

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

115

CWP-14006-2021

Decided on : 29.07.2021

Harish Chander

... Petitioner

Versus

State of Haryana & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: Mr.J.S.Chahal, Advocate, for the petitioner.

(The proceedings are being conducted through video conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral):-

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India is for issuance of directions to the respondents to correct the date of birth of the petitioner as 11.11.1965 instead of 15.04.1964 in the service record and in the 8th and 10th certificate, as per the school record of respondents No.5 & 6.

Admittedly, the petitioner joined service as Sanskrit Teacher on 31.10.1995 on ad hoc basis and his services were regularized on 30.10.2003. It is his contention that his date of birth has wrongly been recorded as 15.04.1964 and realization dawned upon him in September,2018, at a family function. It is stated that the petitioner had approached respondent No.3, the Board of School Education, Haryana to obtain the knowledge that his date of birth is 11.11.1965 (Annexure P-3). It is on this basis he is stated to have served legal notice dated 18.01.2021 (Annexure P-6) upon the respondents, a decision of which he now seeks. It is, thus, apparent that in normal circumstances, petitioner would retire on attaining the age of 58 years, on 22.04.2022, as per Clause 143 of the Haryana Civil Services (General) Rules, 2016.

Counsel has relied upon Rule 7.3 of the Punjab Financial Rules, Vol.-I, to claim decision upon the said legal notice.

A perusal of the said rule would go on to show that the date of birth given is to be kept in respect of the Government employee's service once recorded and it cannot be altered except in the case of a clerical error, without

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the previous orders of the Government. As per Annexure-A with the said rule, the date given is to be conclusive unless the employee applies for correction of his age as recorded within 2 years from the date of his entry into Government service and no application submitted beyond that period for change of birth is to be entertained.

Rather the right remains with the Government to make correction in the recorded age of the employee, against the interest of the employee when it is satisfied that the age recorded in his service book or in the history of services of an employee is incorrect and has been incorrectly recorded with the object that the employee may derive some unfair advantage therefrom.

In such circumstances, petitioner's prayer for issuance of directions in the nature of mandamus to consider his case, at this belated stage closer to his date of retirement, cannot be acceded to. The law on this position is clear, as has been laid down in **J.R.Singla Vs. State of Punjab & others 2007 (3) SLR 255, State of Haryana Vs. Satish Kumar Mittal & another 2010 (4) RSJ 795, Punjab & Haryana High Court at Chandigarh Vs. Megh Raj Garg & another 2010(6) SCC 482, State of M.P. Vs. Prem Lal Shrivastava 2011 (9) SCC 664 and Bharat Coking Coal Ltd. Vs. Shyam Kishore Singh 2020 (3) SCC 411.**

Thus, keeping in view the above, in the absence of any legal right available to the petitioner and especially keeping in view the fact that representations have been filed at the fag end of his career, this Court is of the opinion that the present writ petition is misconceived. However, since the case is being dismissed in limine, this Court refrains from imposing exemplary costs upon the petitioner.

In view of the above discussion, the present writ petition is dismissed.

July 29, 2021
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No