

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH

CWP No.10710 of 2018 (O&M)
Date of Decision.16.08.2019

Chanderbhan ...Petitioner
Vs
State of Haryana and others ...Respondents

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate
for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

CORAM:HON'BLE MR. JUSTICE AMIT RAWAL

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AMIT RAWAL J. (ORAL)

Claim of petitioner in the present writ petition is for quashing of the order dated 28.02.2018 (Annexure P-9) passed by respondent No.4 i.e. Executive Engineer, Water Services Mechanical Division, Rewari whereby on the basis of preliminary enquiry, was relieved, from service.

Mr. R.K. Malik, Senior Advocate assisted by Mr. Sandeep Dhull, Advocate appearing for petitioner submitted that date of birth, as per school certificate dated 17.02.1997 (Annexure P-3) is dated 08.07.1962. Not only this, the Aadhar Card, driving licence, Annexure P-4 & P-5 respectively also reflect date of birth of 1962. Petitioner vide Annexure P-7 dated 26.02.2018 was served with show cause notice as to why legal action in respect of tampering with certificate is not taken and thereafter has erroneously been relieved from service. Strangely enough, during pendency of writ petition, petitioner has been served with charge sheet dated 7.2.2019 on same allegation. Department is not sure about date of birth, therefore, in such circumstances, he is liable to be continued in service and prayed for disposal of writ petition with appropriate directions to respondents to decide the enquiry contemplated in pursuance of charge sheet expeditiously.

Per contra, Mr. Hitesh Pandit, Addl. A.G., Haryana submitted that one Mahender Singh son of Jai Narain submitted complaint dated 21.09.2017 (Annexure R-1) to Deputy Commissioner, Rewari regarding bogus recruitment in government service on the basis of forged documents. Information received under RTI Act vide Annexure R-5 dated 19.01.2018 revealed that date of birth of Chanderbhan is 8.7.1957 and not of 1962. Accordingly after having undertaken aforementioned enquiry, petitioner was rightly relieved. There was no bar of initiation of charge sheet as service Rules permit for same within four years of superannuation, thus, supports the impugned order.

I have heard learned counsel for parties, appraised paper book and of the view that petitioner will not require any interim relief to continue in service as it is disputed question of fact, which cannot be adjudicated in writ petition. It is the domain of Civil Court where both parties i.e. delinquent official and Department are given chance to cross-examine and supply all documents. It is yet to be deciphered whether petitioner is 1962 born or of 1957, thus, impugned order dated 28.02.2018 (Annexure P-9) cannot be brought within the realm of judicial review. However, keeping in view facts and circumstances of the case, I deem it appropriate to issue directions to respondents to decide the departmental action contemplated in pursuance of charge sheet dated 7.2.2019 as expeditiously as possible and preferably within six months and pass a speaking order in accordance with law.

Writ petition stands disposed of in above terms.

(AMIT RAWAL)
JUDGE

August 16, 2019
Pankaj*

Whether speaking/reasoned	Yes
Whether reportable	No