

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARHSr. No.108LPA-2368-2024Date of decision : 26.09.2024

Multan Singh Mehla

..... Appellant

Versus

State of Haryana and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
 HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present : Mr.Gaurav Tyagi, Advocate, for the appellant.

* * * * *

DEEPAK SIBAL, J. (Oral)

1. The appellant served the Kaithal Cooperative Sugar Mills Ltd., (for short, the mill) as a Head Time Keeper. On 06.08.2020, on attaining the age of 60 years, he was retired from service. Such retirement was questioned by the appellant on the basis of a decree of the civil court dated 01.04.2014 wherein his date of birth had been declared to be 01.12.1961 instead of 07.08.1960. The mill rejected the appellant's claim on the ground that in the said decree it had specifically been directed that the appellant could not take any retirement benefit of the change in his date of birth so ordered through the decree.

2. The appellant challenged the rejection of his claim by the mill through filing of a petition before this Court which was dismissed by a learned Single Judge on 30.10.2020. The appellant assailed the order dated 30.10.2020 through an intra court appeal being LPA-896-2020 which was withdrawn with liberty to the appellant to file an application seeking review of the judgment impugned by him. In terms of the liberty granted he then filed an application seeking review of the judgment dated 30.10.2020 which application was dismissed on 24.07.2024. The judgment of the learned Single Judge dated 30.10.2020 and the order dated 24.07.2024 are the subject matter of challenge through the instant intra court appeal.

3. Learned counsel for the appellant has been heard.



4. The appellant served the mill as a Head Time Keeper. As per the records being maintained by the mill, his date of birth was 07.08.1960. Therefore, on attaining the age of 60 years, on 06.08.2020, the mill retired him from service. The appellant questioned his retirement as according to him his date of birth was 01.12.1961 and therefore, he should have continued in service till 30.11.2021. He based his claim on a decree of the civil court dated 01.04.2014, the operative part of which is reproduced below for ready reference: -

“Keeping in view the birth certificate Ex.PA, it is held that actual date of birth of plaintiff is 01.12.1961 has been incorrectly mentioned in Ex.PB Matriculation Examination Certificate issued by defendant-board and therefore, necessary correction is liable to be made and the present suit, thus, deserves to be decreed as prayed for.

In the light of discussion above, present suit for declaration is hereby ex-parte decreed as prayed for with no order as to costs. Defendant board is directed to make necessary corrections in its record. However, it is made clear that plaintiff cannot take retirement benefit of this decree in any job.”

(emphasis supplied)

5. A reading of the afore quoted portion of the decree reveals that through the same the appellant’s date of birth had been declared to be 01.12.1961 but such declaration came with a rider that the appellant could not take benefit of the declared change in his date of birth to claim any retirement benefit in his job. Thus, the decree, which attained finality, carved out an exception to the benefit granted through the same and that would include the change in the date of the appellant’s retirement.

6. In the light of the above, we find no error in the impugned judgment and order.

7. Dismissed.

[DEEPAK SIBAL]
JUDGE

26.09.2024
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[DEEPAK MANCHANDA]
JUDGE

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No