

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

CWP No. 15384 of 2022 (O&M)

Date of decision : January 16, 2023

Jaswant Singh

..... Petitioner

Versus

Punjab State Power Corporation and others

..... Respondent

CORAM : HON'BLE MR.JUSTICE PANKAJ JAIN

Present :- Mr. R. K. Arora, Advocate
for the petitioner.

Mr. Shiv Sharma, Advocate
for respondent Nos. 1 to 4.

PANKAJ JAIN, J. (ORAL)

CM-28-2023

This is an application under Section 151 CPC read with Article 226
of the Constitution of India for issuance of directions to the respondents in
continuation of order dated 28.09.2022.

The writ petition is taken up for hearing today itself.

CM-30-2023

This is an application for placing on record copies of the letters dated
11.10.2022 as Annexure P-15 and P-16.

The application is allowed. Annexure P-15 and P-16 is taken on record.

CWP No. 15384 of 2022

The petitioner has preferred present petition under Article 226/227 of the Constitution of India seeking writ in the nature of mandamus/certiorari in the form of directions for quashing the impugned order dated 28.06.2022 (Annexure P-12).

Written statement on behalf of respondent Nos. 1 to 4 has been filed in Court. The same is taken on record.

On 28.9.2022 the following order was passed:-

“In pursuance to the previous order of this Court, Mr. Davinder Sharma, Chief Engineer, PSPCL, North Zone, Jalandhar and Mr. Sumeet Dhawan, Senior Executive Engineer are present in Court. They have produced the service book of the petitioner which does indicate the date of birth as 15.06.1964 but at the same time, it is mentioned that the date of birth has been recorded as per the school certificate which is attached with the service book. A photocopy of the school certificate has been attached with the service book which indicates that the date of birth of the petitioner is 06.04.1967. The petitioner has also furnished a copy of the original certificate issued on 12.01.1985 wherein it is stated that the petitioner had studied in the Government High School, Nandpur Kalaur, District Patiala for about 10 months.

Learned counsel for the petitioner submits that this certificate had been verified by the Punjab School Education Board. The petitioner is an illiterate person and was working as an Assistant Lineman.

Learned counsel for the respondents submits that there were inadvertent errors in the reply and he would be filing a fresh reply. He may file reply before the next date of hearing with an advance copy to the learned counsel for the petitioner.

List on 09.11.2022.

In the meantime, the respondents shall also verify the date of birth from the school where the petitioner is stated to have studied.

The personal appearance of Mr. Davinder Sharma, Chief

Engineer, PSPCL, North Zone, Jalandhar and Mr. Sumeet Dhawan, Senior Executive Engineer is dispensed with.”

On 9.1.2023, none appeared on behalf of the respondent-Corporation and the matter was adjourned to today. Today written statement on behalf of respondent Nos. 1 to 4 has been filed wherein the factual assertion made by the petitioner in the writ petition with respect to his date of birth as 6.4.1967 has been verified to be correct from the School record. However, respondent-Corporation has placed reliance upon Regulation 2.7. 1972 Vol. 1 Part 1 which reads as under:-

" 1. In regard to the date of birth a declaration of age made at the time of or for the purpose of entry into the board service shall, as against the board employee in question, be deemed to be conclusive unless he applies for correction of his age as recorded within two years from the date of his entry into board service. The Board, however, reserves the right to make a correction in the recorded age of a Board employee at any time against the interests of the Board employee when it is satisfied that the age recorded in his service book or in the History of service of Gazetted Board employee is incorrect and has been incorrectly recorded with the object that the Board employee may derive some unfair advantage therefrom.

2. When a Board employee, within the period allowed, makes an application for correction of birth as recorded, a special enquiry should be held to ascertain his correct age and reference should be made to all available sources of information such as certified copies of entries in the Municipal birth register, University or School Age Certificate, Janam Ptries or Horoscopes. It should, however, be remembered that it is entirely discretionary on the part of the sanctioning authority to refuse or grant such application and no alteration should be allowed unless it is satisfactorily been proved that the date of birth as originally given by the applicant was a bonafide mistake and that he has derived no unfair advantage therefrom.

3. The result of every such enquiry should, in the case of Gazetted/Non-Gazetted Board employees be briefly stated in their service cards, service books and if a correction is sanctioned, the fact should be reported to the Chief Accounts Officer.”

On a pointed query put to him as to what is the source of the information filled in the service book, he submits that the same as per the service book in original item No. 8 reads as under”

“ D.O.B. verified from School certificate 15.6.1964.”

Ordinarily the writ Court ought not have ventured into question related to correction of date of birth of an employee. However, in view of the fact that the service book itself reads that date of birth has been verified from the school record and the respondents were directed to re-verify the same. As a result of verification the assertion of the petitioner has been found to be correct. It has been stated in reply to the application that date of birth of the petitioner as per the school record has been indeed found to be 1967 and not 1964, this court finds that the present writ petition merits acceptance. Reliance upon Regulation 2.7. in such circumstances would not be of any help to the respondent-Corporation. The source sought to be relied in light of Regulation 2.7 i.e service book itself is based upon the record of the school. Entry in service book has been found to be incorrect as per school record. Verification was conducted by none else but by the respondent-Corporation itself.

Since the impugned order dated 28.6.2022 (Annexure P-12) has been passed taking the date of birth of the petitioner to be 15.6.1964 which has been

found to be factually incorrect, the same is ordered to be set aside. As the date of birth of the petitioner has been verified by the respondent-Corporation from the School to be 06.04.1967, he is deemed to be in service. So far as the salary for the intervening period is concerned the same is declined on the principle of 'No work No pay'. However, for all other notional benefits, for the intervening period from the date of relieving of the petitioner in the light of order dated 28.6.2022 the petitioner shall be considered to be in service.

Ordered accordingly,

The writ petition stands disposed off.

Since the main writ petition has been disposed off, application, if any shall also stand disposed off.

(PANKAJ JAIN)
JUDGE

January 16, 2023
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Whether speaking/reasoned	Yes
Whether Reportable :	No