
(1982) 08 P&H CK 0050

In the Punjab And Haryana At Chandigarh

Case No : Miscellaneous No. 52 of 1981-82 in Miscellaneous No. 37 of 1981-82
in Miscellaneous No. 49 of 1980-81 & in R.O.R. No. 75 of 1980-81

Hakam Singh

APPELLANT

Vs

Tehsildar Nakodar and another

RESPONDENT

Date of Decision : 26-08-1982

Acts Referred:

Citation : (1982) PLJ 454 : (1984) RRR 598

Hon'ble Judges : K.S.Narang, F.C.

Advocate : Mr. A.S. Kalra, Advocate., Advocates for appearing Parties

Judgement

K.S. Narang, F.C.

1. The case has arisen out of the revision petition filed by the petitioner, under section 16 of the Punjab Revenue Act, 1887, against the order dated 19.11.1979 of the Tehsildar Nakodar, removing Hakim Singh, petitioner from the post of Chowkidar of village Behar Tehsil Nakodar.
2. The revision petition was filed by the petitioner on 30.8.1980, through his counsel, Shri Kalra. It was dismissed in default by my predecessor on 7.8.1981 (R.O.R. No. 75 of 198081). On the application of the petitioner, the case was restored by my predecessor on 19.10.1981. It was dismissed in default by me on 22.3.1982 (Misc. No. 49 of 198081). The petitioner made an application for restoration of the case. It was again dismissed in default by me on 1.6.1982 for the third time (Misc. No. 37 of 198182). The petitioner once again filed an application on 29.6.1982 for restoration the case.
3. I have heard Shri A.S. Kalra, counsel for the petitioner on the application for restoration. Because of the persistent defaults, there appears no justification at all for the restoration. But since an important question of law has cropped up, the case is being disposed of on merits.
4. The counsel for the petitioner has stated that the petitioner was removed from the post of Chowkidar when he was in jail; that as he was not heard; his removal

from the post was illegal and not sustainable in the eye of law; that he was involved in a false criminal case under section 452 I.P.C.; and that the Tehsildar Nakodar had no authority to remove him from the post and further that it was the Collector (Deputy Commissioner) of the district who alone was competent to pass an order of his removal.

5. I have heard the learned counsel on these points but am unable to agree with him. Hakim Singh was removed from the post because he was behind the bars for about 3 months under some criminal proceedings against him. There was no justification to keep the post vacant under these circumstances, and in the circumstances, the appointment of Kaka Singh (Respondent) as Chowkidar of the village is fully justified.

6. Under the Punjab Chowkidar Rules, published in the Punjab Government Gazette dated 17.9.1965 (vide Home Department Notification No. G.S.R. 220/CA 4/1872/S 39A/65 dated 13th September, 1965), the final authority to appoint and remove a Chowkidar rests with the Deputy Commissioner of the district or the officer duly authorised by him in that behalf. The presumption, therefore, is that the Tehsildar who ordered the removal of the petitioner had the authority to do so, under the Rules *ibid*. If he did not have authority delegated to him such an impugned order would be illegal on this short ground. However, it is for the Deputy Commissioner to look into these legal aspects. I am of the confirmed view that the competent authority to hear the appeal or revision against the removal of Chowkidar is either the Deputy Commissioner of the district or the Commissioner of the Division, as the case may be. In no case, the revision in such cases is competent before the Financial Commissioner, as is amply clear from rules 11 and 42 of the Punjab Chowkidar Rules. For facility of reference, relevant provisions contained under the Rules *ibid* are reproduced :

PUNJAB CHOWKIDARA RULES

(11) The Deputy Commissioner, or the officer duly authorised by him in that behalf, may dismiss any village watchman or daffadar for any misconduct or neglect of duty or physical unfitness for the performance of his duties.

(42) All orders of the Deputy Commissioner in regard to the fixing of the number of village watchman, the mode of their remuneration and the levying of the same, shall be subject to control, revision and alteration by the Commissioner to whom he is subordinate but all orders by a delegated authority shall be appealable to the Deputy Commissioner or to such authority as the Deputy Commissioner may specify.

With this view, I am also supported by the ruling of my predecessor, reported in 1976 P.L.J. 176 Re: Piara Singh v. Amar Singh. The counsel for the petitioner has conceded that the instant petition of Hakim Singh is not competent before the Financial Commissioner.

7. For the reasons given above, the revision petition of Hakim Singh is hereby

dismissed in limine.

Announced.