

Sr.No.209

IN THE HIGH COURT OF PUNJAB AND HARYANA CHANDIGARH

CWP NO.18833 OF 2015(O&M)

Date of Decision: 07.02.2018

Union of India and others

.....Petitioners

versus

Tarsem Lal and another

.....Respondents

**CORAM HON'BLE MR. JUSTICE MAHESH GROVER
HON'BLE MR. JUSTICE RAJBIR SEHRAWAT**

Present Mr.Puneet Jindal, Sr. Advocate
with Ms. Shreya Vashisth, Advocate for the petitioners.
None for respondents.

MAHESH GROVER, J(ORAL)

This petition is directed against the order of the Central Administrative Tribunal, Chandigarh Bench, Chandigarh dated 23.07.2015. the respondent no.1 remained in service of the petitioners since 1971 and superannuated on 07.09.2013. Thereafter, in March 2014, he made an application before the Tribunal stating that his date of birth was 21.06.1955 and not 01.10.1952 as treated by the petitioners. The Tribunal on the basis of record concluded that although these dates were mentioned and directed his date of birth should be construed as 1955 ignoring the interpolation in the record. In the writ petition preferred, the learned counsel for the petitioner contends that in view of the interpolation and clear absurdity manifesting itself from the claim of the respondent, the Tribunal took a view erroneous in law while passing impugned order and failed to appreciate that the respondents made this prayer for rectification after he had retired and the Tribunal ignored the fact that if the date of birth of the respondent no.1 had been 1955, he would have entered service at the age of 16 impermissible as per Rules. On 20.11.2015, we had noticed this contention while issuing

notice of motion and during the pendency of the petition also directed that since respondent stands retired, he be paid his retiral dues construing the date of birth as 1952 which has indeed been done by now. We have seen the relevant document in particular Annexure R3 indicating the date of appointment as 14.07.1971 and the date of birth after interpolation as 21.06.1955. The onus was then shifted to respondent no.1 to show as to how he gained employment as a minor. An affidavit was filed by him which is evasive and does not address the query. There is also on record the medical opinion of the doctor dated March 1977 opining about his age as being 24 years, 5 months and 14 days and if taken to be correct would be suggestive of the fact of the date of birth being of 1952 and not 1955 as claimed by him.

On consideration, we find that the Tribunal ought not to have opined conclusively about the date of birth being of 1955 in view of the serious dispute and allegations of interpolation. We are also of the opinion that since the respondent no.1 has failed to explain how he gained employment at the age of 16 being a minor, there is indeed interpolation in the records and the only beneficiary seems to be the respondent no.1 himself.

There has been no representation on behalf of respondent no.1 today as also on the previous date of hearing. In the absence of any justification offered by respondent no.1 about the issues raised in the petition and questions posed by this Court during the course of hearing, we are of the opinion that the writ petition deserves to succeed and as in the absence of any justification offered by respondent no.1, we would necessarily lean towards the official record and the opinion of the doctor.

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Petition stands allowed.

(MAHESH GROVER)
JUDGE

07.02.2018 (RAJBIR SEHRAWAT)
mamta JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No