

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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**C.M. No. 12227-C of 2013 and
RSA No. 4550 of 2013 (O&M)**

Date of decision: 29.10.2015

Ramesh Chand

...APPELLANT

VS.

State of Punjab and others

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

Present: Mr. Raj Paul Kansal, Advocate
for the appellant.

AUGUSTINE GEORGE MASIH, J. (ORAL)

C.M. No. 12227-C of 2013

Prayer in this application is for condonation of delay of 158 days
in re-filing the appeal.

The reason assigned for the delay in re-filing the appeal is that
after the Registry has raised certain objections, the paper-book was misplaced
in the office of the counsel and because of an unfortunate death of his son on
25.01.2013, he remained disturbed for quite some time. With a great difficulty,
the case was retraced with the help of the clerk of the counsel and the appeal
re-filed, which has resulted in delay of 158 days. The application is supported
by the affidavit of the counsel.

In view of the above, the present application is allowed. Delay of
158 days in re-filing the appeal stands condoned.

RSA No. 4550 of 2013

Challenge in this appeal is to the judgment and decree passed by

the Civil Judge (Junior Division) Chandigarh dated 20.03.2007, vide which the suit for declaration for correction of the date of birth of the appellant-plaintiff as 05.08.1948 instead of 20.03.1947 and for mandatory injunction directing the respondents-defendants to make necessary corrections regarding the date of birth of the appellant-plaintiff and grant him consequential benefits, stands dismissed. Against the said judgment and decree, an appeal has been preferred, which has been dismissed by the District Judge, Chandigarh on 08.11.2012.

It is the contention of the learned counsel for the appellant that the appellant had moved an application for change of date of birth in the year 1976 Ex. P3, which was rejected on 30.11.1976 Ex. P4. Thereafter, another application for change of date of birth was submitted in the year 2000 Ex. P5, which was also rejected by the Panjab University, Chandigarh-respondent No. 4 in the meeting dated 29.12.2002 of the Senate by stating that the Rule, which earlier permitted the change of date of birth, has been abrogated and, therefore, the relief cannot be granted, which was communicated on 23.03.2003. It is, at this stage, that the suit was filed by the appellant-plaintiff for declaration and mandatory injunction. He contends that the action of the respondents-University is not sustainable as the appellant-plaintiff, because of the action of the respondents despite there being evidence that his date of birth was 05.08.1948 as per the Local Registrar, Births and Deaths, Sangrur, has been denied his claim. He, thus, contends that the Courts below have wrongly rejected the prayer of the appellant by asserting that he had approached the competent authority for change of date of birth at the fag end of his career. He, thus, submits that the present appeal may be allowed and the impugned judgments and decree be set aside and the suit decreed.

Having considered the submissions made by the learned counsel

for the appellant and on going through the impugned judgments, this Court is unable to accept the contentions, as raised by the counsel for the appellant.

It is not in dispute that the first application, which was moved for change of date of birth, was in the year 1976 Ex. P3, which was rejected by the respondents-University on 30.11.1976 Ex. P4. Thereafter, the appellant-plaintiff remained silent for a very long time and again moved an application for change of date of birth in the year 2000 Ex. P5. The respondents-University, thereafter, had proceeded to consider his claim and reject the same on the ground that there are no such Rules which would permit change of date of birth. The learned Courts below have rightly rejected the case of the appellant-plaintiff by holding that the same is barred by limitation and have rightly relied upon the judgment of the Supreme Court in M/s Bharat Electronics Limited vs. V. Ethiraj, (2006) 6 SCC 537. The findings recorded by the Courts below are based upon proper appreciation of the pleadings and the evidence brought on record, which cannot be faulted with.

There being concurrent findings recorded by the Courts below on the facts of the case, which have been found to be based on proper appreciation of the evidence produced by the parties, there is no illegality in the impugned judgments passed by the Courts below. Further, there is no substantial question of law in the present appeal, which requires consideration of this Court.

In view of the above, finding no merit in the present appeal, the same stands dismissed.

October 29, 2015

pj

(AUGUSTINE GEORGE MASIH)
JUDGE