

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

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2024:PHHC:171797-DB



LPA-3311-2024 (O & M)
Date of Decision: 20.12.2024

Pardip Singh

.....Appellant(s)

Versus

Financial Commissioner (Revenue), Punjab and others

....Respondent(s)

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

Present: Mr. Avtar Singh Bhatti, Advocate,
for the petitioner.

Mr. Shekhar Verma, Addl. A.G., Punjab.

G.S.SANDHAWALIA, J. (Oral)

CM-8193-LPA-2024

1. Application for condonation of delay of 18 days in filing the appeal is allowed, in view of averments made in the application duly supported by affidavit of the appellant.

2. Delay condoned.

3. CM stands disposed of.

LPA-3311-2024 (O & M)

4. The present letter patent appeal has been filed against the judgment dated 22.10.2024 passed by the learned Single Judge in CWP-9815-2023, whereby the learned Single Judge allowed the writ petition of the private respondent No.4 in the present appeal namely Harmesh Singh and set aside the

order of the Financial Commissioner dated 14.11.2022 (Annexure P-5) and upheld the order of his appointment as Lambardar (Scheduled Caste) of village Kadhalian, Tehsil Dasuya, District Hoshiarpur, which had further been upheld by the Commissioner on 23.09.2020. (Annexure P-3).

5. The reasons which weighed with the learned Single Judge in setting aside the order of the Financial Commissioner are that firstly, the choice of the Collector was not likely to be interfered with even if two views are possible by placing reliance upon the judgment in ***Kuldip Singh vs. Financial Commissioner, Appeals-II, Punjab, 2016 (1) RCR (Civil) 273***. Secondly, the learned Single Judge held that the age of the candidate is not a relevant factor when there was no such plea that the writ petitioner was incapacitated from discharging the functions of a Lambardar. Thirdly, the difference in the educational qualifications was only that the writ petitioner had studied upto 10th Standard whereas the present appellant had studied upto 12th class and by observing that the petitioner was not an illiterate, the learned Single Judge opined that the Collector had rightly appointed him as Lambardar. Fourthly, the writ petitioner having rendered services being an ex-serviceman was a relevant consideration and that the fact that his name had also been recommended by the lower revenue officials. The hereditary claim as such which has been put forth by the appellant was rejected keeping in view the view that the same offended Article 14 of the Constitution of India and the fact that the Division Bench had also as such held so.

6. It was, thus, noticed that the Collector had referred to the relative merits and demerits of the contesting candidates and accordingly appointed the private respondent as a Lambardar and in the absence of any perversity as such,

the order of the Financial Commissioner is not justified and, thus, allowed the writ petition.

7. Counsel for the appellant has vehemently submitted that the private respondent is 51 years of age whereas the present appellant is 29 years old and, therefore, placed reliance upon the judgment of the Apex Court in ***Mahavir Singh vs. Khiali Ram and others, 2009 (1) RCR (Civil) 757.***

8. It is not disputed that the candidate who was appointed has retired from the Army as Subedar and draws pension and, thus, necessarily has to be more aged than the present appellant. Rule 15(c) of The Punjab Land Revenue Rules provide that the services rendered to the State by a person or by his family have to be kept in consideration. It is settled principle that ex-servicemen as such, thus, have to be given the benefit of having served the nation and resultantly, the comparative age factor which would have to be considered and the benefit to be given to the younger candidate as such would have to be kept in mind if the candidates are on equal parameters and not having the advantage of being an ex-serviceman. The age factor cannot be held to be a disadvantage to an ex-serviceman on that account. Once there is statutory Rule in place recognizing the service to the State and it had been noticed that the said candidate appointed by the Collector had retired from the Army as Subedar, the Collector was well justified in appointing him. It is also to be noticed that it has also come in the order of the Commissioner that the present appellant was also doing job in the Sonalika tractor factory at Hoshiarpur and would not be readily available as such.

9. In such circumstances, we are of the view that the learned Single Judge was well justified in setting aside the order of the Financial

such of the authorities below but in fact the Financial Commissioner was substituting his opinion against the opinion of the Collector, who had rather personally interacted with the candidates in question and found private respondent as a better candidate. Accordingly, the learned Single Judge was well justified in allowing the writ petition. It is also a matter of record that the private respondent is also an owner of land in the village, which was again noticed by the Collector whereas the present appellant does not own any land.

10. In such circumstances, we do not find any scope for interference in the well reasoned order passed by the learned Single Judge and the present appeal accordingly stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

20.12.2024
shivani/sailesh

(MEENAKSHI I. MEHTA)
JUDGE

Whether reasoned/speaking	Yes
Whether reportable	Yes