

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

**RSA No.3797 of 2018(O&M)
Date of Decision: 13.02.2019**

**Dalel SinghAppellant
Versus
Govt. Primary School and othersRespondents**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present:Mr. Jagdish Manchanda, Advocate
for the appellant.

RAJ MOHAN SINGH, J.

[1]. Plaintiff is in regular second appeal against the concurrent judgments and decrees passed by the Courts below in a suit for declaration and mandatory injunction.

[2]. Plaintiff filed a suit for declaration seeking declaration in respect of his date of birth so as to get it corrected as 04.01.1972 instead of 01.04.1970. Plaintiff was employed in Haryana State Agricultural Marketing Board. According to the pleaded case, he acquired knowledge about his wrong date of birth in October, 2011. Plaintiff filed a representation on 28.12.2011 and thereafter, filed the present suit on 18.09.2012.

[3]. Both the Courts below have concurrently dismissed the suit.

[4]. Perusal of the record would show that the plaintiff must

have applied for the post by giving his date of birth as 01.04.1970. From the documentation done by the plaintiff himself, he was in the knowledge of his date of birth as on the date of his appointment i.e. 16.11.2004. In respect of acquiring knowledge, no evidence was led by the plaintiff. Law of limitation is attracted for filing the suit for declaration. Once limitation starts to run, it will not stop by any subsequent act. The filing of representation on 28.12.2011 would not give rise to any cause of action in respect of filing the suit by ignoring the original declaration for seeking declaration.

[5]. In **Union of India Vs. Harnam Singh, 1993(3) SCT 120(SC)**, the Hon'ble Apex Court held that unlimited time cannot be given to the plaintiff to seek correction of date of birth. In the facts and circumstances of the said case, period was restricted to five years for those who entered into service after 1979. The reasonable time was defined. Similar view was taken by the Hon'ble Apex Court in subsequent judgments i.e. **Cement Corporation of India Ltd. Vs. Raghubir Singh and another, 2002(9) Supreme Court Cases 398** and **Hindustan Lever Limited Vs. S.M. Jadhav and another, 2001(2) SCT 369**.

[6]. In view of aforesaid legal position, Even if, administrative remedy becomes time barred by limitation, legal remedy would not be available after huge delay, particularly

when no evidence of acquiring knowledge has come forth on record. The filing of representation will not enlarge the limitation in respect of cause of action which accrued to the plaintiff on the date of appointment on 16.11.2004. The suit came to be filed on 18.09.2012 and the same was patently time barred.

[7]. Perusal of Annexure A-1 attached by the appellant would show that the appointment of the plaintiff to the post of Accountant in Marketing Board was done on 16.11.2004. As per Para No.3(d) of the letter, attested copies of certificate of Matriculation, B.A and B.Sc were attached by the appellant. Affidavit was also executed by the appellant in the context of documentation.

[8]. By No stretch of imagination, it can be inferred that the appellant was not having knowledge about his correct date of birth as 04.01.1972. In all the aforesaid documents, the appellant mentioned his date of birth as 01.04.1970. Appellant cannot be allowed to wriggle out of the fact and estopped from taking plea that he was not in the knowledge of his correct date of birth even on the date of appointment as Accountant in the Haryana State Agricultural Marketing Board.

[9]. Both the Courts below have concurrently recorded the findings of fact on the basis of material on record. The appreciation done by both the Courts below cannot be

re-appreciated, particularly when no question of law is involved in the present appeal. The findings recorded by the Courts below cannot be faulted with nor the same are found to be perverse or suffered with any error of jurisdiction. This appeal is found to be totally devoid of merits and the same is accordingly dismissed in *limine*.

13.02.2019
Prince

(RAJ MOHAN SINGH)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No