

**RSA-2987-2001 (O&M)****-1-**

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

**RSA-2987-2001 (O&M)
Date of Decision: 19.11.2024**

Mohinder Singh Malik

.....Appellant

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Ankur Sheoran, Advocate for
Mr. Samrat Malik, Advocate,
for the appellant.

Mr. Harish Nain, AAG, Haryana,
for the respondents.

SUDEEPTI SHARMA J.

1. The present appeal has been preferred by the appellant/plaintiff against the judgment and decree dated 08.12.1998 passed by learned Civil Judge (Junior Division), Sonapat (hereinafter referred to as 'trial Court'), whereby his suit was dismissed as well as the judgment and decree dated 13.03.2001 passed by learned Additional District Judge, Sonapat (hereinafter referred to as 'First Appellate Court'), whereby the appeal filed against the aforesaid judgment and decree dated 08.12.1998, was also dismissed.

2. The facts in brief are that the appellant/plaintiff was an employee of Haryana State. In the service record of the appellant/plaintiff, his date of birth was entered as 10.11.1946, which is based on his

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matriculation certificate. As per pleadings, in the record maintained by Chief Medical Officer (for short, CMO), Rohtak, the name of the appellant/plaintiff was wrongly entered by the concerned Chowkidar as Joginder Singh son of Dhan Singh son of Amin Lal, resident of Pipli Khera, Tehsil and District Sonapat, in place of Mohinder Singh Malik, which was the correct name of the appellant/plaintiff. Appellant/plaintiff moved an application before the District Magistrate, Rohtak, for the correction of the same in the birth register maintained by the CMO's office, Rohtak. The District Magistrate ordered the CMO, Rohtak for correction of the name of the appellant in the birth register as Mohinder Singh Malik instead of Joginder Singh. Then he moved an application before the Registrar, Punjab University, Chandigarh for making necessary correction in the date of birth in the matriculation certificate, but the application of the appellant/plaintiff was declined and thus, the appellant/plaintiff submitted the matriculation examination certificate at the time of his recruitment as Assistant Sub-Inspector in police, in which, his date of birth was entered as 10.11.1946, whereas, he requested the respondents/defendants to treat his date of birth as 14.09.1949. Therefore, he filed a civil suit, which was dismissed by the learned trial Court, vide its judgment and decree dated 08.12.1998. The appeal filed against the said order was also dismissed by the learned First Appellate Court, vide its judgment and decree dated 13.03.2001. Hence, the present regular second appeal.

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3. Learned counsel for the appellant contends that both the courts i.e. learned trial Court as well as learned First Appellate Court have dismissed the suit as well as appeal filed by the appellant without appreciating evidence on record and on the ground of delay and latches.

4. *Per contra*, learned counsel for the respondents submits that the civil suit as well as appeal filed by the appellant have rightly been dismissed by the learned trial Court as well as learned First Appellate Court. He relied upon the judgments of Hon'ble Supreme Court passed in **Punjab & Haryana High Court at Chandigarh Vs. Megh Raj Garg and another, 2010(6) SCC 482** and **The General Manager, M/s Barsua Iron Ore Mines Vs. The Vice President United Mines Mazdoor Union and Ors., 2024 AIR Supreme Court 2527**. Therefore, he prays that the present appeal be dismissed.

5. I have heard the learned counsel for the parties and perused the whole record of the case in hand.

6. A perusal of the record shows that the appellant himself had written his date of birth as 10.11.1946 in his character, service role while joining his service. Ex.D4 is matriculation certificate of the appellant, wherein his date of birth has been shown as 10.11.1946. As per the averments in the civil suit, the name of the appellant in the record of the District Magistrate, Rohtak, was corrected on 05.06.1968, wherein the date of birth was also written. Therefore, on 05.06.1968 itself, the appellant was

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aware about his date of birth to be written as 10.11.1946. The appellant passed his matriculation examination in the year 1963 from the Punjab University, Chandigarh, and his name in birth record maintained by CMO's office was corrected and he also moved an application to the Registrar, Punjab University, Chandigarh, for making a necessary correction, but his application was declined. The application moved by him to the department was dismissed on the ground of delay and laches. He filed CWP No.10721 of 1989 in this Court, which was also dismissed and after expiry of 22 years, the suit for correction of his date of birth was filed. The appellant was appointed as a Sub-Inspector. He himself filled his date of birth as 10.11.1946 while joining the service. He is a literate person and cannot be believed that he did not come to know about his date of birth and regarding his right to get it corrected within the reasonable period. A perusal of the record further shows that the appellant passed his matriculation examination in the year 1963 and joined the service in the year 1971 and at the time of joining, he himself had written his date of birth to be 10.11.1946 and he got the job on the basis of that date of birth certificate. For the first time, he made a representation to the department in the year 1983 i.e. after the expiry of 12 years after joining his service. In 1968, when his name was corrected in the birth certificate, then he was aware that his date of birth was mentioned as 10.11.1946. Even at that point of time, he did not filed any civil suit for correction of his date of birth. For the first time, he approached

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this Court in the year 1989 by filing Civil Writ Petition, which was dismissed with the observation to approach the Civil Court.

7. Hon'ble the Supreme Court in **Megh Raj Garg's case** (supra) held that being a law graduate, respondent-judicial officer must have been aware of the date of birth recorded in his matriculation certificate. He would have immediately after joining the service made an application to the university for change of his date of birth recorded in matriculation certificate. He waited for more than ten years after entering into service and submitted application to university for effecting change in the date of birth. It is further held that he applied for change of date of birth recorded in his service book much beyond the time limit of two years specified in the rule. Therefore, the Apex Court held that the High Court or the State Government did not have power, jurisdiction or authority to entertain such representation made by respondent after more than twelve years of entering into service. Hon'ble the Supreme Court.

8. In **The General Manager, M/s Barsua Iron Ore Mines's case** (supra), Hon'ble the Supreme Court held that respondent initially declared his date of birth on the basis of which, he got employment, cannot seek change of date of birth belatedly. Principles of estoppel would come into play.

9. In view of the above, I do not find any infirmity in the judgment and decree dated 08.12.1998 passed by learned trial Court as well as the

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judgment and decree dated 13.03.2001 passed by learned First Appellate Court, therefore, the same are upheld. The present appeal is hereby dismissed. Parties are left to bear their own costs.

10. Decree sheet be drawn.

11. Pending applications, if any, also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

19.11.2024
Virrendra

Whether speaking/non-speaking : Speaking
Whether reportable : Yes/No