

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

CWP-14563-2016

Reserved on: 10.10.2022

Pronounced on: **20.10.2022**

DARSHAN SINGH

.... Petitioner

Versus

STATE OF PUNJAB & ORS

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Tejinder Pal Singh, Advocate,
for the petitioner.

Mr. Sehajbir Singh Aulakh, AAG, Punjab.

JAISHREE THAKUR.J

1. The present writ petition has been filed under Articles 226/227 of the Constitution of India seeking a writ in the nature of certiorari for setting aside the impugned order dated 16.06.2016 passed by the District Commander, Punjab Home Guard, with a further direction for issuance of a writ in the nature of mandamus to regularize the services of the petitioner who has been working since the last 31 years as well as seeking a direction for his reinstatement as a Home Guard in the respondent department till he has attained the age of superannuation at 58 years.

2. In brief, the facts are that the petitioner joined the Home Guard Department on 05.02.1985. He worked with full satisfaction of the respondent authorities, however, to his utter shock and dismay, he was sought to be retired by impugned order dated 16.06.2016 on attaining the age of 58 years.

3. Learned counsel appearing on behalf of the petitioner would urge that the petitioner in fact was aged about 52 years when he was sought to be retired from the job of a Home Guard. His date of birth is 01.03.1964 and, therefore, should have been allowed to continue till he attained 58 years. It is contended that the petitioner approached respondent No.3 and duly submitted his certificate as issued by the Government Elementary School, Badhson, District Patiala wherein his date of birth is registered as 01.03.1964. It is argued that as per the identity card of the petitioner as issued by respondent No.3, his date of birth is mentioned as 02.03.1966 and if the said date of birth is taken into account, he could not have been retired by the impugned order.

4. Learned State counsel would submit that as per the official record maintained by the department, the date of birth of the petitioner is 01.07.1958 and, therefore, he has been retired on attaining the age of 58 years and there is no infirmity with the order impugned. He would argue that at this belated stage, the petitioner cannot be permitted to have the date of birth changed. It is also submitted that as per the application form for recruitment which is duly signed by the petitioner himself, he has claimed his age to be 28 years at the relevant time. Counsel for the respondent would rely upon judgment rendered in ***CWP No.19437 of 2017, Ram Raj Versus State of Punjab and others, decided on 29.04.2019***, wherein the claim for change of date of birth was dismissed as being hopelessly time-barred.

5. I have heard learned counsel for the petitioner as well as learned State counsel and have perused the order as passed in the case of ***Ram Raj (supra)***.

6. As per the documents attached by the petitioner himself obtained under the RTI Act, the date of birth is 01.07.1958. He was in fact enrolled as a Home Guard on 05.02.1985 on which date he had claimed to be 28 years of age in his application form, which is commensurate with the date of birth being 01.07.1958. The petitioner cannot be permitted to seek a change of his date of birth in these proceedings. As has been held in the judgment rendered in ***Ram Raj's (supra)***, there are no rules governing the service of the petitioner which would entitle him to seek change of date of birth. In case any change of date is sought, he would have to approach the Civil Court and lead evidence in this regard. Consequently, the writ petition is dismissed being devoid of merits.

(JAISHREE THAKUR)
JUDGE

20.10.2022

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