

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

**RSA No. 1647 of 1991 (O&M)
Date of decision: 19.12.2015**

State of Haryana and others

... Appellants

versus

Gurcharan Singh

.... Respondent

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Saurabh Mohunta, Deputy Advocate General, Haryana.

Mr. Jagdish Manchanda, Advocate for the respondent.

K.Kannan, J. (ORAL)

The appeal is by the State questioning the decrees granted by the Courts below allowing for date of birth as entered in the service records as 01.02.1932 to be changed as 10.09.1934 on the ground that it was barred by limitation. It was the contention that the plaintiff entered in to service in the year 1958 giving a specific declaration about his date of birth. The suit was instituted on 24.01.1987 just on the eve of his retirement to seek for the modification and secure an extension of date of superannuation. The Courts below allowed for the decree to be granted on the basis of birth certificate which purported to contained the date of birth as 10.09.1934.

The issue of date of birth and the point of limitation are too well established for making possible a mandatory relief in the manner sought by the plaintiff. If the plaintiff had entered the service in the year 1958 at the time when the plaintiff was *sui juris* and in a position to manage his affairs, it ought to be taken as the time when he knew what his age was. If it were to be contended that he was born only on 10.09.1934 that must have been made available even at the time when he joined the service.

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The contention in the plaint was that his date of birth had been wrongly entered by the school authorities who were preparing the school leaving certificates. If it was wrongly recorded and the school leaving certificate also contained a wrong date of birth, that at least ought to be taken as the date when he had knowledge about the mistake. In such an event the plaintiff could not have given wrong date of birth for joining the service and if the information given was wrong he must take the consequences of the mistake that had arisen. Even otherwise an entry in the school certificate is always recorded as an authentic proof for public appointments and if the plaintiff were to contend that the entry in the school leaving certificate could not be acted upon and then without taking action for modifying the entry in the school leaving certificate itself, the plaintiff could not have merely alter the date of birth to secure an extension of the period of service. The issue of limitation and the effect of the wrong entry has been considered by the Division Bench of this Court Ambika Kaul Vs. Central Board of Secondary Education and others, 2015 (3) Law Herald 2181, and the Court held that the date of birth entered cannot be altered beyond a period of 3 years from the time when the plaintiff ought to have known the alleged correct date of birth. The Division Bench was also holding that the doctrine of estoppel will operate against a party who makes a representation about the date of birth and enters service and, therefore, the entry cannot be modified even if it were to be true.

Learned counsel relies on certain judgments of this Court of Single Bench and of Madhya Pradesh High Court. I do not feel constrained to refer to them in the light of the express statement of law made by the Division Bench, which I am bound to follow.

The question of law raised are under such circumstances

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held against the defendant and in favour of the State. The judgment of the Courts below are set aside and the allowed in favour of the State.

(K.KANNAN)
JUDGE

19.12.2015
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