

2024:PHHC:170392-DB



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(112)

LPA-3252-2024 (O&M)
Decided on: 18.12.2024

Arjun Singh

.....Appellant(s)

Versus

State of Haryana&others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MRS.JUSTICE MEENAKSHI I.MEHTA**

Present:- Mr.Fateh Saini,Mr.Arastu Chopra, Ms.Gaganpreet Kaur,
Advocates, for the appellant (s).

G.S. Sandhawalia, J. (Oral) :

CM-8011-LPA-2024

Application for condoning the delay of 1 day in filing the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the counsel and in view of the nominal delay.

CM stands disposed of.

CM-8012-LPA-2024

Application for condoning the delay of 8 days in refiling the present appeal is allowed, in view of the averments made in the application, duly supported by affidavit of the counsel and in view of the nominal delay.

CM stands disposed of.

CM-8013-LPA-2024

Allowed, as prayed for.

CM stands disposed of.

LPA-3252-2024 (O&M)

1. Consideration in the present appeal is to the judgment dated 13.09.2024 passed by the Learned Single Judge in CWP-23443-2024 titled *Arjun Singh Vs. State of Haryana & others* whereby the Learned Single Judge had upheld the appointment of private-respondent No.7-Surender Singh as Lambardar of Village Ishargarh, Tehsil Thanesar, District Kurukshetra.

2. The reasoning which weighed with the Learned Single Judge is that the appellant was working as a Security Guard in the Co-operative Sugar Mill at Shahabad and the Financial Commissioner, on 30.11.2023, given him an opportunity to get the NOC from his employer within 30 days from the date of passing of the order so that the District Collector could reconsider his candidature to the post Lambardar on merits. It was noticed that since an argument had been raised that he was serving as seasonal Security Guard and his duty was only in the night for few months, he would be available and it was then, accordingly, recorded that the time afforded had lapsed but the NOC had not been obtained. Therefore, the appointment of the private-respondent No.7 had attained finality and the writ petition was, accordingly, dismissed.

3. Counsel for the appellant submits that the Co-ordinate Bench in **Sukhminder Singh Vs. Financial Commissioner, 1992 (2) PLR 73**, had not disqualified even a Government servant for appointment as Lambardar and therefore, argued that the Learned Single Judge and the Financial Commissioner were not justified in putting a condition of getting the NOC from the concerned employer and there was no such disqualification.

4. It is a case of chequered history in as much as on the first occasion, the appellant-Arjun Singh who had been appointed as Lambardar way-back on 22.03.2011 (Annexure A-5) by the Collector. The other applicant, Surender Singh had taken the matter to the Commissioner in separate appeals but the said order had not been interfered with on 09.11.2011 (Annexure A-6). However, the revision petitions filed by the unsuccessful persons before the Financial Commissioner were allowed on 14.05.2014 (Annexure A-7) and the matter was remanded to the Collector for verifying the factum that whether the appellant was a permanent or regular employee and to decide the case on merits.

5. On remand, the Collector, on 08.07.2015 (Annexure A-1), came to the conclusion that since the present appellant was working in the Shahabad Sugar Mill on the post of Security Guard (Permanent Seasonal) in un-skilled grade since 01.11.2009, it would not be in public interest to make such a person Lambardar who works outside the village and is not available for the work of the village people. Keeping in view the fact that the private-respondent was 8th Class pass and his character verification was fine and he had a good reputation in the village, he was appointed at Lambardar.

6. The appeals were, then filed against the said order by the present appellant and another applicant-Roshan Ali, which was decided on 27.07.2021 (Annexure A-2) by the Commissioner who came to the conclusion that a candidate is more suitable who is easily available to the local people most of the time on government working days and the one who is serving in an institution or public undertaking would not be available on official working days to discharge his responsibilities and cannot perform the duties and responsibilities of the post of Lambardar. It

was noticed that the other applicants were not suitable and therefore, challenge to the appointment of Surender Singh was rejected vide the said order.

7. A window was opened by the Financial Commissioner on 30.11.2023 (Annexure A-8) in the revision filed by the present appellant wherein he was asked to obtain an NOC from the Shahabad Sugar Mill that it had no objection to his appointment as Lambardar and if he submits the NOC from his employer within 30 days, the District Collector would consider his case on merits. Apparently, instead of applying for the NOC, the appellant filed the writ petition in August, 2024 seeking quashing of the said order. In such circumstances, the Learned Single Judge came to the conclusion that the said period had lapsed and placed reliance upon the judgment of the Apex Court in **Khajan Singh Vs. Shamsher Singh, 1998 (3) RCR (Civil) 634** that the matter has attained finality inter se the parties.

8. We are of the considered opinion that the view taken by the Learned Single Judge cannot be faulted with in any manner. As noticed, a window had been opened to the appellant but, apparently he chose not to avail the opportunity, for the reasons best known to him. It is but natural that no employer would give such a NOC if it has to get work from any employee and especially one who has been appointed as Security Guard and cannot leave the premises of the Mill. This aspect had been noticed by the Co-ordinate Bench in **Neeraj Kumar Vs. State of Haryana & others, 2013 (4) RCR (Civil) 207** that the employee, whether employed with a Government or private employer, his service may not itself be a disqualification but his availability in the village is an aspect which is to be kept in mind. It was, in such circumstances, the appeal was allowed while

noticing the judgment in **Amarjeet Singh Vs. Financial Commissioner (Appeals) & others, 2000 (2) PLJ 456**. It is accordingly to be noticed that the present appellant was appointed as Security Guard and his service required presence in the Mill for the major part of the day and he would not be able to discharge his duties as Lambardar.

9. Similar view was also taken by a Learned Single Bench in CWP-15314-2017 titled *Charanjit Singh Vs. Financial Commissioner Revenue (Appeals-I) Punjab & others*, decided on 25.07.2017 which considered the matters to be kept in mind for the first appointment and the duties of the Headman. It was observed that the work of a Lambardar cannot be performed by a person who is absent from his duty even for a minute. Reference was also made to the judgment in Neeraj Kumar (supra).

10. The said order was upheld by the Co-ordinate Bench in LPA-1613-2017 titled *Charanjit Singh Vs. Financial Commissioner Revenue (Appeals-I), Punjab & others*, decided on 27.03.2018 by noticing that the appellant was working as Guard in the State Bank of Patiala and would not be able to discharge his duties on regular basis. The matter was, thereafter, taken to the Apex Court in SLP (Civil) No.24734/2018 titled *Charanjit Singh Vs. Financial Commissioner Revenue (Appeals-I) Punjab & others*, which was dismissed on 06.08.2018.

11. Thus, keeping in view the above discussion, we are of the considered opinion that the Learned Single Judge was well justified in negating the challenge raised to the judgment of the Financial Commissioner and the factum that the availability of the Lambardar is for the convenience of the general public and the village which the appellant would not be able to fulfill. Resultantly, we do not find any illegality or

irregularity in the judgment passed by the Learned Single Judge which would warrant interference in appeal.

12. Accordingly, in view of the above discussion, the present appeal is dismissed in limine. All pending application(s) also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

18.12.2024
Sailesh

(MEENAKSHI I.MEHTA)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :	Yes	