

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

Civil Writ Petition No.748 of 2015

Date of decision: 16.1.2015

Jagir Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Manvinder Singh Bal, Advocate,
for the petitioner.

1. To be referred to the Reporters or not? Yes.
2. Whether the judgment should be reported in the Digest? Yes.

RAJIV NARAIN RAINA, J.

The prayer in this petition is for correction in the date of birth recorded in the service book of the petitioner with a prayer that it be ordered to be altered from 2nd January, 1955 to 2nd February, 1959 which if accepted would postpone the date of retirement on superannuation till early 2019. The relief is claimed on the basis of a school leaving certificate, PAN card, Aadhar Card etc. The petitioner is working as a Gauge Reader in Sub Division Rayya, Jandiala Division, UBDDC, Amritsar. The petitioner has been informed by the Department on 16th June, 2014 to submit his pension papers as he is due to retire at the end of January, 2015.

2. Feeling aggrieved by the retirement notice, the petitioner filed a reply to the letter claiming that when he was appointed as Beldar and was

promoted as Gauge Reader, he had submitted in 1984 a certificate of the Civil Surgeon that his age was then 25 years. On the basis of that declaration, an entry was made in his service book. He asked for correction of the date of birth in the service book. His grievance was not redressed, upon which, he served a legal notice dated 23rd September, 2014 on the 4th and 5th respondents for correction of the date of birth. He sent a reminder letter with little success.

3. After several decades in service, the petitioner has brought this petition claiming that he should retire in February, 2019 and the Department has ignored all relevant documents produced by him in support of his claim. He imputes *malafides* on the respondents in recording a false date of birth in the service record.

4. I have heard the learned counsel for the petitioner and perused the record placed in the writ file.

5. The documents produced by the petitioner in support of his claim are not based on an entry in the register of births and deaths maintained in a public office. The school leaving certificate issued by the Headmaster/Principal of the Government Secondary School (Boys), Chohla Sahib, District Tarn Taran, apparently on a recent request, has been issued under application No.24 of 2014 and has not been relied upon by the petitioner throughout his career in any of its earlier copies or the original. The rest of the documents including Aadhar Card, PAN card, postal life insurance policy are based on self-declarations and are, therefore, not conclusive proof of date of birth for purposes of continued employment beyond retirement. On the basis of these documents, it is not possible to

unveil the truth in summary writ proceedings based on affidavit jurisdiction.

The date of birth of the petitioner is a disputed question of fact which can be best left within the domain of a civil court in a suit instituted upon proof based on evidence which may be led in case a suit is filed for declaration of a legal character and State employer contesting in opposition of a decree.

6. I have had occasion to deal with the issue of date of birth based on similar documents in CWP No.21166 of 2014, Jagir Singh v. State of Punjab and others decided on 17th October, 2014 with a petitioner similarly placed and relying on numerous judgments of the Supreme Court I have had to negative such a claim made belatedly and at the stub of the career. Alterations in the recorded date of birth with a view to continue a person beyond the entered date of birth at the entry point of service is not to be entertained when a request is made at the eleventh hour, i.e., a few days short of the expected date of superannuation. Dates of superannuation involve third party rights which should not be lightly disturbed ex parte in favour of a claimant.

7. I find no ground to interfere in the case and issue injunction and leave it open to the petitioner to assert his rights in civil proceedings before a civil court of competent jurisdiction.

8. No merits. Dismissed.

(RAJIV NARAIN RAINA)
JUDGE

January 16, 2015
Paritosh Kumar