

CWP-14378-2024
CWP-15371-2025

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2025:PHHC:162916



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1. CWP-14378-2024 (O&M)

Punjab Mandi Board

... Petitioner

Vs.

State of Punjab and others

... Respondents

2. CWP-15371-2025 (O&M)

Jagroop Singh

... Petitioner

Vs.

Punjab Mandi Board and others

... Respondents

Reserved on: 10.11.2025
Pronounced on: 21.11.2025
Uploaded on: 21.11.2025

Whether only the operative part of the judgment is pronounced ? No
Whether full judgment is pronounced ? Yes

CORAM: HON'BLE MR. JUSTICE HARPREET SINGH BRAR

Present: Mr. K.S. Sidhu, Sr. Advocate with
Mr. Praagbir Singh Dhindsa, Advocate
for the petitioner (in CWP-14378-2024).

Mr. F.S. Dhillon, Advocate
for the petitioner (in CWP-15371-2025) and
for respondent No.3 (in CWP-14378-2024).



Mr. Vikas Sonak, AAG, Punjab.

Mr. Vikas Chatrath, Sr. Advocate with
Ms. Priya Kaushik, Advocate,
Ms. Haridhi Aggarwal, Advocate
for the respondent-Mandi Board (in CWP-15371-2025).

Mr. Deepak Sabharwal, Advocate and
Mr. Gurnoor S. Sandhu, Advocate
for respondent No.3 (in CWP-15371-2025).

HARPREET SINGH BRAR, J.

1. This common order shall dispose of the aforementioned two writ petitions, as they arise from a similar factual matrix. The petitioner-Board in **CWP-14378-2024** seeks a writ in the nature of *certiorari* for quashing of the order dated 01.12.2023 (Annexure P-19) passed by respondent No.2 (Additional Secretary, Agriculture and Farmers Welfare Department, Punjab), whereby the revision petition filed by respondent No.3-Jagroop Singh was allowed directing the correction of his date of birth in the service record from 01.01.1966 to 15.01.1968 and the order dated 27.12.2023 (Annexure P-20) passed by respondent No.2, whereby the review application filed by the petitioner-Board against the order dated 01.12.2023 was dismissed.

2. Petitioner-Jagroop Singh, in **CWP-15371-2025**, seeks a writ in the nature of *certiorari* for quashing of chargesheet dated 20.03.2025 (Annexure P-1 in CWP-15371-2025) issued against him by the respondent-Board.

FACTUAL BACKGROUND

3. Briefly stated, the genesis of this litigation lies in the dispute



regarding the recorded date of birth of Jagroop Singh, who is respondent No.3 in CWP-14378-2024 and petitioner in CWP-15371-2025. He was initially appointed as Clerk on *ad hoc* basis for 89 days vide office order No.756 dated 08.04.1992 (Annexure P-1 in CWP-14378-2024) and joined his duties on 16.04.1992. At the time of joining, he submitted his matriculation certificate (Annexure P-2), issued on 01.10.1984, in which his date of birth is recorded as 01.01.1966. This date was also consistently declared by him in the proforma for police verification dated 27.05.1992 (Annexure P-3). His services were regularized w.e.f. 02.05.1994 vide office order No.1338 dated 18.09.1994 (Annexure P-4) and he was later promoted, ultimately holding the position of Secretary, Market Committee, Dhariwal.

4. As per the petitioner-Board, respondent No.3 vide application dated 23.08.1996 (Annexure P-5), for the very first time, sought correction of his date of birth in the service record from 01.01.1966 to 15.01.1968. This application was based on a Birth Certificate dated 13.08.1996 (Annexure P-6) issued by the Additional District Registrar, Birth and Death, Gurdaspur. The petitioner-Board, vide its letter dated 19.09.1996 (Annexure P-7), directed respondent No.3 to first get the correction made in his matriculation certificate from the Punjab School Education Board. However, on 14.08.1999, he served a legal notice (Annexure P-8), reiterating his request for correction. The Board rejected his prayer vide letter dated 25.07.2000 (Annexure P-9).

5. The above rejection triggered a long and protracted legal battle. Respondent No.3 filed a revision petition (termed as an appeal) under Section



42 of the Punjab Agricultural Produce Markets Act, 1961 (for short 'Act of 1961') before respondent No.2 being revisional authority. However, instead of deciding the matter on merits, respondent No.1 issued a letter dated 10.04.2002 (Annexure P-11/T) to the petitioner-Board, directing it to take appropriate action. Consequently, the petitioner-Board issued a letter dated 02.05.2002 (Annexure P-12/T) stating that the request of respondent No.3 for correction of his date of birth had already been rejected vide communication dated 25.07.2000 (Annexure P-9) and he had been duly informed regarding the same.

6. Over the next two decades, from 2002 to 2021, respondent No.3 made a series of repeated representations, legal notices and applications (Annexures P-13 to P-18) seeking the same relief. These included requests for a 'No Objection Certificate' to approach the Education Board. All these representations were consistently rejected by the Board on the ground of being time-barred under the Punjab Civil Services Rules, Volume-I, Part-I (for short 'PCS Rules'), which had been adopted by the Board. On 26.10.2021, the Board passed a fresh order (Annexure P-18/T) again rejecting his request primarily on the ground that the application was not filed within the period of two years from the date of coming into force of Annexure-A of Rule 2.5 of PCS Rules, Vol. 1, Part 1. The relevant portion of the order dated 26.10.2021 (Annexure P-18/T) is reproduced as under:

“On the subject cited above and the letter under reference, it is written that you are working in the Board for the last 29 years and as per Annexure-A of Rule 2.5 of The Punjab Civil Services Rules



(Volume 1), Part-1 you were to submit your application for correction in the date of your birth along with documentary proof within a period of two years from the date of coming into force of the said Rules. Therefore, the application submitted by you after consideration is consigned to records. You are also instructed to refrain from unnecessary correspondence with this office.”

7. Challenging the order dated 26.10.2021 (Annexure P-18/T) and all previous rejections, respondent No.3 filed a revision petition under Section 42 of Act of 1961 before respondent No.2. Respondent No.3 contended before the revisional authority that the Punjab Civil Services (First Amendment) Rules, Volume I, Part I, 1994 (for short ‘1994 Amendment’) (referred to as ‘Government notification’ in the revisional order) came into force on 22.06.1994. Under this amendment, employees already in service on the date of its commencement could seek correction of date of birth within two years from the date of coming into effect the amended rules. He argued that his first application for correction of date of birth had been submitted on 06.05.1994 (Annexure P-4 in CWP-15371-2025), which was already pending consideration, when 1994 Amendment came into force and was, therefore, well within the prescribed limitation period of two years. However, the petitioner-Board’s consistent stand was that it never received this application.

8. To resolve the disputed factum regarding receipt of application (Annexure P-4 in CWP-15371-2025), the revisional authority summoned the original dispatch register/diary from the District Mandi Officer, Gurdaspur (for short ‘DMO’). The then DMO Kuljit Singh appeared before the revisional



authority on 30.11.2023 and made a statement (Annexure P-14 in CWP-15371-2025) confirming that the application dated 06.05.1994 was sent to the Head Office via registered post. Furthermore, during pendency of the revision petition, Jagroop Singh was asked to submit the copies of original birth certificates so as to get verified from the concerned department. Accordingly, the revisional authority found that Additional District Registrar, Births and Deaths, Gurdaspur had verified the genuineness of the birth certificates showing the date of birth as 15.01.1968. (Annexures P-12 and P-13 in CWP-15371-2025). In light of the aforesaid, the revision was allowed vide impugned order dated 01.12.2023 (Annexure P-19 in CWP-14378-2024) and the Board was directed to correct the date of birth to 15.01.1968. The Board's review application filed against the order dated 01.12.2023 (Annexure P-19 in CWP-14378-2024) was also dismissed vide order dated 27.12.2023 (Annexure P-20).

9. Aggrieved by the aforementioned orders, the petitioner-Board filed CWP-14378-2024 before this Court. During pendency of the aforesaid writ petition, the Board issued a chargesheet dated 20.03.2025 (Annexure P-1 in CWP-15371-2025) against respondent No.3-Jagroop Singh. The chargesheet levels allegations of forgery and tampering with official records (specifically 1992 and 1994 records and the dispatch register) and fabricating documents (including the application dated 06.05.1994) to secure an undue extension of service. Challenging this chargesheet, Jagroop Singh has approached this Court by way of filing CWP-15371-2025.

CONTENTIONS



10. Learned counsel for the petitioner-Board, *inter alia*, contends that the impugned order dated 01.12.2023 (Annexure P-19) is patently illegal and violates the express provisions of Rule 2.5 of PCS Rules, Volume-I, Part-I. It is further contended that the date of birth declared by an employee at the time of entry into government service is deemed conclusive and the Rules permit an employee to apply for a change of date of birth only within a period of two years from the date of coming into force of 1994 Amendment, i.e., within two years from 22.06.1994. His first application on record was made only on 23.08.1996, which was beyond the stipulated period of two years. Therefore, all his applications were rightly rejected as time-barred. Reliance has been placed on a judgment of the Division Bench of this Court in ***Dhani Ram Chaudhary Vs. State of Haryana, 2005 (1) SCT 571*** and judgment of the Hon'ble Supreme Court in ***Union of India Vs. Harnam Singh, (1993) 2 SCC 162***, to contend that a request for correction of date of birth must be made by the employee within the period of limitation prescribed in the relevant service rules; consequently, any delay in seeking such correction bars the relief.

11. Learned counsel vehemently disputed the existence and authenticity of the application dated 06.05.1994. It was contended that this application is a totally false and forged document. The Board's record do not show its receipt and it was never entered in the Receipt Register. The entry in the Dispatch Register maintained in the office of DMO, Gurdaspur, is manipulated and fictitious. It was argued that respondent No.3, who was working as an Assistant and later as Senior Assistant in that very office, had



control over the record and tampered with it. The entry was made as the last entry on a page and the word 'Registered' was written against a different entry, making the entire entry doubtful.

12. Further, learned counsel for the petitioner-Board challenged the veracity of the Birth Certificates produced by respondent No.3. It was contended that the Birth Certificate dated 13.08.1996 (Annexure P-6) records name of mother of respondent No.3 as Malkiat Kaur. However, a subsequent Birth Certificate issued on 22.06.2021 (Annexure P-21) records his mother's name as Gurmeet Kaur. This fundamental contradiction in a vital particular renders both certificates untrustworthy and no reliance can be placed on them. Learned counsel stressed that several other official documents of respondent No.3 consistently affirm his date of birth as 01.01.1966, which was ignored by the revisional authority. These include his Aadhaar Card (Annexure P-22), Passport (Annexure P-23) and official Identity Card (Annexure P-24).

13. It was argued that it is a well settled principle of law that a date of birth cannot be changed at the fag-end of an employee's career. Respondent No.3 was due to retire on 31.12.2023 and the impugned order (Annexure P-19) was passed on 01.12.2023, granting him an unmerited extension of two years. Reliance in this regard is placed on judgment of the Hon'ble Supreme Court in ***State of Maharashtra Vs. Gorakhnath Sitaram Kamble, (2010) 14 SCC 423.***

14. Learned counsel further contended that first revision petition was dismissed as far back as in the year 2002. Therefore, second revision petition filed decades later was not maintainable in law and the revisional authority



committed a grave illegality in entertaining it. Moreover, the order dated 27.12.2023 (Annexure P-20), dismissing the review application filed by the petitioner-Board, was cryptic and non-speaking, failing to deal with any of the substantive grounds raised by the Board.

15. *Per contra*, learned counsel for respondent No.3, *inter alia*, contended that the application for correction was submitted on 06.05.1994. This application was already pending consideration before the petitioner-Board when 1994 Amendment came into force on 22.06.1994 and was, therefore, well within the prescribed two years' limitation period. The Board's inaction on this application for years cannot be used to the detriment of an employee.

16. It was submitted that the revisional authority's order is based on a meticulous verification process. The Board itself got the Birth Certificates verified from the issuing authority, i.e., the Registrar of Births and Deaths, who certified it as genuine. This finding of fact, based on verification by the competent authority, cannot be challenged in writ jurisdiction. Furthermore, the original record (dispatch register) was summoned by the revisional authority. The then DMO, Gurdaspur, the official custodian of the record, produced it and gave a statement confirming that the application was sent. The Board, being the custodian of this record, cannot now disown it.

17. Learned counsel vehemently argued that the present writ petition filed by the Board is not maintainable, as it raises seriously disputed questions of fact regarding the authenticity of application and the Birth Certificates. Reliance was placed on a judgment of the Division Bench of Chhattisgarh



High Court in *M/s Sai Info Services Vs. State of Chhattisgarh and others, 2025 NCCGHC 24239*, wherein the Court, after relying on the judgments of the Hon'ble Supreme Court, has held that where disputed questions of fact are involved, the High Court should not exercise its writ jurisdiction under Article 226 of the Constitution of India. Rather, the proper remedy in such cases is to file a civil suit.

18. Furthermore, it was argued that the petitioner-Board has not demonstrated any jurisdictional error, perversity, or violation of principles of natural justice in the impugned order passed by the revisional authority. In the absence of such grounds, this Court, in exercise of its writ jurisdiction, cannot sit in appeal over the findings of fact duly recorded by the competent revisional authority. Reliance in this regard is placed on the judgment of the Hon'ble Supreme Court in *Municipal Council, Neemuch Vs. Mahadeo Real Estate & Ors., (2019) 10 SCC 738*.

19. Moreover, learned counsel submitted that the chargesheet dated 20.03.2025 (Annexure P-1 in CWP-15371-2025) is a blatant example of *malafides* and a colourable exercise of power. It has been issued with the sole intent to harass respondent No.3 and to nullify the effect of the statutory order dated 01.12.2023 (Annexure P-19). It was argued that the chargesheet has been issued despite the Board being estopped from raising allegations of having forged documents by way of issuing chargesheet, having earlier relinquished this ground by neither raising such objection nor contesting it before the competent authority while the revision petition was being heard on the same



cause. All relevant objections, including allegations of forgery or tampering of records, stood deemed to have been raised and rejected in the proceedings before the revisional authority. Therefore, it was submitted that initiation of the departmental proceedings on the same cause of action is without jurisdiction, hit by the principles of *res judicata* and estoppel and represents a *malafide* attempt to frustrate and circumvent the findings of a quasi-judicial/statutory authority. Reliance was placed on the judgment of the Hon'ble Supreme Court in ***State of Punjab Vs. V.K. Khanna, 2001 (1) SCT 933***, to contend that where the element of malice or *malafide* is apparent and the inquiry would be a mere farce, the Court is justified in quashing the chargesheet at the threshold to avoid harassment.

20. Learned counsel further submitted that the chargesheet was issued under pressure and as an act of vengeance. The then DMO Kuljit Singh was punished for his statement before the revisional authority (Annexure P-14). He then, to save his own skin, concocted a story against respondent No.3. He had refused to resign voluntarily as per his old date of birth, which led to this vindictive action. It was also brought to the notice of this Court that said Kuljit Singh was punished by the department vide order dated 05.03.2025, in which one increment without cumulative effect was stopped. Subsequently, vide order dated 15.05.2025, he has been reverted from the post of District Mandi Officer to the post of Deputy District Mandi Officer. Furthermore, it was argued that the Board, in the absence of any formal order or subsisting stay on the operation of the impugned order of the Additional Secretary, has arbitrarily and



without authority withheld the salary of respondent No.3 from August 2024 onwards, even while he continued to perform the duties of Secretary, Market Committee.

21. In reply, learned counsel for Punjab Mandi Board submitted that a mere chargesheet or show-cause notice does not give rise to any cause of action, as it does not amount to an adverse order affecting the rights of a party, unless it is issued by an authority lacking in inherent jurisdiction. It was asserted that in the present case, the jurisdiction of the competent authority to issue the chargesheet is not disputed, therefore, the invocation of extraordinary writ jurisdiction, at this nascent stage, is premature and impermissible. Reliance in this regard was placed on the judgments of the Hon'ble Supreme Court in *Union of India Vs. Kunisetty Satyanarayana, (2006) 12 SCC 28*, and *Secretary, Ministry of Defence Vs. Prabhash Chandra Mirdha, (2012) 11 SCC 565*. Furthermore, it was argued the chargesheet dated 20.03.2025 (Annexure P-1 in CWP-15371-2025) contains allegations of an exceptionally grave and serious nature, which must be thoroughly investigated through a full-fledged departmental enquiry.

OBSERVATION & ANALYSIS

CWP-14378-2024

22. I have heard learned counsel for the parties and perused the record of the cases with their able assistance.

23 Rule 2.5 of PCS Rules, Vol. 1, Part 1, as it presently stands, reads as follows:



“2.5. Age.—The day on which a Government employee retires or is retired or is discharged or is allowed to resign from service as the case may be, shall be treated as his last working day. The date of death shall also be treated as working day:

Provided that in the case of a Government employee who is retired prematurely or who retires voluntarily under sub-rule (1) or sub-rule (2) of rule 3 of the Punjab Civil Services (Premature Retirement) Rules, 1975, as the case may be, the date of retirement shall be treated as a non working day.

*Note 1.—Every person newly appointed to a service or a post under Government should at the time of appointment, be asked to produce birth certificate issued by the Registrar, Birth and Deaths, and in the absence of such a certificate, he should furnish either an attested copy of Matriculation Certificate or an affidavit in proof of correctness of the date of birth. **The actual date or the assumed date determined under Note 2 below should be recorded in the History of Service, Service Book, or any other record that may be kept in respect of the Government Employee's service under Government and once recorded, it cannot be altered except in the case of clerical error, without the previous orders of Government (see also Annexure 'A' to this Chapter).***

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Note 3.—The date of birth given by an employee, in his application form, submitted to a recruiting agency viz., the Punjab Public Service Commission or the Punjab Subordinate Services Selection Board or the Departmental Selection Committee as the case may be, shall be treated as final and no change in it shall be allowed after entry into Government service.



For administrative instructions in respect of alterations in the date of birth, see Annexure 'A' to this Chapter.

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ANNEXURE 'A'

(Referred to in Rule 2.5 and Note 3 thereunder)

1. In regard to the date of birth, a declaration of age made at the time of or for the purpose of entry into Government service shall, as against the Government employee in question, be deemed to be conclusive. The employees already in the service of the Government of Punjab on the date of coming into force of the Punjab Civil Services (First Amendment) Rules, Volume-I, Part-I, 1994, may apply for the change of date of birth within a period of two years from the coming into force of these rules on the basis of confirmatory documentary evidence such as Matriculation Certificate or Municipal Birth Certificate, etc. No request for the change of date of birth shall be entertained after the expiry of the said period of two years. Government, however reserves the right to make a correction in the recorded age of a Government employee at any time against the interests of the Government employees when it is satisfied that the age recorded in his service book or in the History of service of a Gazetted Government employee is incorrect and has been incorrectly recorded with the object that the Government employee may derive some unfair advantage therefrom.

2. When a Government employee, within the period allowed, makes an application for the correction of his date of birth as recorded a special enquiry should be held to ascertain his



correct age and reference should be made to all available sources of information such as Certified Copies of entries in the municipal birth register, University or School age Certificate, Janam Patris or horoscopes. It should, however, be remembered that it is entirely discretionary on the part of the sanctioning authority to refuse or grant such application and no alteration should be allowed unless it has satisfactorily been proved that the date of birth as originally given by the applicant was a bonafide mistake and that he has derived no unfair advantage therefrom.

3. The result of every such enquiry should, in the case of gazetted, non-gazetted Government employees be briefly stated in their service cards, service books and if a correction is sanctioned, the fact should be reported to the Accountant-General.”

(Emphasis supplied)

24. The revisional authority, upon examining the original record and statement of the then DMO, Gurdaspur (Annexure P-14 in CWP-15371-2025), categorically held that an application dated 06.05.1994 for correction of date of birth had, in fact, been submitted by respondent No.3 and forwarded to the Secretary, Punjab Mandi Board by registered post. This application was already pending consideration when 1994 Amendment came into force and was, therefore, well within the prescribed two years' limitation period. The authenticity of respondent No.3's birth certificate was also duly verified by the Additional District Registrar, Births and Deaths, Gurdaspur. In light of these findings, the revision was allowed and the petitioner-Board was directed to



modify the date of birth of respondent No.3 to 15.01.1968, as recorded in the certificate issued by the Registrar, Births and Deaths, Gurdaspur.

25. This Court is of the considered view that it is well settled that the powers under Article 226 of the Constitution of India are to be exercised only where the findings recorded by an authority are arbitrary, suffer from procedural illegality, or disclose manifest prejudice. This Court cannot re-appreciate the matter on merits and substitute the conclusion drawn by the concerned authority with its own. Tritely, a High Court cannot sit in appeal with respect to the decision arrived. As such, this Court must confine itself to ensuring that the findings rendered are justified by the material available on record and the proceedings were conducted in compliance with the prescribed procedure as well as the principles of natural justice.

26. A two-Judge Bench of the Hon'ble Supreme Court in ***South Indian Bank Ltd. Vs. Naveen Mathew Philip, (2023) 17 SCC 311***, speaking through Justice M.M. Sundresh, has observed as follows:

“13. A writ of certiorari is to be issued over a decision when the court finds that the process does not conform to the law or statute. In other words, courts are not expected to substitute themselves with the decision-making authority while finding fault with the process along with the reasons assigned. Such a writ is not expected to be issued to remedy all violations. When a tribunal is constituted, it is expected to go into the issues of fact and law, including a statutory violation. A question as to whether such a violation would be over a mandatory prescription as against a discretionary one is primarily within the domain of the



Tribunal. So also, the issue governing waiver, acquiescence, and estoppel. We wish to place reliance on the decision of this Court in Hari Vishnu Kamath v. Syed Ahmad Ishaque [Hari Vishnu Kamath v. Syed Ahmad Ishaque, (1954) 2 SCC 881 : (1955) 1 SCR 1104] : (SCC pp. 898-900, paras 24-27):

“24. Then the question is whether there are proper grounds for the issue of certiorari in the present case. There was considerable argument before us as to the character and scope of the writ of certiorari and the conditions under which it could be issued. The question has been considered by this Court in Parry & Co. Ltd. v. Commercial Employees' Assn. [Parry & Co. Ltd. v. Commercial Employees' Assn., (1952) 1 SCC 449] , G. Veerappa Pillai v. Raman & Raman Ltd. [G. Veerappa Pillai v. Raman & Raman Ltd., (1952) 1 SCC 334] , Ebrahim Aboobakar v. Custodian of Evacuee Property [Ebrahim Aboobakar v. Custodian of Evacuee Property, (1952) 1 SCC 798] and quite recently in T.C. Basappa v. T. Nagappa [T.C. Basappa v. T. Nagappa, (1954) 1 SCC 905] . On these authorities, the following propositions may be taken as established:

24.1. Certiorari will be issued for correcting errors of jurisdiction, as when an inferior court or Tribunal acts without jurisdiction or in excess of it, or fails to exercise it.

24.2. Certiorari will also be issued when the Court or Tribunal acts illegally in the exercise of its undoubted jurisdiction, as when it decides without giving an opportunity to the parties to be heard, or violates the principles of natural justice.

24.3. The Court issuing a writ of certiorari acts in



exercise of a supervisory and not appellate jurisdiction. One consequence of this is that the Court will not review findings of fact reached by the inferior court or Tribunal, even if they be erroneous. This is on the principle that a Court which has jurisdiction over a subject-matter has jurisdiction to decide wrong as well as right, and when the legislature does not choose to confer a right of appeal against that decision, it would be defeating its purpose and policy, if a superior court were to rehear the case on the evidence, and substitute its own findings in certiorari. These propositions are well-settled and are not in dispute...

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...The position was thus summed up by Morris, L.J. : (R. case [R. v. Northumberland Compensation Appeal Tribunal, ex p Shaw, (1952) 1 KB 338 (CA)] , KB p. 357)

‘It is plain that certiorari will not issue as the cloak of an appeal in disguise. It does not lie in order to bring up an order or decision for rehearing of the issue raised in the proceedings. It exists to correct error of law where revealed on the face of an order or decision, or irregularity, or absence of, or excess of, jurisdiction where shown.’

27. In G. Veerappa Pillai v. Raman & Raman Ltd. [G. Veerappa Pillai v. Raman & Raman Ltd., (1952) 1 SCC 334] , it was observed by this Court that under Article 226 the writ should be issued : (SCC p. 341, para 26)

‘26. ... in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction vested in them, or there is an error apparent on the face of the record....’

In T.C. Basappa v. T. Nagappa [T.C. Basappa v. T. Nagappa, (1954) 1 SCC 905] the law was thus stated : (SCC p. 915, para 11)



‘11. ... An error in the decision or determination itself may also be amenable to a writ of “certiorari” but it must be a manifest error apparent on the face of the proceedings e.g. when it is based on clear ignorance or disregard of the provisions of law. In other words, it is a patent error which can be corrected by “certiorari” but not a mere wrong decision.’

(Emphasis supplied)

27. The revisional authority in the present case has passed a well-reasoned order and the findings recorded therein are neither arbitrary nor tainted by any procedural or jurisdictional irregularity, nor they disclose any manifest error apparent on the face of the proceedings. This Court is satisfied that the conclusions reached are duly supported by the material on record and the proceedings were conducted in accordance with the prescribed procedure as well as the principles of natural justice. Consequently, none of the grounds warranting interference with the impugned order, as noted above, are made out.

28. Furthermore, this Court finds merit in the argument of learned counsel for respondent No.3 that the question of authenticity and genuineness of the Birth certificate and the application dated 06.05.1994 is a disputed question of fact. It is settled law that where disputed questions of facts are involved, a petition under Article 226 of the Constitution of India is not the proper remedy. A two-Judge Bench of the Hon’ble Supreme Court in ***S.P.S. Rathore Vs. State of Haryana, (2005) 10 SCC 1***, speaking through Justice Y.K. Sabharwal, has held as follows:

“16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for



*consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. **The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper.***

The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution.”

(Emphasis supplied)

29. Similarly, a two-Judge Bench of the Hon'ble Supreme Court speaking through Justice Indira Banerjee in ***Shubhas Jain Vs. Rajeshwari Shivam, 2021 SCC Online SC 562***, has held as under:

“26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed questions



of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”

30. Moreover, another two-Judge Bench of the Hon’ble Supreme Court in ***Union of India Vs. Puna Hinda, (2021) 10 SCC 690***, speaking through Justice Hemant Gupta has observed as follows:

“24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. *The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.”*

(Emphasis supplied)

31. Notably, the first revision filed under Section 42 of Act of 1961 before respondent No.2 was not decided on merits. Rather, a letter dated



10.04.2002 (Annexure P-11/T) was issued to the petitioner-Board, directing it to take appropriate action. Relevant portion of the aforesaid letter dated 10.04.2002 is reproduced as under:

“To

*Punjab Government
Department of Agriculture
(Mandi Branch)*

*The Secretary,
Punjab Mandi Board,
Chandigarh.*

*Memo No: 5/38/02.M1/2109
Chandigarh dated: 10.04.2002*

Subject:- Regarding correction of date of birth in the service record of Jagroop Singh, Clerk.

While sending a copy of the notification received on the above subject, it is written that while taking appropriate action on the request, the applicant is informed that a copy of the same should be sent to the Government.”

32. Thereafter, the petitioner-Board issued a letter dated 02.05.2002 (Annexure P-12/T) stating that request of respondent No.3 for correction of his date of birth was ‘consigned to the office’ vide communication dated 25.07.2000 (Annexure P-9) and he had been duly informed regarding the same.

The material portion of the letter dated 02.05.2002 reads as follows:

*“Superintendent Grade-1,
Punjab Government,
Department of Agriculture,
(Mandi Branch),
Chandigarh.*

Subject: Regarding correction of date of birth in the service record



of Jagroop Singh Clerk Gurdaspur.

Reference:- Your memo No.5/38/02-M-1/2109, Dated: 10.04.2002. In respect to the letter received on the subject cited above it is written that Sh. Jagroop Singh, Clerk had earlier given a request to this office regarding the correction of date of birth, which after consideration was consigned to the office, vide letter no.Estt-9/32954 dated 25.07.2000 and has already been informed, vide letter no.Estt.-9/54468 dated 10.10.2001.”

33. It is therefore evident that instead of deciding the first revision on merits, the matter was merely remitted to the petitioner-Board for reconsideration, without passing of any detailed order. It was only upon the filing of the second revision that respondent No.2 undertook a comprehensive examination of the case and rendered a detailed, well-reasoned order dated 01.12.2023 (Annexure P-19) deciding the matter on merits.

34. Moreover, the judgment of the Division Bench of this Court in **Dhani Ram Chaudhary**'s case (*supra*) and the decisions of the Hon'ble Supreme Court in **Harnam Singh**'s case (*supra*) and **Gorakhnath Sitaram Kamble**'s case (*supra*) are distinguishable on facts. In those cases, the applications for correction of date of birth were filed after expiry of the prescribed limitation period. In contrast, in the present case, the revisional authority, upon examining the material on record, found that the application submitted by respondent No.3 for change of date of birth was already pending consideration when 1994 Amendment came into force and was, therefore, well within the limitation period. In **Gorakhnath Sitaram Kamble**'s case (*supra*), the employee working as an Assistant Teacher had applied for correction in



date of birth after 26 years of service. The two-Judge Bench of the Hon'ble Supreme Court, speaking through Justice Dalveer Bhandari held as follows:

“19. These decisions lead to a different dimension of the case that correction at the fag end would be at the cost of large number of employees, therefore, any correction at the fag end must be discouraged by the Court. The relevant portion of the judgment in Secretary and Commissioner, Home Department & Ors. v. R.Kribakaran (surpa) reads as under :

“An application for correction of the date of birth by a public servant cannot be entertained at the fag end of his service. It need not be pointed out that any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years, below him for their respective promotions are affected in this process. Some are likely to suffer irreparable injury, inasmuch as, because of the correction of the date of birth, the officer concerned, continues in office, in some cases for years, within which time many officers who are below him in seniority waiting for their promotion, may lose the promotion forever. According to us, this is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible and before any such direction is issued, the court must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed, and within time fixed by any rule or order. The onus is on the applicant to prove about the wrong recording of his date of birth in his service-book.”

20. In view of the consistent legal position, the impugned



judgment cannot be sustained and even on a plain reading of the Notification and the instructions set out in the preceding paragraphs leads to the conclusion that no application for alteration of date of birth after five years should have been entertained.”

(Emphasis supplied)

35. The Hon’ble Supreme Court in the aforementioned judgment held that an application for correction of date of birth by a public servant cannot be entertained at the fag end of service. However, the extracted passage from the two-Judge Bench decision of the Hon’ble Supreme Court in ***Secretary and Commissioner, Home Department Vs. R. Kirubakaran, 1993(4) SCT 803***, also makes it clear that a change of date of birth may be permitted, where a clear case is made out on the basis of conclusive material and where the Court is fully satisfied that real injustice has occurred and the claim has been made in accordance with the prescribed procedure and within the time stipulated by the applicable rules.

36. In the present case, the revisional authority’s order rests on a meticulous process of verification. Upon examining the material on record, a fair and reasoned conclusion was reached that the application was initially submitted on 06.05.1994 and not at the fag end of service. The claim was thus found to have been made in accordance with the prescribed procedure and within the time stipulated under the applicable rules. This Court does not find any error apparent on the face of the record, therefore, in view of the decision of the Hon’ble Supreme Court in ***Naveen Mathew Philip***’s case (*supra*), no ground is made out for interference with the order passed by the revisional



authority.

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37. A two-Judge Bench of the Hon'ble Supreme Court in *Kunisetty Satyanarayana*'s case (*supra*), speaking through Justice Markandey Katju has observed as follows:

“13. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

14. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

15. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

(Emphasis supplied)

38. Similarly, in *Prabhash Chandra Mirdha*'s case (*supra*), another two-Judge Bench of the Hon'ble Supreme Court has held as follows:

“13. Thus, the law on the issue can be summarised to the effect



that chargesheet cannot generally be a subject matter of challenge as it does not adversely affect the rights of the delinquent unless it is established that the same has been issued by an authority not competent to initiate the disciplinary proceedings. Neither the disciplinary proceedings nor the chargesheet be quashed at an initial stage as it would be a premature stage to deal with the issues. Proceedings are not liable to be quashed on the grounds that proceedings had been initiated at a belated stage or could not be concluded in a reasonable period unless the delay creates prejudice to the delinquent employee. Gravity of alleged misconduct is a relevant factor to be taken into consideration while quashing the proceedings.”

(Emphasis supplied)

39. Further still, it is settled law that judicial review over disciplinary proceedings, though limited, is not altogether excluded. In cases, where the issuance of a charge-sheet is shown to be actuated by malice, *mala fides*, or an improper motive, the very foundation of the inquiry stands vitiated. Likewise, if the authority initiating or conducting the enquiry is so heavily biased or predisposed against the delinquent officer that the proceedings are nothing but an empty formality, where the outcome is a foregone conclusion, such an inquiry cannot be permitted to run its course. In situations of this nature, the process ceases to be a fair or genuine inquiry and degenerates into a mere farcical ritual, aimed only at subjecting the public official to harassment and humiliation. It is precisely to prevent such abuse of process and to safeguard the dignity and fairness owed to a public servant that the Courts have held themselves justified in exercising their jurisdiction at the very inception, thereby interdicting the proceedings at the charge-sheet stage itself. Reference



in this regard may be made to a two Judge Bench decision of the Hon'ble Apex Court in **V.K. Khanna's** case (*supra*). However, the Court has also emphasized that there must be cogent evidence on record to establish that the action is tainted by malice or bias. Mere general or vague assertions are insufficient; there must be at least a substantial possibility of bias for an action to be vitiated. Relevant paragraphs of the judgment of the Hon'ble Supreme Court in **V.K. Khanna's** case (*supra*), speaking through Justice Umesh C. Banerjee, are reproduced as under:

*“5. Whereas fairness is synonymous with reasonableness - bias stands included within the attributes and broader purview of the word 'malice' which in common exception means and implies 'spite' or 'ill will'. **One redeeming feature in the matter of attributing bias or malice and is now well settled that mere general statements will not be sufficient for the purposes of indication of ill will. There must be cogent evidence available on record to come to the conclusion as to whether in fact, there was existing a bias or a mala fide move which results in the miscarriage of justice** (see in this context Kumaon Mandal Vikas Nigam v. Girija Shankar Pant and others, JT 2000 Suppl.II 206). In almost all legal enquiries, 'intention as distinguished from motive is the all important factor' and in common parlance a malicious act stands equated with an intentional act without just case or excuse...*

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xxx

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37. While it is true that justifiability of the charges at this stage of initiating a disciplinary proceeding cannot possibly be delved into by any court pending inquiry but it is equally well settled



that in the event there is an element of malice or mala fide, motive involved in the matter of issue of a charge-sheet, or the concerned authority is so biased that the inquiry would be a mere farcical show and the conclusions are well known then and in that event, law courts are otherwise justified in interfering at the earliest stage so as to avoid the harassment and humiliation of a public official. It is not a question of shielding any misdeed that the Court would be anxious, it is the due process of law which should permeate in the society and in the event of there being any affectation of such process of law, that law courts ought to rise up to the occasion and the High Court in the contextual facts, has delved into the issue on that score. On the basis of the findings no exception can be taken and that has been the precise reason as to why this court dealt with the issue in so great a detail so as to examine the judicial propriety at this stage of the proceedings.”

(Emphasis supplied)

40. In the light of aforementioned judgments, this Court is of the view that the writ petition (CWP-15371-2025) filed by Jagroop Singh challenging the charge-sheet dated 20.03.2025 is premature at this stage. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order, which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is only when a final order imposing some punishment or otherwise adversely affecting the petitioner is passed, he can be said to have any grievance. Furthermore, mere general statements will not be sufficient for the purposes of indication of ill-will or malice. Cogent evidence is not available on record to



come to the conclusion as to whether in fact, there is existing a bias or a *malafide* move, which would result in the miscarriage of justice.

CONCLUSION

41. In view of the foregoing discussion, **CWP-14378-2024** filed by Punjab Mandi Board is dismissed. This Court finds no ground to interfere with the impugned orders dated 01.12.2023 (Annexure P-19) and 27.12.2023 (Annexure P-20).

42. **CWP-15371-2025**, filed by Jagroop Singh, is disposed of in the following terms: -

- (i) No ground has been made out to warrant interference with the chargesheet dated 20.03.2025 (Annexure P-1 in CWP-15371-2025) at this stage. Needless to state, the respondent-Board shall proceed further with respect to the said chargesheet strictly in accordance with law, while affording the petitioner a fair and reasonable opportunity of hearing and ensuring due compliance with the principles of natural justice.
- (ii) The respondent-Board was not justified in withholding the petitioner's salary since August 2024, particularly when he continues to discharge his duties as Secretary, Market Committee, Dhariwal, in the absence of any formal order or communication. Accordingly, the respondent-Board is directed to release the arrears of salary due to the petitioner from August 2024 onwards

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forthwith.

- 43. The pending miscellaneous application(s), if any, shall stand disposed of.
- 44. Photocopy of this order be placed on the file of connected case.

21.11.2025
vishnu

[HARPREET SINGH BRAR]
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No