

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

RSA No.165 of 2012
Date of decision: 10.09.2015

Vijay Kumar

... Appellant

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI

Present: Mr. B.S. Mittal, Advocate, for the appellant.
Mr. Ramesh Kumar, Asst. AG, Haryana.

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?

ARUN PALLI J. (Oral)

Suit filed by the plaintiff was decreed ex parte by the trial court vide judgment and decree dated 26.04.2007, and he was afforded a declaration that his actual date of birth was 30.06.1966, that was so recorded in the Municipal Record/Register of Birth and Death, Municipal Council, Sirsa. And, the entries in the record of Arya Senior Secondary School, Sirsa, showing his date of birth as 25.04.1965, and also his matriculation certificate, that show his date of birth as 25.04.1964, were wrong. Thus, his date of birth was liable to be corrected to 30.06.1966 in the Government records. Concededly, plaintiff was employed in the Education Department, Haryana, but as the department was never

arrayed as a party to the suit, post passing of the decree dated 26.04.2007, the department assailed the said decree being an affected party. The said appeal having been accepted by the first appellate court vide judgment dated 26.08.2011, and as a consequence, since the suit of the plaintiff has been dismissed, thus, this regular second appeal.

Concededly, the plaintiff joined the Education Department, Haryana, as Science Master on ad hoc basis on 01.08.1988. The documents furnished by the plaintiff disclosed his date of birth as 25.04.1964. Accordingly, the necessary entries were incorporated in his service book. After 18 years had elapsed, he propounds that on 19.08.2005, all his brothers and sisters collected upon Rakshabandan ceremony, and he was told by his mother that his actual date of birth was 25.04.1965. Thus, the suit. Concededly, the date of birth of the plaintiff that has been recorded in his matriculation certificate is 25.04.1964. For all these years, neither did he seek any correction in the said certificate nor even moved the department for any rectification. So much so, the entries in the relevant record of Arya Senior Secondary School as also in the admission/cancel register (School Leaving Certificate register) reflect the date of birth of the plaintiff as 25.04.1965. Whereas, entry at Sr. No.564, dated 02.07.1966, in the Municipal record shows his date of birth as 30.06.1966. Ex facie, the claim of the plaintiff suffers from a

serious dichotomy and lacks bonafides. Be that as it may, the fact remains that the declaration prayed for by the plaintiff as regards his date of birth after 18 years of entering service, as concluded by the appellate court, was barred by time. Sure enough, even the service rules governing the plaintiff would not permit him to seek correction in his date of birth at such a belated stage.

Learned counsel for the appellant could not point out as to how the conclusion arrived at by the first appellate court was either contrary to the position on record or suffered from any material illegality. No decision was cited to suggest that such a suit could be maintained after such a gross, inordinate and abnormal delay.

In the wake of the position, as sketched out above, there hardly exists any ground, least plausible in law, to interfere with the decree being assailed. No question of law much less any substantial question of law, arises for consideration. Appeal being devoid of merit is accordingly dismissed.

September 10, 2015
Rajan

(Arun Palli)
Judge