

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

261 CWP-16446-2021
Date of Decision: 17.07.2023

VISHWANATH OHRIPetitioner

Versus

STATE OF PUNJAB AND ORS

...Respondents

CORAM:HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: Mr. Shivam Kaushik, Advocate
Mr. G.S. Madan, Advocate for the petitioner.

Ms. Lavanya Paul, DAG, Punjab.

VINOD S. BHARDWAJ, J.(Oral)

Present writ petition has been filed under Article 226/227 of the Constitution of India for seeking issuance of directions to the respondents to decide the legal notice dated 22.11.2017(Annexure P-5) as well as representation dated 31.07.2019 (Annexure P-11).

The petitioner alleged that he is aggrieved of the misuse of power by the respondent No.4, who was posted as a Commandant-cum-Deputy Director at PAP, Jalandhar and committed cheating with the department by concealing material facts regarding his date of birth. It was alleged that respondent No.4 had been appointed as Constable with Punjab Police on 25.09.1990 and was posted at Police Lines, Ropar. The date of birth at the time of his appointment as depicted was 21.12.1968.

Being a player of Judo, respondent No.4 was promoted to the rank of Assistant Sub Inspector on ad-hoc basis by the Deputy Inspector General of Police, Patiala, Range on 09.10.1990 and was subsequently granted further promotions. It has been averred that at the time of seeking his passport, respondent No.4 mentioned his date

of birth as 21.12.1974 and has travelled abroad on the said passport and participated in various sports competition and obtained the benefit of promotion in the department, notwithstanding that his date of birth as per the police record was 21.12.1968. If the date of birth as per the passport was to be seen, the respondent No.4 was less than 16 years of age as on the date when he served his appointment in Punjab Police. Similarly, if his age at the time of joining is seen, his sports achievements are based on misrepresentation about his age.

On becoming aware of the aforesaid discrepancies in submission of the documents, the petitioner issued legal notice to various authorities. The said representation/legal notice was considered by the Ministry of Home Affairs Government of India, and competent authority was directed to take action thereupon. However, instead of taking action against respondent No.4, they started harassing the petitioner, who was implicated in various false criminal cases including FIR No. 53 registered at Police Station Sadar, Hoshiarpur, which was compromised and was eventually quashed on 23.08.2018.

While the representation/legal notice dated 22.11.2017 was not being decided by the authorities, the respondent No.4 started building pressure on the petitioner to withdraw the said complaint and got him implicated in yet another FIR No.3 dated 04.01.2019 at Police Station Sadar, Hoshiarpur.

The petitioner thereafter, submitted a representation to the Director General of Police on 31.07.2019. However, despite numerous visits no action has been taken on the same, whereupon the present petition has been filed.

Reply by way of affidavit of Akhil Chaudhary, IPS, Assistant Inspector General Personnel-2, Punjab had been filed, wherein it has been averred that inquiry into the allegations was conducted through Smt. Vibhu Raj , IPS, IGP, Provisioning Punjab. The relevant extract of the said reply reads as under:

3. That it be that as it may be an inquiry into this allegations was conducted through Smt. Vibhu Raj, IPS, IGP, Provisioning, Punjab, The Inquiry Officer had mentioned in her report that information about it was received from Regional Passport Officer, who reported vide letter No. 2070820800217/POJ/PV-ACC dated 04.12.2019 that as per Passport No. E-937984 dated 04.01.1989, date of birth was mentioned as 21.12.1974. The report of Passport Officer further reveals that on 13.07.2012 Sh. Naresh Kumar Dogra appeared before the Passport Officer with a copy of original certificate of matriculation and certificate issued by the Commissioner of Police, Jalandhar mentioning the date of birth of Sh. Dogra as 21.12.1968, surrendered the passport and requested to issue the new passport mentioning the correct of date of birth as 21.12.1968. The Regional Passport Officer Jalandhar considering the request of the officer under the provision of Passport Act, 1967 imposed penalty of Rs. 10000/ upon Sh. Dogra and issued new passport No. Z-3729613 describing 21.12.1968 date of birth. Inquiry Officer further added that record from RPO Jalandhar was also sought on the basis of which old passport with the date of birth as 21.12.1974 was got issued. In this regard, RPO, Jalandhar had informed vide said letter that since the old records stand destroyed, as such same record could not be made available. From the above mentioned facts, it is evident that the respondent No 4 had very much earlier got made the new passport with correct

date of birth, whereas the petitioner had sent legal notice dated 27.11.2017 in year, 2017.

4. That it is submitted that inquiry into the allegations leveled by the petitioner was got conducted through IGP, Provisioning, Punjab and the Inquiry Officer had not proved allegations against Sh. Naresh Dogra, PPS. Further, after considering the report of Inquiry Officer, the State Govt. (Home Deptt) had filed the legal notice-cum-complaint against Sh. Naresh Dogra, PPS vide No 02/50/2019-1H1/586 dated 05.03.2020. A copy of memo No. 02/50/2019-1H1/586 dated 05.03.2020 is annexed as Annexure R/3

It is evident from a perusal of the above said reply that the date of birth as recorded with the regional passport officer was 21.12.1974 and then the same was surrendered by respondent NO.4 and a passport mentioning correct date of birth as 21.12.1968 was got issued. A penalty of Rs.10,000/- was also imposed by the Regional Passport Officer, Jalandhar on respondent No.4. The inquiry officer sought details with respect to the basis on which the old passport with the date of birth as 21.12.1974 was got issued. Response of the Regional Passport Officer, Jalandhar stated that the old record stands destroyed and was hence not available.

Since penalty with respect to issuance of passport on a wrong date of birth has already been imposed by the Regional Passport Officer, Jalandhar, it would not be for this Court to reopen the said order imposing penalty more so when there is no challenge to the same. Even though the said reply had been filed in January, 2022, no rejoinder/replication has been filed by the petitioner even after 1 ½ years thereof. To the said aspect, the matter has seemingly attained finality.

In view of the above, the present petition is accordingly

disposed of at this stage, to the extent whereby action was to be taken qua securing passport mentioning wrong date of birth, liberty is however granted to the petitioner to approach the concerned authorities with any such evidence as he may obtain against respondent No.4 for having committed any forgery/cheating or having served benefit of appointment/promotion on the strength of sports quota/sports achievements based on sports participation by showing himself as underage.

Needless to mention that in the event of such a representation being submitted, the respondents shall take appropriate steps in accordance with law after conducting a proper enquiry.

[VINOD S. BHARDWAJ]
JUDGE

July 17, 2023
rashmi

Whether speaking/reasoned	Yes/no
Whether reportable?	Yes/no