

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

**Civil Writ Petition No.1645 of 2015
Date of Decision: 30.1.2015**

Bala @ Bala Devi

....Petitioner

Versus

State of Haryana and others

.....Respondents.

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Kartar Singh Malik-I, Advocate
for the petitioner.

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

RAMESHWAR SINGH MALIK J. (Oral)

Order dated 25.8.2014 (Annexure P-2) passed by respondent No.3 is under challenge in the instant petition, to the limited extent that the date of birth of the petitioner has been wrongly recorded as 14.1.1955.

Learned counsel for the petitioner submits that the petitioner joined service on 3.3.1992, as per the official record of the respondent department. Since the petitioner was appointed on part time and temporary basis and no date of birth of the petitioner was available, Headmaster of the school wrote to the Chief Medical Officer, Sonapat vide Annexure P-1, to issue the birth certificate of the petitioner. However, since date of birth of the petitioner was not

found recorded, ossification test of the petitioner was conducted and she was declared to be of 45 years on 14.1.2004. He further submits that the respondent authorities recorded incorrect date of birth, while issuing the order dated 25.8.2014 (Annexure P-2), whereby service of the petitioner was regularised. He next contended that as per the medical report, date of birth of the petitioner would be 14.1.1959 instead of 14.1.1955. He concluded by submitting that since the respondent authorities did not consider the request of the petitioner for recording her correct date of birth in the official record as 14.1.1959 instead of 14.1.1955, petitioner is going to retire on 31.1.2015. He prays for setting aside the offending part of the Annexure P-2, by allowing the present writ petition.

Having heard the learned counsel for the petitioner at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the arguments advanced, this Court is of the considered opinion that present one has not been found to be a fit case, for exercising its writ jurisdiction under Article 226/227 of the Constitution of India, at the hands of this Court. To say so, reasons are more than one, which are being recorded hereinafter.

It is the own pleaded case of the petitioner that she was appointed on 3.3.1992. She had already served the respondent department for more than 22 years. When a pointed question was put to the learned counsel for the petitioner as to where from this particular date, i.e. 14.1.1955, was recorded by the respondent authorities in the order Annexure P-2, he stated that it was so

recorded in the record of employment exchange, where the petitioner got herself registered for getting employment.

Even if it is to be accepted to be true, still date of birth of the petitioner, i.e. 14.1.1955 was disclosed to the employment exchange by none else but the petitioner herself. In view of this, petitioner cannot claim innocence that she was not aware about her actual date of birth. Having said that, this Court feels no hesitation to conclude that date of birth of the petitioner was rightly recorded as 14.1.1955 at her own instance and the same cannot be said to be wrongly recorded, at this belated stage because the petitioner is retiring from service just tomorrow, i.e. on 31.1.2015.

During the course of hearing, learned counsel for the petitioner failed to show any effort made on the part of the petitioner, during her entire service of more than 22 years to get her date of birth corrected, in case it was wrongly recorded. In fact, petitioner joined the service on the basis of this very date of birth, i.e. 14.1.1955. She served the respondent department for more than 22 long years and did nothing in this regard.

At the fag end of her service career, petitioner has approached this Court alleging that her date of birth was wrongly recorded as 14.1.1955, when she is going to retire just tomorrow, i.e. 31.1.2015. It is too late in the day to accept the contentions raised on behalf of the petitioner, which are nothing but a result of an afterthought. Under these circumstances, it can be safely concluded that at the time of passing the order Annexure P-2, the respondent authorities rightly recorded the date of birth of the petitioner as

14.1.1955 and the same deserves to be upheld as it is.

If the contention raised by the learned counsel for the petitioner regarding ossification test referred to in Annexure P-1, is to be accepted for the sake of argument only, even then it is clear from record that ossification test was conducted in the year 2004. Even thereafter, petitioner did not make any effort to get her date of birth corrected in the official record. She did nothing during her long service of about 22 years to get her date of birth corrected. Further, petitioner did not come to the Court immediately even after passing of the order Annexure P-2.

Now, when she is going to retire tomorrow, i.e. 31.1.2015, she has woken up from the slumber and filed this writ petition. No explanation, whatsoever, is forthcoming as to why the petitioner had been sleeping like Kumbkarna or Rip Van Winkle for that matter. It is so said because law helps those who are vigilant about their rights. In this view of the matter, it is unhesitatingly held that petitioner has not been found entitled for the relief being claimed, at this belated stage.

No other argument was raised.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present writ petition is misconceived, bereft of merit and without any substance. Thus, it must fail. No case for interference has been made out.

Resultantly, instant writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

30.1.2015
AK Sharma