
(1991) 03 P&H CK 0079
In the Punjab And Haryana At Chandigarh
Case No : R.O.R. No. 398 of 1988-89

Ajit Singh

APPELLANT

Vs

Sadhu Singh

RESPONDENT

Date of Decision : 04-03-1991

Acts Referred:

Citation : (1992) 2 CurLJ 129 : (1992) 2 LJR 386 : (1992) PLJ 280 : (1992) 2 RRR 143

Hon'ble Judges : C.D Cheema, F.C.

Advocate : Smt. Satwant Waraich, Advocate., Advocates for appearing Parties

Judgement

C.D. Cheema, IAS.

1. The present revision petition filed under section 16 of the Punjab Land Revenue Act 1887 is directed against the order of Commissioner Jalandhar Division dated 2.5.19.89 whereby appeal of the petitioner against the order of District Collector, Hoshiarpur dated 23.2.1988 was dismissed.
2. Briefly, facts of this case are that a vacancy of lambardar fell vacant on account of death of Milkhi Ram lambardar on 26.2.1984. In response to the proclamation two candidates namely Ajit Singh and Sadhu Singh applied. The lower revenue officers recommended the name of Ajit Singh. The District Collector, Hoshiarpur after hearing the parties found the candidature of Ajit Singh better than Sadhu Singh. But Ajit Singh was serving in the Air Force and as such, his services were not available to the public. So the Collector, Hoshiarpur vide order dated 23rd February, 1988 appointed the present respondent as lambardar of village Kolian, Tehsil Dasuya. The present petitioner filed an appeal against this order before the Commissioner, Jalandhar Division which was dismissed on 2.5.1989. Hence the present revision petition before this court.
3. The learned counsel for the petitioner submitted that the petitioner is the son of late Milkhi Ram, the deceased lambardar. His uncle was also lambardar. The petitioner is Graduate whereas respondent is only 6th pass and uses only thumb

impression instead of signatures. The petitioner has served in the Indo Pak war. The holding of the petitioner is far more than the respondent. The petitioner was to retire from service after putting in 21 years service. He has got more than one lakh rupees from Provident Fund etc. on retirement which shows his sound financial position apart from adequate land. Due to technical difficulty retirement was delayed otherwise the services of petitioner would have been available to the villagers. He knows how to handle all types of weapons and will be useful to the public under the present prevailing conditions in the State to fight the extremists. Keeping in view the all round merits of the petitioner over respondent, the learned Counsel submitted that the revision petition be accepted and the order of lower courts be set aside.

4. The learned counsel for the respondent submitted that the qualifications of the candidate are to be seen on the relevant date. Improvement made in future cannot be considered. The learned counsel further submitted that the choice of the Collector should not be interfered until there is perversity or illegality in the orders and referred to 1975 RLR 400 and 1975 RLR 477. The learned counsel further submitted that the choice of the Collector should be respected and when there is concurrent finding this court should not interfere with.

5. I have considered the arguments advanced by counsel for the parties and examined the record also.

The petitioner served the motherland in the Air Force and was there during Indo Pak conflict. He is graduate, holding 74 Kanals 10 marlas land including sufficient cash in hand as retirement benefit, 40 years of age and son of the deceased lambardar. The respondent on the other hand is 6th pass, owning 14 kanals 19 marlas land and is 45 years age. He has not served either in the army or in the Air force. Had the petitioner been not in the Air Force he would have been considered and appointed as lambardar on merits. The learned, counsel for the petitioner has submitted that his client was to serve in the Air Force only for 21 years but due to late discharge he was not available. Since the petitioner Ajit Singh is now available during the pendency of the proceedings upto the highest Revenue Court in the State, to my mind, his candidature, who otherwise excels the other candidate on merits, need fresh consideration.

6. Apparently, Ajit Singh petitioner has better qualifications in all respects to be appointed as lambardar. His only disqualification considered by the Collector while deciding the appointment of the lambardar was taken to be his absence. When the petitioner had brought to the notice of the District Collector the fact of his getting retired shortly. This should have been kept in view because of his other excellent merits. I find from various cases connected with the appointments of lambardars that it takes years for the finalisation of the lambardari cases and in case a better candidate could be available to serve the public in the village it would be in the public interest to keep even the proceedings pending for a short while especially when such candidates for the appointment of lambardar are contesting and serving in any wings of the Armed

Forces.

7. Keeping in view the over all merits of the petitioner in all the fields discussed above, the revision petition is accepted and the case is remanded to District Collector, Hoshiarpur for deciding the case afresh on merit. The parties have been directed to appear before him on 6.5.1991.