

**RSA-4486-2004 (O&M)****-1-**

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

RSA-4486-2004 (O&M)**Date of Decision: 19.11.2024**

Dr. Bhoop Singh

.....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 29.04.2004 passed by learned Civil Judge (Junior Division), Bhiwani (hereinafter referred to as 'trial Court'), whereby his suit was dismissed as well as the judgment and decree dated 27.09.2004 passed by learned District Judge, Bhiwani (hereinafter referred to as 'First Appellate Court'), whereby the appeal filed against the aforesaid judgment and decree dated 29.04.2004, was also dismissed.

2. The facts in brief are that the appellant/plaintiff joined his services as Lecturer in the Government College, Bhiwani. He passed middle class in April, 1963 and his date of birth was recorded as 08.05.1946 and it

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continued to be recorded as 08.05.1946 upto higher classes as well as in his service record. As alleged by the appellant/plaintiff in the civil suit that in the year 1999, when he was 53 years of age, he traced out a record of his birth from the office of the Additional District Registrar-cum-Birth and Death, District Health Officer, Bhiwani and his actual date of birth was found to be 11.08.1948. Accordingly, he made representation to the respondent-authorities to rectify his date of birth in school, college and service record, but the same was rejected. Therefore, he filed civil suit, which was dismissed vide judgment and decree dated 29.04.2004.

3. Aggrieved against the said judgment and decree, he filed an appeal, which was also dismissed vide judgment and decree dated 27.09.2004. Hence, the present regular second appeal.

4. Learned counsel for the appellant contends that the learned trial Court as well as learned First Appellate Court did not take into consideration the evidence on record while dismissing the civil suit as well as appeal filed by the appellant.

5. *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**

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AIR Supreme Court 2527. Therefore, he prays that the present appeal be dismissed.

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

7. A perusal of the record shows that the appellant applied for correction of date of birth after a long period after entering into service of about 21-22 years. He joined the government service on 01.09.1982 and as per Rule 7.3 of the Punjab Financial Rules, Volume-1, the declaration of age, at the time of or for the purpose of entering into government service, shall be deemed to be conclusive, unless he applied for correction of his date of birth within two years from the date of his entry into government service. Whereas in the present case, the appellant did not approach the respondent-department within two years and he was to retire in May, 2004 after attaining the age of superannuation and he filed a civil suit in the year 2002, which shows that he filed the civil suit at the fag end of his career, which is not permissible as per above referred to rules as well as the latest law as laid down by Hon'ble the Supreme Court.

8. In **Megh Raj Garg's case** (supra), Hon'ble the Supreme Court 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

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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.

9. 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.

10. In view of the above, I do not find any infirmity in the judgment and decree dated 29.04.2004 passed by learned trial Court as well as the judgment and decree dated 27.09.2004 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.

11. Decree sheet be drawn.

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

(SUDEEPTI SHARMA)
JUDGE

19.11.2024

Virrendra

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