

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.31533 of 2019

Date of decision: 13.12.2019

Jai Bhagwan Yadav

...Petitioner

Versus

State of Haryana and others

....Respondents

Coram: Hon'ble Mr. Justice B.S. Walia

Present: Mr.Randhir Singh Hooda, Advocate for the petitioner.

B.S. Walia, J.

1. Prayer in the petition under Article 226/227 of the Constitution of India is for the issuance of writ of certiorari for quashing order/letter Annexure P-4 dated 22.09.2017 whereby respondent No.3 declined to correct the date of birth of the petitioner. Prayer is also for the issuance of a writ of mandamus for directing the respondents to correct the date of birth of the petitioner in their record from 01.01.1962 to 08.12.1963.

2. Brief facts of the case leading to the filing of the writ petition are that the petitioner claims to be working as Lecturer in Political Science in the office of the State Council of Educational Research and Training at Gurugram under respondent No.2 i.e. the Director, School Education, Haryana since 1.04.1995. Apparently, the petitioner got employment in the SCERT on the basis of his 10th Class certificate and other record in which his date of birth is recorded as 01.01.1962.

3. The petitioner is due to retire on 31.12.2019. At this stage, the petitioner filed a writ petition claiming that while preparing documents for pilgrimage to Mansarovar Yatra, he obtained birth certificate on 08.06.2017 from

the Office of the Sub Registrar, Births and Death, Gurugram from which he learnt that his date of birth was 08.12.1963 and not 01.01.1962. Thereupon, the petitioner got the date of birth in his PAN Card and Aadhar Card corrected and also approached respondent No.3 i.e. the Board of School Education Bhiwani, vide application dated 12.09.2017 for correction of his date of birth in the matriculation certificate where it is recorded as 01.01.1962. The petitioner claims to have sent an application through registered post to the Secretary, Board of School Education Bhiwani, Haryana on 16.09.2017 but the same was refused vide communication Annexure P-4 dated 22.09.2017 on the ground that there was no provision for correcting date of birth in the record of the Board on the basis of certificate issued by the Health Department. The petitioner also claims to have written to respondent Nos.1 and 2 praying for correction of his date of birth in the service records vide letter dated 29.11.2017 and 29.01.2018 Annexure P-5 but to no avail.

4. It is in the aforementioned background that the petitioner has invoked the jurisdiction of this Court for correction of his date of birth so as to read as 08.12.1963 instead of 01.01.1962 in the record of the respondents claiming that otherwise grave prejudice would be caused to him as he would be compelled to retire on 31.12.2019 before reaching his actual age of superannuation.

5. Learned counsel for the petitioner has not referred to any rules or regulations nor is there any mention of any rules and regulations in the writ petition with regard to correction of date of birth, shortly prior to attaining the age of superannuation after having served the employer for close to 25 years.

6. Be that as it may, Hon'ble the Supreme Court in its decision in **Union of India versus Ram Sua Sharma 1996(7) SCC 421** was pleased to hold that the controversy with regard to change of date of birth was no longer res integra and that in a series of judgments, it had been held that a Court or Tribunal cannot entertain a belated claim for correction of the date of birth duly entered in the

service record. In aforementioned case the employee had joined service on 16.12.1962 and after 25 years woken up and claimed that his correct date of birth was 02.01.1939 and not 16.12.1934. The said claim was accepted by the Tribunal and directions were issued to the Government to consider the correction. Hon'ble the Supreme Court was pleased to hold that said directions were per se illegal and accordingly, allowed the appeal filed by the Union of India. Relevant extract of the decision is reproduced as under:

“The controversy raised in this appeal is no longer res integra. In a series of judgments, this Court has held that a court or tribunal at the belated stage cannot entertain a claim for the correction of the date of birth duly entered in the service records. Admittedly, the respondent had joined the service on December 16, 1962. After 25 years, he woke up and claimed that his correct date of birth is January 2, 1939 and not December 16, 1934. That claim was accepted by the Tribunal and it directed the Government to consider the correction. The direction is per se illegal”.

In view of the aforementioned position as noted above as well as decision of Hon'ble the Supreme Court in **Ram Sua Sharma's** case (supra), no interference whatsoever is warranted for directing the respondents to correct the date of birth of the petitioner a few days prior to the retirement in view of his having slept over his rights for a period of close to 25 years after having joined service in the year 1995.

7. The writ petition is bereft of any merit and is accordingly dismissed in limine.

December 13, 2019
ps

(B.S. WALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No

