

LPA-1578-2023

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2024:PHHC:039586-DB

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

LPA-1578-2023 (O&M)

Date of decision : 12.01.2024

Harbachan Lal

...Applicant-Appellant

Vs.

**Financial Commissioner, Appeals,
Chandigarh and others**

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK SIBAL

HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Jaskirat Singh, Advocate
for the appellant.

DEEPAK MANCHANDA, J.

CM-4027-LPA-2023

This application has been filed under Section 5 of the Limitation Act, 1963 for condonation of delay of five days in filing the present appeal.

For the reasons mentioned in the application, same is allowed and delay of five days in filing the present appeal is allowed.

Main case

1. By way of present intra-court appeal, the appellant has assailed the judgment dated 02.09.2023 passed in CWP-26171-2016, where appellant sought quashing of the order dated 03.08.2016 (Annexure P-6) vide which order dated 16.05.2016 (Annexure P-5) was upheld along with the order dated 23.04.2010 (Annexure P-3), vide which respondent No.4 was appointed as Lambardar of Village Rangian, Tehsil Kharar, District SAS Nagar, Mohali.

2. The learned Single Judge vide judgment dated 02.09.2023 dismissed the petition filed by the appellant relying upon the judgment passed

by Hon'ble Supreme Court in "***Mahavir Singh Vs. Khiali Ram***", 2009(1) ***R.C.R.(Civil)*** 757 and "***Sukhjinder Pal Singh Vs. State of Punjab and others***", 2016 (3) ***R.C.R.(Civil)*** 725, wherein it is held that the candidate who is younger in age should have been given preference and the order of the Collector should not be interfered with.

3. The facts emanated from the pleadings of the present case are that on the death of earlier Lambardar, namely, Baldev Sahaye on 27.08.2008, the process for the appointment of new Lambardar was initiated. The proclamation was made for inviting the applications from the eligible candidates. In pursuance to the same, three applications from the three candidates namely, Harbachan Lal (appellant), Satpal and Hari Om (respondent No.4) were received. The scrutiny of their applications were carried out and their antecedents were verified. On verification of the same, it was found that appellant-Harbachan Lal was 57 years of age and was 8th class pass. Besides this, he owned 20 kanals and 09 marlas of land in the village. So far respondent No.4 is concerned, he was found to be 47 years of age and was post-graduate having degree of MA(Economics). Besides this, he owned 23 kanals 19 marlas of land in the village. He had impeccable record and participated in the N.S.S. Camps. Learned Collector on complete analysis of *inter se* merits of all the candidates in the fray found respondent No.4 to be more suitable and thus, appointed him as new Lambardar vide his order dated 23.04.2010. Aggrieved by the same, appellant filed an appeal under Section 13 of the Punjab Land Revenue Act before the Commissioner, Patiala Division, Patiala. The Appellate Court heard both the sides and perused the record and finding no merit in the appeal, dismissed the same vide his order dated 16.05.2016. Petitioner assailed

the said order by filing the revision petition under Section 16 of the Punjab Land Revenue Act, 1887 before learned Financial Commissioner (Appeals) Punjab, Chandigarh. The Financial Commissioner heard both the sides and perused the record. However, finding no merit in the revision, also dismissed the same vide order dated 03.08.2016.

4. Learned counsel for the appellant contends that learned Single Judge did not appreciate the fact that the appellant is 55 years of age, 8th standard pass and is having knowledge and experience as his forefathers were had also remained Sarbrah Lambardar, but respondent No.4, who is only 37 years of age has been wrongly appointed by the District Collector without considering the merits and demerits of the appellant. Learned counsel for the appellant further contends that the learned Single Judge failed to consider that the name of the appellant was recommended by all the revenue officials as well as by Tehsildar, Kharar and Sub Divisional Magistrate-cum-Assistant Collector, Grade-I, Kharar.

5. We have heard learned counsel for the appellant and have perused the case file.

6. The learned Single Judge after appreciating the material available on record observed that District Collector in comparison of *inter se* merits of appellant found respondent No.4 to be more suitable and the allegations made by the appellant against respondent No.4 being defaulter in payment of the government was not proved on record as appellant failed to substantiate the same in absence of cogent evidence. Moreover, respondent No.4 was younger in age and much more qualified and District Collector after evaluating the *inter se* merits of the candidates, who applied for the post of Lambardar appointed

respondent No.4-Hari Om son of Solag Ram, who was 47 years old, and was having better educational qualification in comparison to appellant, who was 57 years old and 8th Class pass and the respondent No.4 was M.A (Economics) degree holder and used to participate in the NSS camps. Moreover, the order dated 23.04.2010 for appointment of respondent No.4 passed by District Collector was upheld by the Commissioner as well as Financial Commissioner vide orders dated 16.05.2016 and 03.08.2016, which was not interfered by the learned Single Judge being passed by the Collector, who is the sole authority to appoint Lambardar by relying upon the judgment passed by Hon’ble Supreme Court in *Mahavir Singh Vs. Khiali Ram*”, 2009(1) R.C.R.(Civil) 757 and “*Sukhjinder Pal Singh Vs. State of Punjab and others*”, 2016 (3) R.C.R. (Civil) 725, which says that with regard to the appointment of Lambardar candidate, who is younger in age should be given preference and Collector’s order should not be interfered with.

7. In the light of the above discussion as well as in view of the settled proposition of law, the judgment passed by the learned Single Judge does not suffer from any illegality or infirmity.

8. Consequently, the appeal is dismissed.

9. Since the main case has been dismissed, the pending application(s) if any have been rendered infructuous.

(DEEPAK MANCHANDA)
JUDGE

(DEEPAK SIBAL)
JUDGE

12.01.2024
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Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No