

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(107)

CM No.4185-C of 2023 in/and
RSA No.562 of 2021 (O&M)
Date of Decision : 01.05.2023

Kashmir Singh

...Appellant

Versus

Battalion Commandant and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Hardik Ahluwalia, Advocate for
Mr. Satish Sabharwal, Advocate
for the petitioner.

Mr. Gurvinder Singh, Assistant Advocate General, Punjab.

Harsimran Singh Sethi J. (Oral)

CM No.4185-C of 2023

The present application has been filed for recalling the order dated 19.04.2023 by which, the present appeal was dismissed for non-prosecution.

Mr. Gurvinder Singh, Assistant Advocate General, Punjab, who is present in the Court, accepts notice on behalf of the respondents and raises no objection for the grant of the prayer as made in the present application.

Keeping in view the averments made in the application, which are duly supported by an affidavit, the same is allowed. The order dated 19.04.2023 is recalled and the appeal is restored to its original number and status.

On oral request of learned counsel for the parties, case is taken up for hearing today.

RSA No.582 of 2021

The present Regular Second Appeal has been filed against the judgment and decree of the Courts below by which, the suit filed by the appellant-plaintiff for correcting his date of birth as 02.01.1963 instead of 14.09.1960 on the basis of documents Annexures A1 to A3 has been dismissed.

Learned counsel for the appellant argues that in the present case, the appellant-plaintiff was recruited in service on 04.09.1985. In the record at the time of entry into service, the date of birth of the appellant-plaintiff was recorded as 14.09.1960. Learned counsel for the appellant submits that the said date of birth was wrongly recorded and was not in the knowledge of the appellant.

Learned counsel for the appellant further submits that the actual date of birth of the appellant-plaintiff is 02.01.1963. Keeping in view the fact that the date of birth of his elder brother Jarnail Singh is 15.10.1960, learned counsel for the appellant submits that there is no dispute qua the date of birth of his elder brother Jarnail Singh, which is recorded as 15.10.1960 hence, it cannot be said that the date of birth of the appellant, who is younger to Jarnail Singh, is 14.09.1960. Hence, the judgments and decrees of the Courts below by which prayer for correction in the date of birth has been declined are liable

On being asked to show the Rule under which the date of birth can be changed after a period of two years of entry into service, learned counsel for the appellant very fairly concedes the factum that under the Rules governing the service in case the date of birth entered into the record, which according to employee is incorrect cannot be changed after expiry of two years of entering into service. That being so, once it is a conceded position that as per the Rules governing the service, no changes in the date of birth can be made in the present case. The appellant-plaintiff was recruited on 04.09.1985, whereas suit for change of date of birth was filed in the year 2018 i.e. approximately after 33 years of entry into the service.

Even otherwise it has already come on record that even on the Pan Card of the appellant-plaintiff, the date of birth has been mentioned as 14.09.1960, which makes it clear that even in the record of other government institutions the same date of birth has been recorded as mentioned in the service record of the appellant. Hence, even as per record given by the appellant to various different government departments, his date of birth has been recorded as 14.09.1960, which cannot be allowed to be changed at the fag end of the service career.

Even otherwise, as per the settled principles of law settled by Hon'ble the Supreme Court in SLP No.14238 of 2022 decided on 17.02.2023, titled as **The General Manager South Eastern Coalfields Ltd. And others Vs. Anivash Kumar Tiwari**, no request for the change of date of birth can be made after a long delay especially towards the end of the career of an employee. Hence, the claim being raised by the appellant is contrary to the settled principles of law settled in **Avinash Kumar Tiwari's case (supra)**.

Keeping in view the above, no ground is made out for interference
by this Court in the present appeal and the same is accordingly dismissed.

May 01, 2023
jt

(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No