

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-8904-2014 (O&M)
Date of decision: 07.11.2016

Bhagat Ram @ Paltu Ram

.....Petitioner

versus

Punjab Mandi Board and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Varinder Kumar Shukla, Advocate for the petitioner
Mr.P.K.S. Gill, Advocate for the respondent No.1 and 2

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

Petitioner Bhagat Ram @ Paltu Ram joined as Sweeper on daily wage basis with the respondent Market Committee Nihal Singh Wala (Moga) on 4.4.1985. He was dismissed from service on 27.2.1986. On 4.4.1988, the Labour Court reinstated him in service with continuity in service. Thereafter, he rejoined the service. At the time of rejoining the service, the service book was prepared, wherein his date of birth was mentioned as 10.10.1959 on the basis of affidavit filed by him. The service book appears to have been prepared in the year 1990. Subsequently, at the time of regularization, the petitioner had to undergo medical examination. At the time of medical examination, he mentioned his age as 38 years before Assistant Civil Surgeon, Faridkot. The Assistant Civil Surgeon also mentioned his age as 38 years by appearance. Accordingly, medical certificate dated 24.10.1991 (Annexure R1) was issued. When the fact of the medical certificate came to the notice of the respondents, the petitioner

was issued a show cause notice on 7.8.2013 (Annexure R4) and 1.10.2013 (Annexure R5) to explain about his date of birth and stating that as per medical certificate his retirement is on 31st October, 2013. He appeared and submitted the affidavit dated 8.11.2013 (Annexure R3), wherein while stating about the medical certificate and the service book and the date mentioned therein he stated that if his date of birth is determined as per medical certificate and his date of retirement is determined as 31.10.2013, he will be liable to pay the arrears and salary. Accordingly, he was retired vide order dated 13.3.2014 (Annexure P3) from service w.e.f. 31.10.2013. It is this order of retirement, which is under challenge.

I have heard learned counsel for the parties and have also carefully gone through the file.

It comes out that when the petitioner was reinstated in service by the Labour Court, he furnished an affidavit regarding his date of birth. No birth certificate was produced. Accordingly, same date was mentioned. However, when at the time of regularization in service, he was required to undergo medical examination, before the Assistant Civil Surgeon, Faridkot, he mentioned his age as 38 years. The Assistant Civil Surgeon also mentioned that by appearance his age is 38 years. Therefore, on the basis of the statement before medical authorities and on the basis of appearance, his age was determined as 38 years on the date of issuing medical certificate. The said medical certificate is produced on file. Therefore, one date of birth is mentioned on the basis of the affidavit and another date of birth comes out from the medical certificate, issued by the competent authority. The authorities were justified in relying upon the age mentioned in the medical certificate. The said age mentioned in the medical certificate was never

challenged by the petitioner during his service. Therefore, there is no error on the part of the respondents in relying upon the said age mentioned in the medical certificate and retiring the petitioner w.e.f. 31.10.2013.

Resultantly, the present writ petition stands dismissed.

07.11.2016

gk

**(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No