

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

CWP No. 18496 of 2016

DATE OF DECISION : 07.09.2016

Rama Swamy

.... PETITIONER

Versus

Central Administrative Tribunal, Chandigarh Bench, Chandigarh and others

..... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL

HON'BLE MR. JUSTICE RAMENDRA JAIN

Present: Mr. Nonish Kumar, Advocate,
for the petitioner.

* * *

RAMENDRA JAIN , J.

1. The petitioner, a permanent resident of Sivramapuram, Sendurai Block (Tamil Nadu), was working as Daily Wager since 01.09.1983. His services were transferred to Municipal Corporation, Chandigarh, vide memo dated 21.05.1996. In the notification of even date regarding transfer of his services, his date of birth was recorded as "08.03.1958". The petitioner claims that actually, his date of birth is "05.03.1964". However, he was not aware of the recording of his wrong date of birth in the notification dated 21.05.1996 as well as in the record of the respondent Corporation. It came to his knowledge only in the month of February, 2012, when his services were regularised by the department vide order dated 13.02.2012 (Annexure P-1). Thereafter, after obtaining his School Leaving Certificate dated 14.10.2014 (Annexure P-2) from

Nadu, the petitioner submitted representation dated 01.12.2014 (Annexure P-3) to the Superintendent Engineer, Municipal Corporation, Chandigarh (respondent No.3 herein), to correct his date of birth in the record of the respondent Corporation from “08.03.1958” to “05.03.1964”. The said representation was rejected by the Executive Engineer, C.P. Division No.2 (Road), Chandigarh (respondent No.4 herein) vide order dated 12.05.2015 (Annexure P-4) on the ground that the representation for change of date of birth can not be accepted after 19 years of appointment, as according to FR 56 (Note 6) of the Fundamental Rules & Supplementary Rules, date of birth of an employee can be changed only once within 5 years of his appointment. The said order was challenged by the petitioner by filing O.A dated 28.07.2015 (Annexure P-5) before respondent No.1. Ultimately, vide order dated 25.07.2016 (Annexure P-8), passed by respondent No.1, while dismissing the said O.A of the petitioner, the order dated 12.05.2015 has been upheld.

2. Hence, by way of the present writ petition under Articles 226/227 of the Constitution of India, the petitioner is seeking issuance of a writ in the nature of certiorari for quashing the aforesaid orders dated 12.05.2015 (Annexure P-4) and 25.07.2016 (Annexure P-8).

3. Learned counsel for the petitioner argued that the petitioner, who was working as Daily Wager since the year 1983, was never asked any document regarding his date of birth. Even at the time of transfer of his services to respondent Corporation on 21.05.1996, he was not asked to submit any document with regard to his date of birth. As per the relevant Rules on the subject, a request regarding correction of date of birth in the

record of the department can be made by the concerned employee within 5 years of his entry into Government service and in the instant case, the words “entry into Government service” should be taken from 13.02.2012, when services of the petitioner were regularised. Hence, vide representation dated 01.12.2014, i.e. within the stipulated period of 5 years from the date of his entry into Government service, the petitioner made a request for correction of his date of birth in the record of the respondent Corporation. However, respondent No.4, while wrongly considering that the petitioner entered into Government service in the year 1996, when his services were transferred to the respondent Corporation, rejected his claim on the ground that he made the representation seeking correction of his date of birth after 19 years of his entry into Government service. Similar view has been taken by respondent No.1, which cannot be sustained in the facts and circumstances of this case.

4. We have given our thoughtful consideration to the submissions made by learned counsel for the petitioner.

5. Admittedly, on 21.05.1996, when services of the petitioner were transferred to the respondent Corporation, notification in this regard was issued, wherein his date of birth was recorded as “08.03.1958” and the same date was carried out in his service record. It cannot be said that the petitioner was not aware of this fact. He remained silent for a long period of 19 years. In the year 2014, while claiming that actually, his date of birth is “05.03.1964”, he made a request for correction of his date of birth. The argument of learned counsel for the petitioner that the petitioner entered into Government service on 13.02.2012, when his services were regularised, cannot be accepted. It is the admitted case of the petitioner that he joined as

Daily Wager on 01.09.1983 and his services were transferred to the respondent Corporation on 21.05.1996, regarding which notification was also issued. Thus, on the said date, the petitioner entered into Government service. In the said notification, date of birth of the petitioner was recorded as “08.03.1958”, which is presumed to be very well within his knowledge. Thus, as per the Rules, within a period of 5 years from the date of said notification, the petitioner could made a request for correction of his date of birth. For a period of 19 years, he did not make any such request.

6. In the aforesaid facts and circumstances of the case, vide the impugned order dated 25.07.2016, respondent No.1 has rightly upheld the order dated 12.05.2016 passed by respondent No.4 rejecting the claim of the petitioner for correction of his date of birth in his service record. Thus, we are not inclined to entertain the instant petition.

7. Dismissed.

(RAMENDRA JAIN)
JUDGE

September 07, 2016
ndj

(AJAY KUMAR MITTAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes