

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

CWP NO. 20328 OF 2021

DATE OF DECISION : 06.10.2021

Maman Ram

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM : HON'BLE MR. JUSTICE ARUN MONGA

Present : Mr. L. S. Bhullar, Advocate,
for the petitioner.

Ms. Rajni Gupta, Addl. AG, Haryana.

(Presence marked through video conferencing).

ARUN MONGA, J. (ORAL)

Grievance of the petitioner herein is qua incorrect date of birth recorded in his service record, owing to which he is slated to retire on 31.12.2021, as against his claim of superannuation on 31.07.2024, contending that his date of birth is 01.07.1964, whereas in the service record, it is wrongly recorded as 12.12.1961.

2. On advance service of copy of the petition, learned State counsel joins the proceedings and opposes the issuance of notice of motion on the ground that at the fag end of his career, the petitioner can not permitted to seek correction in his date of birth, having all throughout know about the same. Particularly, in view of his own affidavit given to the

department way back in the year 1997 deposing therein that he is born on 12.12.1961.

3. Confronted with the situation, learned counsel for the petitioner submits that petitioner is an illiterate sweeper and while giving the said affidavit, he was not aware of the contents thereof. It is only now, when the administrative process of his superannuation is underway, that he got to know that his date of birth is wrongly recorded based on his own affidavit. He further argues that at the time of regularisation the department also sought a medical certificate from Civil Surgeon, Panipat wherein it was been opined vide a certificate dated 27.04.2004 (Annexure P-4) that as on 27.04.2004, the petitioner was about 40 years old. Learned State counsel though controverts this contention as well, but submits that even certificate dated 27.04.2004 was also to the knowledge of the petitioner 17 years ago and yet, he did not take any steps for correction of the service records. Even otherwise, she submits that certificate is not a conclusive proof and in any case, same is required when there is no service record available with the department.

4. Learned State counsel submits that concededly the petitioner himself had given an affidavit in the year 1997 deposing his date of year as 1997 at the time of initial induction in the department. Such a recourse of giving affidavit was permissible at the relevant time. She further submits that subsequently vide Rule 8 (3) Note 2 of the Haryana Civil Service (General) Rules, 2016, it was made mandatory that every employee should give a conclusive proof of his date of birth by Christian Era with conformity documentary evidence such as matriculation certificate, municipal birth certificate or a certificate issued in this regard by an authority competent

under the law and, if a government employee is unable to declare his date of birth with conformity documentary evidence, his age may be known by way of medical examination from the Civil Surgeon. She argues that the medical opinion is to be taken into account only in those cases where age certificate is not submitted by an employee for not having the same for whatever reasons. Therefore, reliance placed by learned counsel for the petitioner on the Rule, *ibidis* totally misplaced. It is since not the case of petitioner that he did not furnish proof of his date of birth at the time of his initial induction, having once given his own affidavit.

5. Be that as it may, it seems that there are disputed questions of facts involved in the case in hand, which cannot be adjudicated on the basis of averments and counter averments and/or affidavits alone. This Court, thus, refrains to interfere under extra ordinary writ jurisdiction.

6. Dismissed. However, the petitioner is at liberty to seek alternative remedy under civil law, as may be available to him, if so advised.

OCTOBER 06, 2021
Shalini

(ARUN MONGA)
JUDGE

Whether speaking/reasoned :	Yes/No
Whether reportable :	Yes/No