

2. During the pendency of the present appeal, Dayal Singh son of the appellant moved an application to continue with the present appeal and his prayer was allowed, and he was allowed to be substituted as appellant to continue the appeal, vide order dated 30.04.2024 passed by this Court.

3. As per the story of the prosecution, as noticed by the trial Court in the impugned judgment, DSP Rashpal Singh, Vigilance Bureau, Amritsar, received reliable information that Jagir Singh son of Labh Singh, resident of Village Pohuwind (the appellant), had secured appointment as a Beldar in the Public Works Department, Amritsar, by falsely showing his date of birth as 04.11.1946 instead of 02.01.1940. It was alleged that, as per the admission register of Government Primary School, Marri Kamboke, the appellant had studied there from 27.05.1946 to 31.03.1950 and his date of birth was recorded as 02.01.1940. Further, according to the record of Government School, Mari Megha, he had studied there from 10.04.1950 to 21.09.1953, and the said record also reflected his date of birth as 02.01.1940. It was further alleged that, at the time of seeking employment, the appellant had submitted an affidavit declaring his date of birth as 04.11.1946, despite the school records showing it to be 02.01.1940, thereby furnishing a false affidavit. On the basis of the said information, a criminal case was registered against the appellant, who was thereafter apprehended. During investigation, the relevant records of the aforesaid schools were taken into possession. Upon completion of investigation, the appellant was sent up to face trial under Sections 409, 420, 468 and

471 IPC and Sections 13(1)(d) and 13(2) of the Prevention of Corruption Act. On presentation of the *challan*, copies of the documents, as envisaged under Section 207 Cr.P.C., were supplied to the appellant. Finding a *prima facie* case, the trial Court framed charges against the appellant under Sections 420, 468 and 471 IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act. The charges were read over and explained to the appellant in simple Punjabi language, to which he pleaded not guilty and claimed trial.

4. In order to prove the charge, the prosecution relied upon the testimonies of five witnesses. The prosecution examined Prem Kumar, Senior Assistant in the office of Superintending Engineer, (B&R), Amritsar, who brought the service record of the appellant and proved his service book as Ex. P-1. He stated that the affidavit (Exhibit P-2), which was signed by the appellant, was submitted by him, and in the said affidavit, he had mentioned his date of birth as 04.11.1946. He was appointed as Beldar in the office of Executive Engineer, Bridge Investigation Division on 12.04.1972. The prosecution further examined PW2 Major Singh, Principal Government Senior Secondary School, Marrimgha, Tehsil Patti, District Amritsar, who brought the register containing the date of birth entry of the appellant (Exhibit P-3), and as per the record, the date of birth of the appellant was 02.01.1940. He proved the entry at Serial No. 1032 (Exhibit P-3). The prosecution further examined Tejinder Prabha, Teacher, Elementary School, Marri Kamboke, Tehsil Patti, as PW-3. She stated that the appellant was admitted in the school on 27.05.1946 and he withdrew his schooling on

31.08.1950. As per the entry No. 847 of the school record (Exhibit P-5), the date of birth of the appellant was 2nd January 1940. The prosecution further examined PW-4, Gurmej Singh Gill, Executive Engineer, PWD &BR, Amritsar, who proved the sanction (Exhibit PX), in the present case, which was forwarded by him to the police. He also proved the letters, (Exhibit PX/1 and Exhibit PX/2), whereby the documents of the appellant were sent by the department to the DSP, Vigilance, Amritsar. PW-5, Rachpal Singh, DSP, had proved the *rukka* on the basis of which the formal FIR (Exhibit PW-5/B), was recorded by SI Gurjinder Singh and identified signatures on it. He had also recorded the statements of various prosecution witnesses.

5. After the conclusion of the prosecution evidence, the statement of the appellant was recorded under Section 313 Cr.P.C. and he pleaded his innocence. He stated that his date of birth was in the year 1946 and he had not studied in any school. He was quite illiterate and could only sign in Punjabi. He could not even read and write English, nor he could sign in English, and had been falsely implicated in the present case.

6. To prove his defence, the appellant examined Niranjana Kaur as DW-1, and she had brought the record of the years 1946 to 1954 of Government Elementary School, Village Pohiwind, Tehsil Patti, District Amritsar, and she stated that the school was run even prior to 1947. However, in her cross-examination, she stated that record maintained in the school was brought by her in the Court, but it was not in her hand and the same was in Urdu language. She further admitted that she could

not read or write Urdu. She had joined the school only in the year 1987 as an Assistant Teacher. She was the resident of the same village since 1947 and could not say anything about the location of the school building prior to 1947.

7. Learned counsel for the appellant has vehemently argued that in the present case, the appellant was illiterate and could not sign in English, whereas Ex.. P-2, which is an affidavit allegedly signed by the appellant, is in English. Even, from perusal of the affidavit Ex. P-2, it is apparent that it was signed by the deponent in English. Still further, the prosecution could not lead any evidence to show that the school record produced before the trial Court by PW-2 Major Singh and PW-3 Smt. Tejinder Prabha pertained to the present appellant only. In fact, the appellant never went to any school for any formal education and ultimately the school record was wrongly relied upon by the trial Court to convict him. Still further, the present appellant was resident of village Pohiwind, Tehsil Patti, District Amritsar and as per the testimony of DW-1 Niranjan Kaur, a Government School existed in the village itself even prior to 1947. Consequently, the appellant had no reason to go to different villages to study in different schools and the school record apparently did not pertain to the present appellant. Thus, the present appeal is liable to be accepted by this Court.

8. On the other hand, learned State counsel has vehemently opposed the submissions made by learned counsel for the appellant by submitting that PW1 Prem Kumar, Senior Assistant in the office of S.E. Amritsar, had proved the service record (Exhibit P-1) of the present

appellant. The affidavit (Exhibit P-2), which was duly signed by the appellant, was also exhibited by him and as per the affidavit (Exhibit P-2), the date of birth of the appellant was 04.11.1946.

9. On the other hand, PW2 Major Singh, Principal, and PW3 Smt. Tejinder Prabha, had brought the record from their respective schools and substantiated the plea of the prosecution that the actual date of birth of the appellant was 02.01.1940. Thus, the appellant had forged and fabricated the official record and had worked for six more years and had unlawful pecuniary advantage for himself. Even, the appellant had taken a wrong plea that he was completely illiterate and could only sign in Punjabi. In fact, affidavit (Exhibit P-2) was filed by him before the officials of his department where he served for several years, and the affidavit (Exhibit P-2) was filed before the Court by a competent officer. The said affidavit (Exhibit P-2) clearly proves on record that the present appellant was literate and could sign in English also. Thus, the pleas taken by the appellant before this Court were false, and the appeal deserves to be dismissed by this Court.

10. I have heard learned counsel for the parties and perused the record very carefully.

11. In the present case, the entire prosecution case is based on the affidavit (Exhibit P-2), which was duly sworn and signed by appellant in English on 08.12.1972. In the affidavit (Exhibit P-2), the appellant clearly stated that he was employed as Beldar in PWD&BR in Sub-Division Khem Karan, and his date of birth was 04.11.1946. As per the service record, by relying upon the said birth entry, he served in the

PWD&BR department for several years, and his service record (Exhibit P-1) in this regard, was also produced by PW Prem Kumar, Senior Assistant. During the trial, the appellant tried to set up a case that his date of birth was in the year 1946 and he was not born on 2nd January 1940. However, the said plea raised by the appellant was duly rebutted by the testimonies of PW-2 Major Singh as well as PW-3 Smt. Tejinder Prabha. PW-2 Major Singh, Principal, Government Senior Secondary School, Marringha proved the record (Exhibit P-3) from his school and stated that as per the record, the date of birth of the appellant was 02.01.1940. Even, as per the statement of PW-3 Smt. Tejinder Prabha, Teacher, Government Elementary School, Marri Kamboke, Tehsil Patti, the date of birth of the appellant was 02.01.1940. He was admitted in the school on 27.05.1946, and he withdrew from his school on 31.08.1950. Even she proved the copy of the school record as (Exhibit P-5). Even the appellant could not lead any evidence to rebut the testimony of PW-2 Major Singh and PW-3 Smt. Tejinder Prabha. Even, he could not show that any other person in the name of Jagir Singh had studied in the said schools and not the present appellant. Further, from the school record, it is apparent that his father's name, and the village is mentioned in the service record, tallied with the record of these two schools, and it is conclusively proved that the entries made in the school records pertained to the present appellant only and not to any other person.

12. Still further, the appellant tried to set up a false plea that he was completely illiterate and did not know English and could sign in Punjabi only. However, the service book (Exhibit P-1) of the present

appellant was placed on record by DW-1 Nirranjan Kaur and as per his service record, also, he signed in English only. Even in the affidavit (Exhibit P-2), which was also signed by him in English, his date of birth was mentioned as 04.11.1946. Even, he could not lead any evidence to show that the affidavit was not furnished by him or it did not bear his signatures. Apart from that, the service book (Exhibit P-1), and the affidavit (Exhibit P-2), were filed before the trial Court from the official record of the appellant and were duly proved by PW-1, Prem Kumar, Assistant. Thus, from the prosecution evidence, it amply stood established that the date of birth of the appellant was 02.01.1940, and he had wrongly given his date of birth as 04.11.1946 and he had relied upon the same and got the employment to serve as the department for additional six years. Apart from that, by securing the job on the basis of false information, the appellant had unlawfully obtained pecuniary advantage for himself, to which he was not legally entitled, and thus had committed the offence under the provisions of the Prevention of Corruption Act as well.

13. Thus, the trial Court had rightly convicted him, and the impugned judgement of conviction dated 05.03.2005 passed by the Court of Additional Sessions Judge-cum-Special Judge, Amritsar, is liable to be upheld by this Court. Even otherwise, during the course of arguments, learned counsel for the appellant could not point out any legal irregularity, illegality, or perversity in the impugned judgment. I have also perused the findings recorded by the trial Court and find no reasons to deviate from the same.

14. As a consequence, the impugned judgment of conviction dated 05.03.2005 passed by the Court of Additional Sessions Judge, Special Judge, Amritsar, is ordered to be upheld.

15. Since the appellant has already expired and the appeal is being pursued by his legal representative only, there is no need to pass an order on quantum of sentence. Thus, in view of the above discussion, I find no grounds to interfere with the impugned judgment, and the appeal is ordered to be dismissed.

16. All pending applications, if any, are disposed of, accordingly.

17. The case property, if any, may be dealt with as per the rules.

18. Records of the Court below be sent back.

01.07.2026
amit rana

(N.S.SHEKHAWAT)
JUDGE

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