

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

**Date of decision: 20.04.2017**

**CWP No.25136 of 2014 (O&M)**

Kamla Devi

...Petitioner

Vs.

Union of India & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA**

Present: Mr. Sanjiv Patiyl, Advocate, for the petitioner.

Mr. J.S.Lalli, Advocate, for respondents No.1, 3 & 4.

Ms. Sheena Khanna, Advocate, for respondent No.2.

Mr. Rahul Dev, Advocate, for respondent No.5.

**RAJIV NARAIN RAINA, J. (ORAL)**

At the very outset, Mr. Patiyl draws his strength from the judgment of the Supreme Court in Ramesh Ahluwalia Vs. State of Punjab, (2012) 12 SCC 331 ruling that writ is maintainable in a service matter against a purely private body where State has no control over its internal affairs. The body would be amenable to jurisdiction of the High Court under Article 226 of the Constitution if it performs public functions normally expected to be performed by the State authorities.

Having satisfied myself regarding maintainability of the petition, I have proceeded to hear the learned counsel for the parties on merits. However, I find that the dispute in this case relates to a dispute regarding the date of birth of the petitioner. She was retired by the

respondent - Army Public School, where she was employed as a Peon by treating her age as was got recorded by her late husband while serving in the Indian Army. And on the basis of documentary evidence available with the school authorities she has been retired on superannuation. She has challenged the retirement order claiming that she is younger in age than what the respondent thinks. The stands of the respective parties are seriously conflicting which in order to be resolved would be dependent on reception of evidence and proof. Oral testimonies may have to be recorded to arrive at the truth and, therefore, the writ court is not the suitable forum to decide hotly disputed questions of fact, which can be resolved only on evidence, both documentary and oral in a civil trial.

In view of this, the writ has to be refused and the petitioner relegated to her remedy before the civil court to establish her claim. Accordingly, the writ petition stands dismissed with the liberty granted.

**20.04.2017**  
Vimal

**[RAJIV NARAIN RAINA]**  
**JUDGE**

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| <i>Whether speaking/reasoned:</i> | <i>Yes</i> |
| <i>Whether Reportable:</i>        | <i>No</i>  |