

LPA No. 56 of 2023

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

LPA No.56 of 2023

Date of Reserve: 19.01.2023

Date of Pronouncement: 31.01.2023

Ram Parshad

... Appellant

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

**Present: Mr. Parveen Kumar Garg, Advocate,
for the appellant.**

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 10.01.2023, vide which the writ petition preferred by the appellant has been dismissed.

In brief, the case set out by the appellant has been that he was engaged as Sewerman on muster roll, on 20.08.1984. In the year 1987, while he was still working as a daily wager, the respondents required him to furnish proof as regards his date of birth. For, he did not possess any such document, he submitted his affidavit dated 30.01.1987, which specifically mentioned his date of birth as 12.12.1965. Later, vide order dated 14.07.1995, his services were regularized w.e.f. 01.12.1994. In the month of June/July, 2022, regarding employees, working in Fazilka Division, who were on the verge of retirement, the process for preparation of pension documents was initiated. It was then, for the first time, the appellant learnt

that he was being retired on 31.12.2022, for his date of birth in the service records was recorded as 12.12.1962. The claim of the appellant is that his year of birth (1965), was clearly reflected in his affidavit dated 30.01.1987 (*ibid*), submitted to the authorities, but the same was tampered with. Accordingly, he expressed his concern/grievance to the respondents vide representations dated 28.07.2022 (P-5) and 25.08.2022 (P-7). But, vide orders dated 21.9.2022 (P-9) and 25.11.2022 (P-9/A), his claim was rejected. This is how, as indicated above, he was impelled to approach this Court, vide a writ petition, which has since been dismissed.

We have heard learned counsel for the appellant and perused the record.

Concededly, services of the appellant were regularized as Sewerman, vide order dated 14.07.1995. At the time of regularization of his services, his medical examination was conducted by Chief Medical Officer, Civil Hospital, Abohar, on 01.08.1995. In the medical fitness certificate issued by the authorities, pursuant to the statement of the appellant himself, his age was recorded as 32 years and his date of birth as 12.12.1962. The document was counter-signed by him, and attested by the Medical Officer. Significantly, it is not his case that his statement or the information furnished by him, on the basis of which, the said certificate was drawn, was incorrect or wrongly recorded by the authorities. The records show that even in his service book, on the basis of his medical fitness certificate, his date of birth was recorded as 12.12.1962. And that too was counter-signed by the appellant. There was no other document in his service record that showed his date of birth as 12.12.1965. The grievance of the appellant that his affidavit dated 30.01.1987 (*ibid*), wherein his date of birth was recorded as

12.12.1965, was tampered with, was/is equally misplaced:

“ 1. I solemnly affirm that date of my birth is 12.12.196X (not legible but probably ‘5’) and I was born at Fazilka.”

As observed by the learned Single Judge, a bare analysis of the said document would show that only first three numericals of the year of his birth were typed whereas the last numerical was omitted. It would be apposite to point out that there was nothing on record to indicate, as to how the said affidavit or its photocopy found its way in the service book of the appellant. The case of the authorities has been that no entry as regards submission of the said affidavit was found in the service book of the appellant. Nothing is brought on record by the appellant either to show that the authorities, at any stage, asked for any such affidavit, to lend credence to his version. Further, as per Annexure (A), appended with Rule 2.5 (Chapter-II, Volume-I) of the Punjab Civil Services Rules, a declaration of age made at the time of or for the purpose of entry into Government service shall, as against the Government employee in question, be deemed to be conclusive. Accordingly, the date of birth declared by the appellant at the time of his entry into service on regular basis and recorded in his service book, as 12.12.1962, was treated as final by the authorities throughout his service. We may also point out that in the year 1994, while implementing the Punjab Civil Services (First Amendment) Rules, Volume-I, Part-I, 1994, an opportunity was afforded to the employees to seek a change as regards their date of birth, on the basis any conclusive proof/material, within a period of two years. But that period had also elapsed.

We consider it expedient, in context of the issue involved for

consideration, to even refer to the observations recorded by the Supreme Court in **State of UP Vs. Shiv Narayan Upadhyaya, 2005 (6) SCC 49:-**

“.....As such, unless a clear case on the basis of clinching materials which can be held to be conclusive in nature, is made out by the respondent and that too within a reasonable time as provided in the rules governing the service, the Court or the Tribunal should not issue a direction or make a declaration on the basis of materials which make such claim only plausible.....”

Likewise, the Supreme Court in **Karnataka Rural Infrastructure Development Limited Vs. T.P. Nataraja and others, 2021 (12) SCC 27**, concluded:-

10. Considering the aforesaid decisions of this Court the law on change of date of birth can be summarized as under:

- (i) application for change of date of birth can only be as per the relevant provisions/regulations applicable;***
- (ii) even if there is cogent evidence, the same cannot be claimed as a matter of right;***
- (iii) application can be rejected on the ground of delay and laches also more particularly when it is made at the fag end of service and/or when the employee is about to retire on attaining the age of superannuation.”***

The appellant served the department for nearly three decades, but never questioned the entries regarding his date of birth recorded in his service book. However, he raked up the issue only when he was on the verge of superannuation. In the given circumstances, the Pan Card, Aadhaar Card and the salary certificate, upon which a reliance was sought to be placed by the appellant to support his claim, were inconsequential.

In the wake of the above, we are dissuaded to interfere with the impugned order and judgment rendered by the learned Single Judge. The appeal being bereft of merit is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

31.01.2023
AK Sharma

Whether speaking / reasoned: **YES**
Whether Reportable: **YES/NO**