

In the High Court of Punjab and Haryana at Chandigarh

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CWP-9778-2018 (O & M)

Date of Decision: August 23, 2022

DHARAM SINGH

.....PETITIONER

VERSUS

**PUNJAB STATE POWER
CORPORATION LTD AND ORS**

....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. Harvinder Pal Singh Ghuman, Advocate for the petitioner.

Mr. Rishab Gupta, Advocate assisted by
Hardeep Singh, LDC, Nabha Division, PSPCL.

ANUPINDER SINGH GREWAL, J (ORAL)

The petitioner has challenged the order dated 05.03.2018 whereby he has been retired from services on 30.04.2018.

Learned counsel for the petitioner submits that the petitioner had been appointed as Chowkidar on 19.02.1982 and his date of birth had been entered as 01.05.1962 in his service book. The service book was in the custody of the official respondents and it had been tampered with, to the extent that the year 1962 was changed to 1960. He also submits that the respondents had not issued any notice to the petitioner before retiring him from services by changing his date of birth. He has relied upon the various judgments i.e. judgments of this Hon'ble Court passed in CWP-8673-2016 titled as **Jasvir Singh versus Union of India and others** decided on 14.02.2019; **Dr. P.K. Mittal versus State of Punjab and others**, (1982) 2 SLR 267 and **Mohd. Najibul Hassan versus The Board of Governors, Government of Polytechnic Education and others**, (2015) 2 SCT 204; judgment of Rajasthan

High Court in Possa Ram versus State of Rajasthan and others, 1975 (2) SLR 81; judgment of Orissa High Court in Gelli Dei versus Orissa Lift Irrigation Corporation Ltd. and others, 2007 (15) SCT 696; judgments of Allahabad High Court in Smt. Shanti versus State of U.P. and Others, (2005) 2 ESC 1042 and Subhash Chandra versus State of U.P. and Others, (2012) 5 ADJ 517; judgment of Chhattisgarh High Court in WPS No.1979 of 2008 titled as Mohit Ram through LR's versus State of Chhatishgarh and others, decided on 04.01.2019. He further submits that he is also pressing this petition with regard to his other claim for compliance of the judgment of the Supreme Court for payment of consequential benefits as the petitioner had earlier been reinstated after termination. He shall be filing a representation in that regard and respondents be directed to consider and decide the same.

Learned counsel for the respondents while referring to the reply filed by the respondents submits that there was no tampering in the service book. The date of birth as entered originally was 1960, which had been changed to 1962. He has also furnished a copy of the original record including the service book, which has been perused by this Court. The respondents came to know that the original date of birth of the petitioner is 1960 and consequently, conducted an enquiry in the matter and also after receiving the report of the Principal of the School, respondents had served a notice to the petitioner on 18.01.2018 but the petitioner had not responded thereto.

Heard.

The petitioner had joined as Chowkidar on 19.02.1982. The date of birth of the petitioner is stated to have been entered as 01.05.1960 which had been later changed to 1962. I have perused the original service book which

does indicate that the date of birth of the petitioner as entered originally was 01.05.1960 and with a different ink the digit '0' has been changed to '2'. The digit '0' was lower than the digits '196' but with change the digit '2' appears to be of same size as digits '196'. The respondents had conducted an enquiry and have received the report of the Principal of the School where the petitioner had studied. The petitioner had been issued a notice on 18.01.2018 (Annexure R-2/2) wherein reference was made to the communication from Additional Superintending Engineer, Nabha and he was asked to submit any document with regard to his date of birth. The petitioner did not respond to this notice. Therefore, it cannot be said that the change of the date of birth of the petitioner has been effected without complying with the principles of natural justice. The order had been passed retiring the petitioner on attaining the age of 58 years treating the year of birth to be 1960.

The judgments relied upon by the counsel for the petitioner are distinguishable on facts and not applicable to the instant case. In the case of **Jasvir Singh versus Union of India and others (supra)**, the services of the petitioner therein, who was a Constable with BSF had been terminated on account of impersonation of his brother by using his matriculation certificate at the time of appointment. The termination had been set aside on the ground that the order was non-speaking. In **Dr. P.K. Mittal versus State of Punjab and others (supra)**, the impugned order of stoppage of one increment with cumulative effect was a non-speaking order and no reason had been assigned as to why the reply had been rejected. In **Mohd. Najibul Hassan versus The Board of Governors, Government of Polytechnic Education and others (supra)**, the issue was with regard to the counting of past service for retirement

benefits and the impugned order was challenged on the ground that it was non-speaking and cryptic. In **Possa Ram versus State of Rajasthan and others (supra)**, the change had been made in the date of birth of the petitioner therein without affording any opportunity of hearing or any notice to him. While in the instant case, notice had been issued to the petitioner. In **Gelli Dei versus Orissa Lift Irrigation Corporation Ltd. and others (supra)**, the petitioner therein was accused of tampering the service record pertaining to his year of birth which could not be proved by the employer but the petitioner therein had been retired w.e.f. 30.11.1988 instead of 30.11.1997. Therefore, the respondents therein were directed to deposit the entire salary and allowances for this period of 09 years. In **Smt. Shanti versus State of U.P. and Others (supra)**, it was held that the medical certificate issued by CMO was found to be genuine and on the basis of X-ray/opinion of Radiologist, it was concluded that the petitioner was born in 1947 as she was of 45 years of age in the year 1992 and was entitled to continue in service till 2007. In **Subhash Chandra versus State of U.P. and Others (supra)**, no notice has been issued to the petitioner therein before termination of his services and it was established that the fraud had been played by the employer in altering his date of birth. In **Mohit Ram through LRs versus State of Chhatishgarh and others (supra)**, Medical Board had been constituted and difference in age of deceased employee was discovered to be of approximately 10 years in 2013 and it was in such circumstances that the opinion of the Medical Board was relied upon while rejecting the change in the date of birth made by the employer which was clearly subject to overwriting.

In view of the above, I do not find any merit in the petition with regard to the change in the date of birth. The date of birth of the petitioner has been rightly treated as 01.05.1960 and he has been retired accordingly.

The petition stands dismissed.

However, with regard to the claim of the petitioner for the consequential benefits in view of his reinstatement, the petitioner would be at liberty to file representation to respondent No.3, who shall consider and decide the same in accordance with law within a period of four months of its receipt.

(ANUPINDER SINGH GREWAL)
JUDGE

August 23, 2022
A.Kaundal

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