

CWP-27845-2018

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IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

(106)

CWP-27845-2018

Date of decision : 22.05.2023

Shyamwati

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present:- Mr. Sachin Gupta (Ladwa), Advocate
for the petitioner.

Mr. Pankaj Middha, Additional Advocate General, Haryana
for the respondents.

...

SUVIR SEHGAL, J (ORAL)

1. Petitioner has sought a writ for commanding the respondents to allow her to continue to work with the Department till she attains the age of retirement by treating her to be born in the year 1966.

2. Petitioner has been working as a part-time Sweeper in the Department of Ayurveda since October 1988. By referring to the Aadhar Card, Annexure P-1, and Certificate dated 03.07.2012 issued by the Civil Surgeon, Palwal, Annexure P-2, it has been submitted that the petitioner was born in the year 1966 and will attain the age of superannuation on completion of 60 years in the year 2026. However, respondents have terminated her from service in 2018.

3. Upon notice, a short reply has been filed on behalf of the

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respondents, wherein, it has been submitted that the petitioner had given her date of birth as 03.07.1957, when she joined service, but later by an affidavit dated 27.06.2012, Annexure R-3/2, she deposed that her date of birth is 04.06.1960. It is further submitted that she has given a Birth Certificate dated 25.08.2017, Annexure R-3/1, after her termination to claim that her date of birth is 10.12.1966.

4. Heard counsel for the parties.

5. Pursuant to interim order passed by this Court, petitioner is continuing in service. Although, record shows that the petitioner has given different dates of birth at different stages, but it cannot be disputed that she has produced a Birth Certificate, Annexure R-3/1, which has been issued under Section 12 of the Registration of Births and Deaths Act, 1969 (for short “the 1969 Act”). A Division Bench of this Court in ***Resham Singh Versus Union of India and others, 2008 (1) RCR (7) 131***, has held that a Birth Certificate issued by the Registrar of Births and Deaths, reflects an entry extracted from the register maintained by the Registrar under the 1969 Act and a presumption of truth is attached to such a Certificate. It has been held that the Birth Certificate issued under the Act has to be given primacy over any other document reflecting the date of birth. Similar view has been taken by the High Court of Delhi in ***Sunita Sawhney Versus Union of India, {WP(C) No.10839 of 2015}***, decided on 03.12.2015}. In view of the clear enunciation of law, this Court has no hesitation to come to the conclusion that her date of birth as is reflected from the Birth Certificate, Annexure R-3/1, has to be accepted.

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6. As a result, a direction is issued to the respondents to permit the petitioner to discharge duties on the post on the basis of the date as is shown in the Birth Certificate, Annexure R-3/1. However, in case, it is found that the Birth Certificate, Annexure R-3/1, is a forged or fabricated document or is cancelled by the competent authority, the respondents shall be at liberty to take action in accordance with law.

7. Writ petition is disposed of with the above direction.

(SUVIR SEHGAL)
JUDGE

22.05.2023
Pardeep

Whether Speaking/Reasoned	Yes
Whether Reportable	Yes