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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-29027-2024
Date of Decision: 24.10.2024

Harbhajan Singh
..... Petitioner
Versus

Financial Commissioner (Appeals), Punjab and others
..... Respondents

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Bhritu Dutt Sharma, Advocate
for the petitioner.

Mr. Navneet Singh, Senior DAG, Punjab.

Ms. Tarranum Madan, Advocate and
Mr. Inderdeep Singh, Advocate
for caveator/respondent No.4.

HARSH BUNGER J. (ORAL)

Petitioner (Harbhajan Singh) has filed the instant writ petition under Articles 226/227 of the Constitution of India, *inter alia*, seeking a writ in the nature of Certiorari to set aside order dated 28.08.2024 (Annexure P-6) passed by the learned Financial Commissioner (Appeals), Punjab; whereby appointment of petitioner as Lambardar of Village Prempur, Tehsil Dasuya, District Hoshiarpur, has been set aside and respondent No.4 (Maninderjit Singh) has been appointed as Lambardar (General) of Village Prempur.

1.1 A further prayer has been made for restoring order dated 01.05.2018 (Annexure P-1) passed by the learned Deputy Commissioner-

cum-District Collector, Hoshiarpur; whereby petitioner was appointed as Lambardar of Village Prempur, Tehsil Dasuya, District Hoshiarpur.

2. Briefly, on account of demise of Sh. Sardar Singh, previous Lambardar of Village Prempur, Tehsil Dasuya, District Hoshiarpur, on 06.04.2017; proceedings for filling up the said vacancy were initiated. In pursuance to the proclamation carried out for filling up the aforesaid vacancy, eight applications (including the one submitted by the petitioner and another by respondent No.4) were received.

2.1 The learned Naib Tehsildar, Tanda; learned Tehsildar, Dasuya as well as learned Sub Divisional Magistrate, Dasuya recommended the name of present petitioner for appointment to the post of Lambardar.

2.3 The learned Deputy Commissioner-cum-District Collector, Hoshiarpur, vide order dated 01.05.2018 (Annexure P-1), appointed the present petitioner as Lambardar of Village Prempur.

3. Being dissatisfied with the aforesaid order (Annexure P-1), respondent No.4 preferred an appeal before the learned Commissioner, Jalandhar Division, Jalandhar; which came to be dismissed vide order dated 06.10.2021 (Annexure P-4).

4. Still aggrieved, respondent No.4 preferred a revision petition (ROR No.19 of 2022) before the learned Financial Commissioner (Appeals), Punjab; which was allowed vide order dated 28.08.2024 (Annexure P-6), whereby order dated 01.05.2018 (Annexure P-1) passed by learned Deputy Commissioner-cum-District Collector, Hoshiarpur and order dated 06.10.2021 (Annexure P-4) passed by learned Divisional Commissioner, Jalandhar were set aside; and respondent No.4 (Maninderjit Singh) was appointed as Lambardar of Village Prempur.

5. In the aforementioned circumstances, petitioner has filed the

present writ petition before this Court, seeking relief(s) as noticed hereinabove.

6. Learned counsel for the petitioner submits that the learned Financial Commissioner has erred in law and fact in passing order dated 28.08.2024 (Annexure P-6). It is submitted that the learned Collector had appointed the petitioner as Lambardar of Village Prempur, vide order dated 01.05.2018 (Annexure P-1), after considering the relative merits and de-merits of all the candidates; and further, finding no illegality or perversity in the said order, the same was upheld by the learned Divisional Commissioner vide order dated 06.10.2021 (Annexure P-4). Accordingly, there was no occasion for the learned Financial Commissioner to interfere with the Collector's order (Annexure P-1).

6.1 Learned counsel for the petitioner contends that the learned Financial Commissioner has erred in appointing respondent No.4 (Maninderjit Singh) as Lambardar of Village Prempur only on the ground that he is younger in age than the petitioner. It is submitted that the petitioner is hale & hearty and not in any manner incapacitated from discharging the duties of a Lambardar on account of his age. Therefore, it is contended that the order dated 28.08.2024 (Annexure P-6) passed by the learned Financial Commissioner is unsustainable in the eyes of law.

6.2 With the aforesaid submissions, learned counsel for the petitioner prays that order dated 28.08.2024 (Annexure P-6) passed by the learned Financial Commissioner be set aside and Collector's order dated 01.05.2018 (Annexure P-1), appointing the petitioner as Lambardar of Village Prempur, be maintained.

7. Notice of motion.

8. At this stage, Ms. Tarranum Madan, Advocate appears and

accepts notice on behalf of caveator/respondent No.4. Caveat stands discharged. She submits that since it is a lambardari matter, therefore, respondent No.4 does not intend to file reply to the instant writ petition and she would argue the matter on merits.

9. Learned counsel for respondent No.4 opposes the aforesaid submissions made by learned counsel for the petitioner and submits that respondent No.4 is more meritorious than the petitioner inasmuch as that respondent No.4 is younger in age than petitioner, who, at present, is more than 70 years of age, and accordingly, would not be able to perform the duties of Lambardar. It is submitted that in the matter of appointment of Lambardar, age of a candidate is most relevant consideration.

9.1 With the aforesaid submissions, learned counsel for respondent No.4 states that the instant writ petition lacks merit and the same may be dismissed.

10. I have heard learned counsel for the parties and gone through the paper book with their able assistance.

11. Here, it would be apposite to state the relative merits of the candidates (as noticed by the learned Collector), which can be summed up as under:-

S. No.	Particulars	Petitioner (Harbhajan Singh)	Resp. No.4 (Maninderjit Singh)
1	Age	65 years	28 years
2	Educational qualification	M.A. B.Ed.	B.A.
3	Land holding/s	23 Kanal-3 Marla	---
4	Recommended by	Naib Tehsildar, Tanda; Tehsildar, Dasuya & Sub Divisional Magistrate, Dasuya	---
5	Remarks	Social worker	Owner of Sheller, Petrol Pump and shop of Commission Agent.

11.1 A perusal of the above chart would show that petitioner is a

mature man, who is having the qualification of M.A. B.Ed., and is a social worker. Furthermore, the name of petitioner was recommended by the Naib Tehsildar, Tanda; Tehsildar, Dasuya as well as the Sub Divisional Magistrate, Dasuya, for appointment as Lambardar of Village Prempur.

12. In my considered view, learned Financial Commissioner has erred in upsetting the appointment of petitioner as Lambardar of Village Prempur for more than one reason.

12.1 Firstly, learned Financial Commissioner had failed to consider and appreciate that in the matter of appointment of Lambardar, the choice of learned Collector is not to be lightly interfered with, even if two views are possible; as held by a Division Bench of this Court in ***“Kuldip Singh vs Financial Commissioner, Appeals-II, Punjab”, 2016(1) RCR (Civil) 273.***

12.2 Secondly, no doubt, the age of a candidate is a relevant factor for appointment to the post of Lambardar and the Hon'ble Supreme Court in ***“Mahavir Singh v. Khiali Ram and others”, 2009(1) RCR (Civil) 757***, has also held that age of a candidate is a relevant factor; however, the age of a person is to be considered in the context of his physical ability and capacity to discharge his duties as a headman of the village. No such plea has been raised that the petitioner is incapacitated from discharging the functions of a Lambardar, in view of his old age. There is nothing on record suggestive of the fact that any complaint was made against him that he is not able to render his services properly owing to his old age. In this scenario, rejecting the claim of petitioner on the ground that he is older than respondent No.4, especially when the petitioner was appointed as Lambardar by the learned Collector and further affirmed by the learned Commissioner; may amount to injustice to him. Similar view was taken by a Division Bench of this Court in ***“Ram Kumar vs. The Financial Commissioner, Haryana and others”,***

2013 (2) RCR (Civil) 1038.

12.3 Thirdly, petitioner is more educated and holds more land holding than respondent No.4. Moreover, petitioner's name was recommended by the lower revenue officials, which is a relevant consideration, as such recommendations have a persuasive value.

13. That apart, I have also gone through the order dated 01.05.2018 (Annexure P-1) passed by the learned Deputy Commissioner-cum-District Collector, Hoshiarpur; the relevant extract of which reads as under:-

“ - x - x -

I have carefully perused the file of this case and personally heard the candidates who have come present. I find that Sh. Harbhajan Singh son of Sardar Singh is the fittest candidate out of all the candidates. He is age 65 years and he is a permanent resident of the village. He is son of the deceased Lambardar and he participates in the development works of the village with great vigour. He has neither been punished nor any fine has been imposed upon him by any court. Four candidates have withdrawn their applications in his favour and residents of the village have given majornama in his favour. His name has also been recommended by the Lower Courts. Therefore, I appoint Sh. Harbhajan Singh son of Sardar Singh resident of Village Prempur, Tehsil Dasuya, District Hoshiarpur as the new General Lambardar in place of Sh. Sardar Singh deceased Lambardar of Village Prempur, Tehsil Dasuya, District Hoshiarpur. The case file be consigned to the record room after compiling and compliance.”

13.1 A perusal of the aforesaid order (Annexure P-1) clearly shows that the learned Deputy Commissioner-cum-District Collector, Hoshiarpur has compared the relative merits and de-merits of all the candidates, and thereafter, he has proceeded to highlight the better merits of the petitioner and accordingly, appointed him as Lambardar of Village Prempur.

14. The order dated 01.05.2018 (Annexure P-1) passed by the learned Deputy Commissioner-cum-District Collector, Hoshiarpur is well reasoned and justified, which does not call for any interference. Moreover, the aforesaid order (Annexure P-1) was further upheld by the learned Divisional Commissioner, Jalandhar.

15. In the aforementioned facts and circumstances, I am of the considered view that order dated 28.08.2024 (Annexure P-6) passed by the learned Financial Commissioner (Appeals), Punjab is unsustainable and the same is accordingly set aside. Resultantly, the instant writ petition is allowed and order dated 01.05.2018 (Annexure P-1) passed by learned Deputy Commissioner-cum-District Collector, Hoshiarpur, appointing the petitioner as Lambardar of Village Prempur, Tehsil Dasuya, District Hoshiarpur; is upheld.

16. All pending application(s), if any, shall also stand closed.

24.10.2024

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No