

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

Date of decision:29.01.2015

Ram Rakha Singh

.....Appellant

v.

State of Punjab and others

.....Respondent

CORAM: HON'BLE MR.JUSTICE JASWANT SINGH

Present:- Mr.RS Rana,Advocate for the appellant.
Mr.Sandeep Singh,AAG Punjab for respondents.

Jaswant Singh,J.(Oral)

Plaintiff/appellant is in second appeal against concurrent findings returned by both the Courts below whereby his suit for declaration with consequential relief of permanent injunction was dismissed by learned Civil Judge (Junior Division)Khanna vide judgment and decree dated 27.7.2009 and findings affirmed by learned Additional District Judge,Ludhiana vide judgment and decree dated 27.11.2012.

It is apparent that appellant served Indian Army from 20.1.1964 to 11.9.1967. Thereafter he joined Excise and Taxation Department,Punjab on 13.6.1974 as a Sewadar in the ex-serviceman category. Since his date of birth was 20.1.1946, on attaining age of 60 years, he was superannuated on 31.1.2006. He filed the suit with the averment that his date of birth was 6.3.1948 and as such he should have

been permitted to continue till 31.3.1998. It was also his case that representation dated 30.5.1995 made by him for correction of his date of birth was declined vide order dated 16.3.2005 without assigning any reason.

Upon notice, defendants/respondents filed written statement alleging therein that at the time of joining defendant-department as Sewadar, plaintiff/appellant claimed benefit of military service and in case his date of birth was changed to 6.3.1948, as claimed, then he would have been below 18 years at the time of joining Indian Army on 20.1.1964. It was further averred that at the time of joining Indian Army, plaintiff had mentioned his date of birth as 20.1.1946 and the same was accordingly mentioned in his service record.

Plaintiff filed replication stating therein that at the time of his recruitment in the Army his date of birth had been recorded by way of approximation on the basis of his good health and physique.

On the pleadings of the parties, issues were framed. Both sides led evidence in support of their respective contentions. The learned Courts below on the basis of material available on record dismissed his suit, as mentioned in the opening paragraph of this judgment.

It has been argued by the learned counsel for the appellant that both the Courts below have returned findings contrary to the evidence led by the plaintiff since as per Admission Register

maintained by Government Primary School, Mehndipur and School Leaving Certificate(P-1) his date of birth was recorded therein as 6.3.1948.

After hearing the learned counsel and perusing the impugned judgments and decrees, in my opinion, no question of law much less substantial question of law arises for consideration in this appeal and the same is liable to be dismissed.

The learned Courts below have found that as per admission register plaintiff/appellant joined Government Primary School, Mehndipur on 6.4.1955 and left the school on 31.3.1959, however it was not mentioned therein as to in which class the plaintiff/appellant had taken admission. Further as per school record, in a period of four years plaintiff/appellant had attended school only for 310 days and as such the said school records did not inspire any confidence. Further, plaintiff/appellant has failed to produce any confirmatory documentary evidence in the shape of birth certificate issued by Municipal or any other authority to show that his correct date of birth was 6.3.1948. In these circumstances, the learned courts below after examining the material on record have rightly rejected the said school records to hold that date of birth was correctly recorded therein.

In view of the above, present appeal stands dismissed.

29.01.2015
joshi

(Jaswant Singh)
Judge