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

**CWP-12942-2021
Date of Decision: 08.11.2024**

Suresh Kumar

..... Petitioner

Versus

Haryana State Co-operative Supply and Marketing Federation Limited and
another

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Anurag Goyal, Advocate,
for the petitioner.

Mr. Padamkant Dwivedi, Advocate,
for respondent No.1-Federation.

Ms. Vasundhra Asija Bhandari, Advocate for
Mr. P.S. Chauhan, Advocate,
for respondent No.2.

JASGURPREET SINGH PURI, J. (ORAL)

1. The present writ petition has been filed under Article 226 of the Constitution of India for issuance of a writ in the nature of *certiorari* for quashing the impugned observations of the respondent-Federation in the Noting Sheets dated 28.03.2019 and 02.04.2019 (Annexure P-13) wherein the claim of the petitioner with regards to change in his Date of Birth in the Service Record has been denied and further for quashing of the Rejection Order (Annexure P-8) dated 30.11.2010 which has been passed on the basis of instructions issued by the Government, whereas the valid and genuine claim of the petitioner is permitted under the Punjab Financial Volume I



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(Haryana First Amendment) Rules, 2000 and Punjab Financial Volume I (Haryana First Amendment) Rules, 2001 with further prayer in the nature of *mandamus* directing the respondents to amend the Date of Birth in the Service Record of the petitioner from 01.04.1969 to 07.10.1971 in view of the various grounds and documents mentioned in the present writ petition or in alternate to hold a proper enquiry as envisaged in the Statutory Rules, 2001 (Annexure P-10).

2. Learned counsel for the petitioner submitted that it is a case where the petitioner had filed a civil suit for declaration which was decreed in his favour vide Annexure P-3 on 18.01.2010 whereby the following order was passed:-

“5. Therefore, suit of the plaintiff is decreed exparte passing declaration to the effect that date of birth of plaintiff is 7.10.1971 and entry of his date of birth mentioned as 1.4.1969 in his school record maintained by defendant no.2 is not correct and as a consequence thereof plaintiff is also entitled for Decree of mandatory Injunction to direct defendant no.2 to make correction in his Matriculation Certificate Ex.P-3 and other relevant record within a period of 2 months from the date of Decree. No order as to costs. Decree Sheet be drawn accordingly. File after due compliance be consigned to the record room.”

3. Learned counsel for the petitioner further submitted that the aforesaid suit was filed against the General Public and the Board of School Education, Haryana was respondent No.2. He submitted that immediately thereafter, the Board of School Education Haryana had complied with the aforesaid decree by issuance of a certificate to the petitioner vide Annexure

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P-4 in which the rectified date of birth i.e. 07.10.1971 in accordance with decree was sent to the petitioner and in this way the Board of School Education, Haryana complied with the decree as aforesaid. However, when a request was made to respondent No.1 for correcting the aforesaid change in the Service Book, the same was declined by respondent No.1-Federation without following the procedure and by passing an unreasoned and cryptic order which is an impugned order vide Annexure P-8. While referring to the aforesaid impugned order, learned counsel submitted that the claim of the petitioner has been declined with one stroke of a pen by just stating that on the basis of Government Instructions, the same has been rejected.

4. Learned counsel for the petitioner submitted that even otherwise also as per the Government Instructions, the same are governed by the Punjab Financial Rules Volume-I as applicable to the State of Haryana and Chapter-VII of the aforesaid Rules is pertaining to pay, allowances etc. and it also pertains to the date of birth wherein in Note-3 it has been so provided that for administrative instructions in respect of alterations in the date of birth, Annexure-A of the Chapter is to be seen and as per Annexure-A in Para No.3 an elaborate procedure has been provided but the procedure was not adopted by respondent No.1-Federation especially in view of the fact that there was a decree which was passed by a Competent Court having jurisdiction and which had also attained the finality and in this way the impugned order (Annexure P-8) is liable to be set aside in this regard.

5. On the other hand, Mr. Padamkant Dwivedi, learned counsel for respondent No.1-Federation submitted that so far as the argument raised by the learned counsel for the petitioner that the impugned order (Annexure P-



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8) is an unreasoned order is concerned, the same is a matter of record. However, he submitted that the claim of the petitioner was rejected on the basis of the Government Instructions. He also submitted that the petitioner has filed the present petition with an inordinate delay because the decree was passed in the year 2010 and the impugned order was also passed in the year 2010 whereas the present petition has been filed in the year 2021.

6. Learned counsel appearing on behalf of respondent No.2 submitted that in pursuance of the decree passed by the Court as aforesaid, the necessary correction was carried out.

7. I have heard the learned counsels for the parties.

8. The issue involved in the present case is that the petitioner is claiming change in date of birth. The petitioner earlier filed a civil suit for declaration which was decreed vide Annexure P-3 and a direction was issued to the Board to correct the date of birth and the Board immediately implemented the decree and the date of birth was corrected. When the petitioner made an application to respondent No.1-Federation vide Annexure P-7, the same was rejected vide impugned order (Annexure P-8). A perusal of the impugned order (Annexure P-8) would show that the claim of the petitioner has been rejected with a one stroke of pen just by stating that it is not in accordance with the Government Instructions. However, it is not backed by even a single reason nor such instructions are referred. It is a settled law that every order either purely administrative or *quasi judicial* order, has to be backed by reasons because the reasons are always the soul of the order. Such kind of order passed by respondent No.1-Federation which is not backed by reasons cannot be sustained under any circumstance. Not only



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this, as per the learned counsel for the petitioner the case of the petitioner is even supported by the Instructions and he has referred to the same as above, but nothing has been so stated in the order itself.

9. So far as the argument raised by the learned counsel for respondent No.1-Federation that the petitioner has filed the present petition with a delay of about 10 years is concerned, the same is also not sustainable in view of the fact that vide Annexure P-13, respondent No.1-Federation has been continuously dealing with the aforesaid issue till the year 2019 and the present petition has been filed in the year 2021. Even otherwise also, such an objection of delay cannot be sustained in view of the fact that once a decree has been passed by a Competent Court and the fact that the order which was passed by respondent No.1-Federation was absolutely unreasoned and cryptic order, the same has to be set aside on this ground alone.

10. In view of the aforesaid facts and circumstances, the present petition is allowed. The impugned order (Annexure P-8) being *ex facie* unreasoned order is hereby set aside. Respondent No.1-Federation is directed to pass a fresh speaking order in accordance with law after giving an adequate opportunity of hearing to the petitioner or his counsel within a period of four months from today and also after taking into consideration the decree passed vide Annexure P-3 and the Rules which are applicable in the present case.

08.11.2024

Bhumika

(JASGURPREET SINGH PURI)

JUDGE

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |