

In the High Court of Punjab and Haryana at Chandigarh

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RSA-5478-2015 (O&M)

Date of decision:12.10.2015

STATE OF HARYANA THR DEPUTY COMMISSIONER
FARIDABAD, SEC 2 FARIDABAD

.....Appellant

Versus

RUMAL BELDAR

.....Respondent

CORAM: HON'BLE MR. JUSTICE RAJ MOHAN SINGH

Present: Mr.Sidharth Sanwaria, D.A.G.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?*

Raj Mohan Singh, J.

1. Defendant is in second appeal against the concurrent findings of the Courts below.
2. Plaintiff filed a suit for declaration and mandatory injunction seeking rectification of his date of birth in service record from 16.6.1953 to 20.6.1957. Plaintiff alleged that at the time of initial appointment, his date of birth was wrongly recorded by the department despite the fact that his birth certificate showed date of birth as 20.6.1957. The error came

to his knowledge on 4.7.2007, when he applied for loan with the department.

3. The suit was contested by the defendants on all customary pleas.

4. The plaintiff led evidence on record and got the school certificate exhibited as Ex.P-1, which has been proved by PW-2 Ganga Diwan, PGS, Panhera Kalan, Tehsil Ballabgarh. He identified the signatures of Chattar Singh, School Incharge, on Ex.P-1. In rebuttal, defendants have only produced DW-1, C.B.Gupta, SDE, PWD, B&R Faridabad, who produced on record the entry of date of birth made at the time of initial appointment of the plaintiff. The affidavit submitted by the plaintiff at the time of joining of service has also an explanatory note. Defendants have not examined any officer, clerk and employee of the department.

5. Plaintiff has proved the basis of incorporating date of birth as 20.6.1957, which is School Leaving Certificate, Ex. P-1, whereas, there is no such basis incorporating 16.6.1953 as date of birth of the plaintiff. No evidence is forthcoming on record in order to corroborate such an entry made by the defendants in service record of the plaintiff. If the calculations are made on the basis of affidavit of the plaintiff, Ex.DA-1, that comes nearer to the date of birth as 20.6.1957. The affidavit does not corroborate the factum of date of birth to be

16.6.1953 in any case.

6. Ex.DA-3 is the copy of service book of the plaintiff in which date of birth has been recited as 16.6.1953. The affidavit Ex.DA-1 of the plaintiff at the time of appointment showed his age to be 23 years as on 16.2.1979 which only implies that the date of birth of the plaintiff must have been around 16.2.1956. As per School Leaving Certificate, date of birth of the plaintiff has been recorded 20.6.1957. The basis on which date of birth was recorded as 16.6.1953 has no reasonable nexus with the evidence brought on record even by the plaintiff in terms of joining initial appointment.

7. Firm findings of fact have been recorded by both the Courts below. The plaintiff has already retired on 30.6.2013. The impugned judgments and decrees would extend the date of retirement of the plaintiff up to 28.2.2016. The lower Appellate Court has rightly ordered rectification of entry in terms of release of salary from 30.6.2013 till date after deducting retiral benefits already made to the plaintiff and his re-instatement in service has to be made forthwith.

8. In considered opinion of this Court, no law point worth appreciation and consideration is involved in this appeal. The plaintiff cannot be made to suffer on account of perplexing web of bureaucracy. In this context reference can

be made to decision of the Apex Court in **R.K.Jangra vs.**
State of Punjab and others (2009) 5 SCC 703.

Accordingly, this appeal is dismissed.

(RAJ MOHAN SINGH)
JUDGE

October 12, 2015
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