

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

**CWP-29105-2018 (O&M)
Date of Decision:03.10.2019**

Gurmukh Singh

... Petitioner

Versus

State of Punjab & others

... Respondents

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

Present:- Mr. Vishal Mittal, Advocate for the petitioner.

....

TEJINDER SINGH DHINDSA, J. (ORAL)

Petitioner who was serving on the post of Assistant Lineman under the Punjab State Power Corporation Limited assails the order dated 05.09.2018 (Annexure P-4) in terms of which he has been directed to be retired from service.

Pleadings on record would indicate that pursuant to a complaint having been lodged that the petitioner had gained entry into service on the basis of a false affidavit of his father reflecting his date of birth to be 21.10.1963, a regular inquiry was initiated by issuance of a charge sheet dated 03.08.2018. During the inquiry proceedings, a suggestion had come forth from the Inquiry Officer that for getting the age of the delinquent to be assessed his medical examination to be got done. Inquiry proceedings accordingly were deferred. Petitioner was then brought before the Civil Surgeon, Patiala to facilitate an ossification test. As per memo dated 05.09.2018 furnished by the Civil Surgeon, Patiala, the age of the petitioner was estimated to be between 60-70 years.

On the strength of such ossification report, the impugned order

has been passed on 05.09.2018 at Annexure P-4 on the ostensible basis that the petitioner has already served beyond the normal age of superannuation of 58 years.

Counsel for the petitioner would vehemently argue that the complaint had been filed against the petitioner by his own brother on account of a personal grudge. It is urged that under such circumstances, the complaint ought to have been ignored. That apart, it is argued that the petitioner had no other proof of age and accordingly at the stage of entry into service an affidavit of his father dated 27.12.1988 had been submitted and which in turn reflected his correct date of birth i.e. 23.10.1963. Insofar as the ossification test is concerned, reliance is placed upon a judgment of the Apex Court in **2001 (5) SCC 714, Ram Deo Chauhan @ Raj Nath Chauhan Vs. State of Assam** to contend that the opinion of a medical expert in pursuance to an ossification test cannot be treated to be accurate method to indicate the exact date of birth.

Having heard counsel for the petitioner at length, this Court is of the considered view that there is no merit in the instant petition and the same deserves to be dismissed.

On a previous date of hearing i.e. on 01.02.2019, counsel had been directed to place on record the documents that had been furnished by the petitioner at the stage of initial entry into service as regards his precise date of birth. In spite of repeated opportunities having been availed of, no such document is forthcoming. Rather counsel during the course of hearing today submits that apart from the affidavit of his father dated 27.12.1988 (Annexure P-1), the petitioner is in possession of the Aadhar Card which

also reflects his date of birth to be 21.10.1963.

In the considered view of this Court, the affidavit at Annexure P-1 as also the Aadhar Card in possession of the petitioner cannot be taken as conclusive and clinching evidence as regards date of birth.

No other document has been adduced by the petitioner in the nature of birth certificate/school leaving certificate etc. to reflect and to corroborate his version as regards date of birth being 21.10.1963.

Under such circumstances, this Court would not find any infirmity in the procedure adopted by the respondent/authorities in having got the petitioner medically examined and being subjected to a ossification test. As per such test, the age of the petitioner has been suggested to be 60-70 years. Undoubtedly, the ossification test cannot lead to a precise date of birth but would certainly be indicative of an approximate age as per medical advice/investigation.

The normal age of superannuation pertaining to the post of Assistant Lineman under the Punjab State Power Corporation Limited would be 58 years. Even if some benefit of doubt was to be given in favour of the petitioner pertaining to the ossification test, he would still have exceeded the age of superannuation as on the date of passing of the impugned order.

In an overview of the facts and circumstances, no intervention is called for.

Petition is dismissed.

03.10.2019

harjeet

**(TEJINDER SINGH DHINDSA)
JUDGE**

i) Whether speaking/reasoned? Yes/No

ii) Whether reportable? Yes/No