

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

**CWP-20478-2017 (O&M)
Date of decision:11.09.2017**

Iqbal Singh

... Petitioner

Vs.

State of Punjab & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Pradeep Sharma, Advocate for the petitioner.

...
TEJINDER SINGH DHINDSA, J.

As per pleadings on record, petitioner was recruited in Punjab Police as Constable on 11.11.1992. At the stage of recruitment, petitioner had furnished his date of birth as 10.07.1973. A regular departmental inquiry was initiated against the petitioner on the charge that he had deliberately furnished an incorrect date of birth as his actual date of birth was 10.07.1975. The departmental proceedings culminated in the passing of order dated 09.02.2001 (Annexure P-6), whereby the petitioner was dismissed from service. Petitioner availed of his statutory remedies of appeal and revision and which were dismissed on 09.05.2001 and 08.05.2002 vide orders at Annexures P-8 and P-10 respectively. Apparently, the petitioner after a period of almost 14 years from the date of rejection of his revision petition, preferred a mercy appeal before the Director General of Police and which has also been rejected vide order dated 07.11.2016 at Annexure P-12.

The instant writ petition has now been filed in the year 2017 assailing the orders noticed herein above at Annexures P-6, P-8, P-10 and P-12.

The sole contention raised by counsel is that the petitioner had

instituted a suit for declaration in the year 2016 against the Punjab School Education Board to correct his date of birth as 28.06.1973 instead of 10.07.1975 and such suit had been decreed in favour of the petitioner by the Civil Judge (Senior Division), Tarn Taran on 08.03.2017. Counsel contends that as per decree passed by the Court below, the date of birth of the petitioner is to be reckoned as 29.06.1973 and in the light of such development, the impugned orders cannot sustain.

Counsel for the petitioner has been heard at length and the case paper book has been perused.

In the considered view of this Court, the instant writ petition is wholly misconceived.

The order of dismissal from service was passed by the competent authority on 09.02.2001 at Annexure P-6. Such order of dismissal was affirmed by the Appellate and Revisional Authorities in the light of orders dated 09.05.2001 (Annexure P-8) and 08.05.2002 (Annexure P-10) respectively. The order passed on 07.11.2016 (Annexure P-12) of the Director General of Police is not towards the petitioner having exhausted any statutory remedy available to him. This is only an order invited by the petitioner himself and would not enure to the petitioner to overcome the inordinate delay that has occurred. A reference in this regard may be made to the judgment of the Division Bench of this Court in **Baljinderpal Kaur Vs. State of Punjab & others, 2008 (4) SCT 213.**

It may also be apposite to take note that the petitioner had in the year 2002 itself preferred CWP No.19559 of 2002 assailing the order of dismissal as also the orders passed by the Appellate and Revisional Authorities. The afore-noticed writ petition was dismissed by a Division Bench of this Court on 13.01.2003 in the following terms:

“We have heard the learned counsel for the petitioner at length and perused the record of the case.

The charge against the petitioner was that he has deliberately given his date of birth as 10.07.1973, when, in fact, his actual date of birth is 10.07.1975. Had he given his actual date of birth, he could not have been appointed on the post as he would have been underage.

In view of the above, we find no reason to interfere. Dismissed.”

The decision dated 08.03.2017 passed by the Civil Court at Annexure P-15 in terms of which the suit filed by the petitioner has been decreed insofar as the correction of date of birth to be 28.06.1973 instead of 10.07.1975 would be of no consequence. Such decree has been passed on 08.03.2017. The petitioner had gained entry into police service in the year 1992. At that stage, he had given out his date of birth as 28.06.1973. On such date, there was no document with the petitioner in support of such date of birth. Rather, the documents in possession of the petitioner at the time of entry in service reflected his date of birth as 10.07.1975. The decree passed in the year 2017 at Annexure P-15 cannot possibly relate back to the year 1992 and to bail out the petitioner for having given out his date of birth as 28.06.1973 since at that point of time, the documents reflected his date of birth as 10.07.1975.

The instant petition sans merit.

Dismissed.

11.09.2017

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

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| i) | Whether speaking/reasoned? | Yes |
| ii) | Whether reportable? | No |