

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

CWP-9116-2013

Date of decision : 27.03.2015

HARBHAJAN SINGH RANDHAWA

...Petitioner

V/S

STATE OF HARYANA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. R. K. Malik, Sr. Advocate
with Mr. Vijay Dahiya, Advocate
for the petitioner.

Mr. Ram Tilak Redhu, DAG, Haryana

Mr. N. D. S. Mann, Advocate for respondent No.3

JITENDRA CHAUHAN, J. (Oral)

This writ petition has been filed under Article 226 of the Constitution of India for quashing of order dated 22/23.04.2013 (Annexure P-11) and for issuance of the direction to release the pension and other retiral benefits on the basis on the pay scale and to release the salary to the petitioner upto 30.04.2013.

Precise grievance of the petitioner is that his date of birth being 15.04.1955 and he was due to retire on attaining the age of superannuation on 30.04.2013. However, vide order 22.04.2013 (Annexure P-11) petitioner stands retired from the Government Service w.e.f. 30.04.2012 on attaining the age of superannuation in terms of

Rule 3.26 of the Pb. CSR Vol. I Part I.

The learned counsel for the petitioner refers to the middle level examination certificate (Annexure P-1) wherein his date of birth has been noticed as 15.04.1955. However, in the Matriculation Certificate the date of birth of the petitioner has been reflected as 15.04.1954. For the correction of age, appropriate application was moved by the petitioner to the authorities. After considering the relevant record, the correction was allowed and the Matriculation Certificate depicting the date of birth of the petitioner as 15.04.1955, Annexure P-5 was issued on 14.08.1995 by the Punjab School Education Board.

Learned State Counsel submits that as per the Punjab Financial Rules, the petitioner could not be allowed to change the date of birth beyond two years.

It is to be noticed that basic documents with regard to determination of the qualification is the middle level examination certificate. It is asserted that the petitioner rightly filled in the particulars while appearing in the matriculation examination. From the perusal of Annexure P-4, it is noticed that throughout the service it was in the knowledge of the respondent-employer that the date of birth of the petitioner is 15.04.1955. The petitioner was retired eight days prior to reaching the age of superannuation. The impugned order (Annexure P-11) appears to be passed without application of mind and does not appeal to reason. The same deserves to be quashed.

Accordingly, on the basis of decision reached by the Education Board, date of birth of the petitioner is held to be 15.04.1955. It is too late in the day for the employer to raise this plea particularly, when all the basic documents i.e. middle level examination certificate and matriculation certificate wherein date of birth has been correctly reflected were in the knowledge of the employer throughout his service.

In view of the same, the writ petition is allowed. All the admissible retiral benefits be paid to the petitioner in case there is no inquiry or charge-sheet is pending against him after treating his date of birth as 15.04.1955.

(JITENDRA CHAUHAN)
JUDGE

27.03.2015

ashok