

(2019) 04 P&H CK 0184

In the Punjab And Haryana At Chandigarh

Case No : Letter Patent Appeal No. 335 Of 2019 (O&M)

Avtar Singh

APPELLANT

Vs

Financial Commissioner (Appeals-II), Punjab And Others

RESPONDENT

Date of Decision : 03-04-2019

Acts Referred:

Citation : (2019) 04 P&H CK 0184

Hon'ble Judges : Krishna Murari, CJ;Arun Palli, J

Bench : Division Bench

Advocate : Krishan Singh Dadwal

Final Decision : Dismissed

Judgement

Arun Palli, J

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 29.11.2018, rendered by the learned Single Judge, vide which the writ petition preferred by the appellant has since been dismissed.

The facts that are required to be noticed are limited.

A vacancy of Lambardar in village Bhikowal, Tehsil and District Hoshiarpur, occurred owing to the death of Lambardar, Tirath Ram on 7.3.1996. Pursuant to the process initiated by the authorities to fill up the said post, 20 applicants submitted their claim for consideration. But eventually only four remained in the fray to compete. However, upon consideration of the relative merits of the candidates, District Collector did not find any of those suitable for appointment and ordered fresh proclamation on 30.4.2001. The said order was assailed by appellant-Avtar Singh before the Commissioner, Jalandhar Division, Jalandhar, and vide order dated 30.01.2002, the appellate authority remitted the matter to the District Collector for re-consideration and a decision afresh. Surjit Singh, who was amongst the 20 applicants to begin with, filed a revision before the Financial Commissioner, which was accepted vide order dated 25.07.2002, and the matter

was remitted to the District Collector to consider the candidatures of all the 20 candidates afresh.

Being aggrieved, appellant-Avtar Singh challenged the said order vide CWP No. 6046 of 2009 before this Court, which was allowed by the learned Single Judge, vide order dated 28.3.2012. Now, Surjit Singh assailed the said order in LPA No.836 of 2012, which was decided on 27.09.2012, and the Financial Commissioner (Revenue) was required to consider the claims of all the applicants and pass appropriate orders within a specified time. However, the Financial Commissioner, Punjab, vide order dated 22.3.2013, in turn, remitted the matter to the District Collector, Hoshiarpur, to consider the candidatures of all the applicants, particularly as in the meanwhile, Surjit Singh had passed away. It was pursuant to the said order, the District Collector re-examined the claims of all the candidates and vide order dated 5.11.2013, rejected the claim of the appellant, for with the passage of time, he had attained the age of 69 years, and thus, being an aged person, was not suitable to perform the duties of the Lambardar. Similarly, other candidate, i.e. Karam Singh, who was still in fray, had also attained the age of 81 years. Accordingly, the Sub Divisional Magistrate, Hoshiarpur, was directed to initiate a fresh process for making appointment to the office of Lambardar. Aggrieved, appellant-Avtar Singh filed an appeal against the said order, which was dismissed by the Commissioner, vide order dated 22.4.2016. Likewise, even the revision filed by him was dismissed by the Financial Commissioner, vide order dated 30.11.2017. That is how, the appellant assailed these orders vide a writ petition, as indicated above. Thus, this appeal.

We have heard learned counsel for the appellant and perused the records.

Albeit, the appellant, who happened to be an ex-serviceman and a decorated soldier, submitted his claim for appointment as Lambardar, in response to the proclamation issued in the year 2000, but, as sketched out above, the process remained inconclusive owing to the chequered history of the lis. No doubt, the observation made by the Collector as well as the Financial Commissioner that appellant was 89 years of age was erroneous, as he was only 69 years old in the year 2013, but the fact remains that at the time of decision of the writ petition, he was 74 years old. Needless to assert that age and physical capabilities, while evaluating the suitability of the candidates for appointment, are the crucial factors to be factored in. For the personal presence and services of Lambardar are required by the village community for the purposes of attestation, identification of accused persons, demarcation of the land holdings etc. Besides this, the factor that assumes greater significance is that post death of late Lambardar (Tirath Ram) on 7.3.1996, the process to fill up the vacancy was initiated in the year 2000, meaning thereby, many individuals, in the post 18 years, have since become eligible to compete for appointment, who may be, in the changed circumstances, more suitable than the appellant. Thus, we do not find any material illegality in the orders passed by the revenue authorities, affirmed by the learned Single Judge, whereby a fresh process for appointment

to the office was ordered to be initiated.

On being pointedly asked, learned counsel for the appellant could not refer to anything on record to show if the conclusion arrived at by the learned Single Judge was either contrary to the record or suffered from any material illegality. Thus, the appeal being devoid of merit is accordingly dismissed.