

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RA No. 10-C of 2013 in
RSA No. 1331 of 1998
Date of decision : 3.5.2016
...

Niranjan Lal Mittal

.....Appellant

vs.

Cement Corporation of India Limited and others

.....Respondents

Coram: Hon'ble Mr. Justice P.B. Bajanthri

Present: Mr. Sudhir Mittal, Advocate for the applicant-appellant.

Ms. Abha Rathore, Advocate for the respondents.
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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?*

P.B. Bajanthri, J.

Review applicant presented the above review application for recalling the order dated 14.1.2013 by which RSA No. 1331 of 1998 is dismissed on the count that no substantial question of law arises for determination in the matter of correction of date of birth of the review applicant from 5.4.1935 to 19.12.1938 in the service register for the purpose of gaining service benefits in the respondent-Cement Corporation of India Limited.

2) Learned counsel for the review applicant has not pointed out any error apparent on the face of the order dated 14.1.2013, so as to recall the order. Scope of review is limited. Unless and until there

is an error apparent on the face of the record, review application cannot be entertained. Learned counsel for the review applicant argued the review application as if arguing the main petition.

3) It seems appellant-Niranjan Lal Mittal was appointed as a clerk on 2.11.1959 in the then Dalmia Dadri Cement Limited. The said company was shut down on 18.3.1980 and it was taken over by the Union of India. Now it is under the control of Cement Corporation of India Limited w.e.f. 23.6.1981. In the meanwhile, appellant was displaced from service during the intervening period from 18.3.1980 to 18.12.1981. He was appointed/taken back to duty as a clerk on 18.12.1981 in the respondent - Cement Corporation of India Limited. He was to attain the age of superannuation and retired from service w.e.f. 30.4.1993. The appellant is stated to have filed a civil suit for correction of date of birth from from 5.4.1935 to 19.12.1938. A decree was passed in his favour on 27.10.1982. Thereafter, appellant approached the respondent to carry out correction of date of birth in the service book for the purpose of extending service benefits. The same was not considered. Thus appellant file suit on 26.4.1993 just four days before his date of retirement, namely, 30.4.1993. The suit and civil appeal filed were dismissed. Thereafter, he has presented RSA No. 1331 of 1998 before this Court.

4) The learned counsel for respondent-corporation vehemently contended that Review Application is to be rejected, since there is no error apparent on the face of record. On merits also the

Supreme Court time and again held that Courts/Tribunal should not entertain claim of an employee for correction of date of birth when he/she is due to retirement. In the present case Review applicant approached Court in the year 1989 and 1993, when he was due for retirement on 30.4.1993, as per existing entry of date of birth. The learned counsel relied on the following decisions of the Supreme Court:-

1) AIR 1993 Supreme Court 1367, Union of India vs.

Harnam Singh;

2) 1994 Supp (1) Supreme Court Cases 155, Secretary

and Commissioner, Home Department and others vs.

R. Kirubakran;

3) (2010) 9 Supreme Court Cases 337, State of Haryana

vs. Satish Kumar Mittal and another ;

4) 2014 AIR SCW 2634, M/s Bharat Coking Coal Ltd.

and another vs. Chhota Birs Uranw; and

5) 2015 (12) Scale 18, Life Insurance Corporation of

India vs. R. Basavaraju @ Basappa

In the aforesaid decisions the Supreme Court is of the view that employee cannot seek correction of date of birth at the fag end of service.

5) Having regard to the dates and events that the appellant was appointed in the year 1959 and further re-appointed in the year 1981 read with date of his retirement 30.4.1993, the grievance of the appellant for correction of date of birth from 5.4.1935 to 19.12.1938,

is highly belated. Therefore, his grievance is to be rejected at the threshold in view of the various decision of the Apex Court wherein the Supreme Court has held that for correction of date of birth, employee should make his grievance at the earliest as and when he was appointed. If an employee making an attempt to get correction of date of birth during the fag end of his service, the authorities/Tribunal/Courts should not entertain such litigation. In fact, this review application should have been rejected with costs. However, a liberal view has been taken to not to impose cost for the reasons that the appellant has attained the age of superannuation on 30.4.1993 as per the date of birth 5.4.1935. The appellant has not make out a case so as to recall the order dated 14.1.3013.

- 6) The review application is dismissed.
- 7) No order as to costs.

May 3rd, 2016
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(P.B. Bajanthri)
Judge