

Sr. No. 226

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

**CWP No. 17680 of 2016(O&M)
Decided on: 25.04.2018**

Union of India and others

.....Petitioners

versus

Mohinder Singh and another

.....Respondents

**Coram: HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present: Mr. Anil Chawla, Advocate
for the petitioners.

Mr. Dheeraj Chawla, Advocate
for respondent No.1.

Mahesh Grover, J.(Oral)

The petition is directed against the order of the Central Administrative Tribunal, Chandigarh Bench dated 13.01.2016. The respondent was employed as Mazdoor after his name being sponsored by the Local Employment Exchange, Jagraon in the year 1987(20.10.1987). In 2008, a complaint was received that respondent No.1 had gained employment on the strength of wrong information as instead of backward class candidate he had applied as a Scheduled Caste candidate. The complaint was inquired into. Said respondent produced a certificate of his being of 'Jhiwar caste', classified as backward and not as Scheduled caste. He was removed from service for this misconduct. Then he preferred OA before the Tribunal where the Punishment of removal from the service was converted into that of '*compulsory retirement*' as he had already completed

20 years of service.

Learned for the petitioner contends that the impugned order is erroneous and liable to be set aside in view of the clear misconduct of the respondent in making misrepresentation at the time of employment.

Learned counsel for the respondent on the other hand, contends that the order is perfectly justified considering the length of service that he had rendered. Besides, he contends that respondent has not drawn any undue advantage from the so called misrepresentation.

After hearing learned counsel for the parties, we are of the opinion that the petition is totally misconceived. If the respondent had filled up his form as a scheduled caste candidate, then it was incumbent upon the petitioner as well to verify this fact in the year 1987 itself. To pointed question, whether it was done or not, the answer has been in the negative and rather it has been stated that there is nothing on record to suggest so. It is only on a complaint made in the year 2008, after respondent No.1 had put in more than two decades of service that such an issue arose and even otherwise for all these years the respondent has served the petitioner without any complaint manifesting itself regarding the work and conduct. That apart, we notice that no certificate of Schedule Caste was ever furnished by the respondent which also implied that there was no wilfull misrepresentation. In such a situation, Tribunal's order converting the order of removal into that of compulsory retirement is absolutely just and warrants no interference.

In view of above, writ petition is dismissed with a costs of Rs.20,000/- which will be compensatory to the respondent. We further direct that the retiral benefits of the respondent alongwith costs be released

to him forthwith within a period of 6 weeks from the date of receipt of
certified copy of this order.

[MAHESH GROVER]
JUDGE

25th April, 2018
Shivani Kaushik

[RAJBIR SEHRAWAT]
JUDGE

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