

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

R.S.A No. 4796 of 2013 (O&M)
Date of decision:- 27.04.2015

Ashok Kumar Malik

...Appellant

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. Jagdish Manchanda, Advocate
for the appellant.

RITU BAHRI J. (Oral)

C.M. No. 12923 and 12921-C of 2014

For the reasons mentioned in the applications,
delay of 33 days in filing an appeal and 251 days in re-filing
the present appeal is condoned.

The applications stand disposed of accordingly.

R.S.A No. 4796 of 2013

The present regular second appeal is directed
against the concurrent finding of facts recorded by both the
Courts below whereby the suit of the plaintiff-appellant (for
short 'appellant') for declaration to the effect that the
impugned order dated 01.10.2003 is illegal, null and void,
was dismissed.

The appellant was seeking correction of date of
birth from 03.10.1958 to 10.10.1959. He had joined the
service as Tehsildar on 14.07.1983. As per entry in the book

of Register of Births and Deaths i.e M.C Kaithal, the date of birth of the appellant was recorded as 10.10.1959. However, in the matriculation certificate, his date of birth has been mentioned as 03.10.1958. This fact came into the knowledge of the appellant in the year 2003 and he moved an application regarding rectification of his date of birth on 08.07.2003, which was dismissed on 01.10.2003. Before the trial Court, the stand of the respondent was that the suit was not maintainable being barred by limitation as the appellant had joined in 1983 and for the correction in the date of the birth, he should have applied within 02 years but he applied on 08.07.2003 i.e after a gap of 20 years. The appellant wants to get his date of birth corrected to get one year more in Government service. The claim of the appellant was found unsustainable in view of notification dated 13.08.2001.

Both the Courts below have dismissed the suit of the appellant.

The Lower Appellate Court has referred to the judgment of Hon'ble the Supreme Court in a case of State of U.P & another v. Shiv Narain Upadhyay 2005 (6) SCC 49 wherein it has been held that 'date of birth' as recorded in the service book is final and an application made for correction of the date of birth on eve of retirement should not normally be entertained.

In view of the notification i.e 13.08.2001 which enshrined that period of two years would commence from the date of joining of the service by a government employee for the purpose of correction of his date of birth and in view of the judgment of Hon'ble the Supreme Court mentioned above, the judgments passed by both the Courts below, calls for no interference. No substantial question of law arises for adjudication by this Court.

Accordingly, regular second appeal is dismissed.

April 27, 2015
G Arora

(RITU BAHRI)
JUDGE