

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

**LPA NO.487 of 2022
Decided on: 08.06.2022**

Paramjit Singh

.....Appellant

versus

Punjab State Power Corporation Ltd.
through its CMD and others

.....Respondents

**CORAM HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MR. JUSTICE SANDEEP MOUDGIL**

Present Mr. A.K.Virdi, Advocate for the appellant.

SANDEEP MOUDGIL, J

The present intra-court appeal has arisen against the order dated 25.05.2022, passed by the learned Single Judge, vide which the Civil Writ Petition seeking a writ in the nature of mandamus to record the date of birth of the petitioner as 01.03.1971 in his service book, was dismissed.

Appellant-petitioner also seeks quashing of letter dated 13.07.2015 (Annexure P-2) whereby change in the date of birth of petitioner has been allowed from 01.03.1971 to 03.06.1964, being without jurisdiction and passed by an incompetent authority.

There is a further prayer for issuance of a writ of prohibition restraining the official respondents from processing his retirement case scheduled for 30.06.2022, on the basis of alleged wrong date of birth in the service book.

services as Regular Team Mate (RTM) on 28.08.1989 with the respondent - PSEB/PSPCL with the date of birth recorded as 01.03.1971 at the first entry in the first page of his service book. The said date of birth has been changed to 03.06.1964 on 13.7.2015 resulting in filing of the Civil Writ Petition No.6951 of 2022, which was dismissed by the learned Single Judge.

Learned counsel for the appellant – petitioner submits that it is on the basis of a complaint dated 08.01.2013 submitted by one Ajit Singh being inimical towards the appellant – petitioner, that change in his date of birth has been allowed vide impugned letter dated 13.07.2015 (Annexure P-2) as 03.06.1964 instead of 01.03.1971 in the service book. Action of the official respondents has been assailed being violative of Regulation 2.7, Note I read with Annexure–A of the Main Service Regulations, 1972 (hereinafter referred in short as 'Regulations, 1972'). It is also argued on behalf of the appellant – petitioner that the aforesaid illegality / aberration is not being set right despite various representations dated 10.07.2021 and 18.01.2022, Annexures P-7 and P-4, respectively.

Having heard the learned counsel for the appellant – petitioner and on perusal of the record, it is noticed that prior to change of date of birth, an enquiry was got conducted from the Superintending Engineer, P&M Division, Gurdaspur (Annexure P21). In the said fact finding enquiry report, it is recorded that the appellant–petitioner joined Govt. Elementary School,village Pannwa (Kalanaur Road, Gurdaspur) in Class I on 29.05.1970 and thereafter joined Govt. Elementary School, Jogowal Bedian on 02.08.1976.

The appellant-petitioner finally got admission in Govt. Senior Secondary School, Shahapur, Gauraya, District Gurdaspur, for matriculation in the year

Deputy Chief Engineer (TA&I), Patiala, who examined the same and observed that date of birth of the employee recorded in the records of the Corporation i.e 01.03.1971 is incorrect with the correct date of birth being 03.06.1964. Rectification of the date of birth was recommended, report was accordingly submitted to the Chief Engineer (TA&I), Patiala; legal opinion was sought. Chief Engineer, Distribution Border Zone, Amritsar forwarded the case for approval to the Director Patiala for correction of the date of birth. Approval was accorded and thereafter said Chief Engineer forwarded his report to Director Administration on 24.06.2015. It is relevant to note that order for correction and issuance of charge sheet was passed on 13.07.2015. It is further a matter of record that charge sheet was issued to the petitioner on 09.09.2016 which is duly annexed alongwith the writ petition.

While examining the violation of Regulation 2.7 of Main Service Regulations of 1972, it would be apposite to have a glance on the same which reads as under:-

2.7 'Age' means when a Board employee is required to retire, revert or cease to be on leave on attaining a specified age, the day on which he attains that age is reckoned as a non-working day, and the Board employee must retire, revert, or cease to be on leave (as the case may be) with effect from and including that day.

Note I

Every person newly appointed to a service or a post under Board should at the time of appointment declare the date of his birth by Christian era with confirmatory evidence as far as possible, confirmatory, documentary evidence such as Matriculation Certificate, Municipal birth certificate and so on. If the exact date is not known, an approximate date may be given. The actual date or the assumed date determined under note 2 below should be recorded in the History of Service, Service Book or any other record that may be kept in respect of the Board employee's service under Board and once recorded, it cannot be altered except in the case of a clerical error, without the previous orders of Board. (See also Annexure-A of this Chapter.)

ANNEXURE 'A'***(Referred to in Regulation 2.7 and Note 3 thereunder)***

1. *In regard the date of birth a declaration of age made at the time of or for the purpose of entry into the Board Service shall, as against the Board employee in question, be deemed to be conclusive unless he applies for correction of his age, as recorded within two years from the date of his entry into Board Service. The Board, however, reserves the right to make a correction in the recorded age of a Board employee at any time against the interests of the Board employee when it is satisfied that the age recorded in his service book or in the History of Service of Gazetted Board employee is incorrect and has been incorrectly recorded, with the object that the Board employee may derive some unfair advantage therefrom.*

2. *When a Board employee, within the period allowed, makes an application for correction of birth as recorded, a special enquiry should be held to ascertain his correct age and reference should be made to all available sources of information such as certified copies of entries in the Municipal birth register, University or School age Certificates, Janam Ptries or Horoscopes. It should, however, be remembered that it is entirely discretionary on the part of the sanctioning authority to refuse or grant such application and no alteration should be allowed unless it is satisfactorily been proved that the date of birth as originally given by the applicant was a bonafide mistake and that he has derived no unfair advantage therefrom.*

3. *The result of every such enquiry should, in the case of Gazetted/Non Gazetted Board employees be briefly stated in their service cards, service books and if a correction is sanctioned, the fact should be reported to the Chief Accounts Officer.”*

A bare reading of the aforesaid provisions makes it abundantly clear that a person should declare his birth of birth with confirmatory evidence at the time of appointment. Such declaration of age made at the time of or for the purpose of entry in the Board's service shall be deemed to be conclusive unless he applies for correction of his age. However, Annexure-A of

in the recorded age of a Board employee at any time against the interests of the Board employee when it is satisfied that the age recorded in his service book is incorrect or has been incorrectly recorded, with the intent of deriving undue advantage therefrom.

In the instant case, the appellant-petitioner admittedly did not challenge the finding in the inquiry report neither challenged the rectification in his date of birth carried out in July, 2015. The writ petition was filed with the averments that particulars reflected on the website of the respondent PSPCL show the date of birth of the petitioner to be 01.03.1971 and therefore, entry in his service book should be in line with the said particulars. Perusal of the particulars uploaded on the website attached as Annexure P1 do indicate date of birth of the petitioner to be 01.03.1971, with his wife's date of birth 01.05.1968 with details of date of birth of his children and parents also recorded therein. It is relevant to note that reflection of the date of birth as 01.03.1971 on the portal of the respondent PSPCL cannot in any manner give a cause of action to the appellant-petitioner to approach the Court for rectification of the date of birth in his service book, rectification of which was carried out way back in 2015.

We find that apart from not having challenged the enquiry report or the findings to the effect that the petitioner-appellant joined Class I in the year 1970 and took admission in the year 1988 in matriculation, stand of the appellant – petitioner to the effect that at the first entry in service on 28.08.1989, matriculation certificate was submitted according to which his date of birth reads as 01.03.1971, is falsified inasmuch as the matriculation certificate (Annexure P-14) bears the date of issuance as 16.10.1989 which is much later to the joining of the service. It is apparent on record that the

appellant–petitioner was not having the matriculation certificate at the time of entry in service on 28.08.1989 and therefore, by no stretch of imagination it can be believed that the date of birth on the basis of matriculation certificate was entered as 01.03.1971.

In the peculiar facts and circumstances of the case, mere reliance on the said matriculation certificate or subsequent documents prepared on the basis of said matriculation certificate can be of no avail to the petitioner at this stage. It has been correctly observed by the learned Single Judge that there is no averment in the petition to rebut the finding in the inquiry and to show that it is vitiated nor any material produced with regard to the date the petitioner joined school or the name of school which he had joined in class I or thereafter.

Therefore, we are unable to accept the plea raised by learned counsel for the appellant–petitioner inasmuch as entries made in the regular course of the affairs in the school record at various levels as recorded by the Superintending Engineer, P&M Division, Gurdaspur would be relevant in the peculiar facts and circumstances of present appeal which carries evidentiary value having presumption of correctness under Section 79 of the Evidence Act, 1872.

Another plea with regard to the competency of the authorities in passing the letter dated 13.07.2015 (Annexure P-2) is concerned, is also totally misplaced inasmuch as the same has been issued only after getting approval of the Director/Administration which is the competent authority. The appellant-petitioner kept mum thereafter for almost six long years in effect accepting the said change in date of birth.

Therefore, we find that the appellant-petitioner has not

petitioner is unable to point out any infirmity or illegality in the view taken by the learned Single Judge which calls for any interference.

No other argument has been addressed.

Appeal being devoid of any merit is accordingly dismissed.

(SANDEEP MOUDGIL)

(LISA GILL)

JUDGE

JUDGE

08.06.2022

mamta

Whether speaking/reasoned	Yes
Whether reportable	Yes