. There is no gainsaying that the character antecedents of both the candidates were found to be satisfactory and the petitioner was found to be ex-serviceman. However, the Collector who is the prime authority in the appointment, was to take into consideration the overall merits and demerits of all the candidates in the fray. The suitability of the candidate is the prime factor to be taken into consideration by the Collector. Finding respondent No.4 to be more suitable, he was appointed as Lambardar of the Village. From perusal of the impugned orders, it is apparent that the fact of petitioner being

ex-serviceman was duly appreciated by the Collector. However, respondent No.4 was found to be more suitable. There is no dispute regarding the judgments relied upon by the petitioner, however, the same are distinguishable in the facts and circumstances of the case whereas the judgments relied upon by the respondent No.4 fortifies the view taken by this Court in upholding the impugned orders. It has been settled that even if the two views are possible then also the view taken by the Collector should be respected unless the same suffers from any perversity. The petitioner being an ex-serviceman does not get an indefeasible right to be appointed as the Lambardar, if the other candidates in the fray are found to be more meritorious and suitable for the post. The merits and demerits of the candidates were duly appreciated by the Appellate and Revisional Authorities as well and nothing wrong was found in the order of Collector. Thus, this Court does not find any perversity in the orders passed by the Collector and upheld by the Appellate and Revisional Authorities. Resultantly, the petition being devoid of any merits is hereby dismissed.

19.01.2024
m. sharma

(**RAJESH BHARDWAJ**)
JUDGE

Whether speaking/reasoned

:

Yes/No

Whether reportable

:

Yes/No