

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

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CWP-22234 of 2016

DATE OF DECISION: 25.10.2016

RAJPAL

... Petitioner

V.

STATE OF HARYANA AND ORS.

.. Respondents

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Naveen Singh Panwar, Advocate
for the petitioner.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has impugned the order dated 25.05.2016 whereby his application for correction in the date of birth has been rejected. The petitioner is stated to have been engaged as Beldar on daily wages on 01.11.1987. His services were regularized on 01.04.1993. It is the case of the petitioner that he is illiterate and learnt in the month of November, 2015 that his date of birth in the service record is mentioned as 5.5.1957 instead of 10.4.1964. The petitioner on the basis of the school leaving certificate issued by Headmaster of Government Primary School, Mudlana, Tehsil Gohana, District Sonapat and the voter identity card, approached the respondents for carrying out the necessary change. The application of the petitioner has been rejected by relying upon Rule 7.3 of the Punjab Financial Rules, Volume 1, Part I.

Issue notice to respondents.

At the asking of the Court, Mr. Harish Rathee, Sr. DAG, Haryana
accepts notice on behalf of the respondents.

Learned counsel for the petitioner is directed to furnish three sets of paper book to learned Senior DAG, Haryana.

With the consent of counsel for the parties, I have taken up the matter for final disposal at this stage. It is borne out from perusal of note 3 to Rule 7.3 of the Punjab Financial Rules that when a Government employee makes an application for correction of date of birth within the period allowed or at a later stage, a special enquiry should be held to ascertain his age with reference to all the available sources of information such as certified copies of entries in municipal birth register, university or school age certificates, janam patris or horoscope. Reference can also be made to the judgment of the Division Bench of this Court in the case of **Gurbax Singh v. State of Punjab and others** reported **1989 (2) Current Law Journal (CCR) 347**, wherein it was held that when an application is made for change of date of birth, it has to be considered on merits and only in case a finding is recorded by the officer concerned, the application would be rejected. In that case, the respondents therein did not go into merits of the representation and without recording any finding about the correctness of the date of birth, had rejected the representation. This judgment is squarely applicable to the instant case as the respondents have rejected the application of the petitioner by merely recording that it could not be entertained as it has not been filed within a period of two years. The application has not been dealt with on the merits nor any finding has been recorded in this regard.

Therefore, I have no hesitation to hold that the order dated 25.5.2016 is unsustainable in law. The petition is allowed and the order dated 25.5.2016 is set aside. The respondents are directed to conduct a fresh enquiry into the correct date of birth of the petitioner and take final decision in this regard on merits after affording an opportunity of hearing to the petitioner

within a period of four months from the date of receipt of certified copy of this order.

October 25, 2016

SwarnjitS

**(ANUPINDER SINGH GREWAL)
JUDGE**

Note:

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No