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Chandigarh

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

220

CWP-11991-2016

Date of Decision : **March 23, 2026**

1.
MURGESON (SINCE DECEASED) THROUGH LRs

.....Petitioners

VERSUS

THE MUNICIPAL CORPORATION CHD AND ORS

.....Respondents

2.

CWP-22785-2016

MADHURI

.....Petitioner

VERSUS

THE MUNICIAPAL CORPORATION CHD AND ORS

.....Respondents

CORAM: HON'BLE MR. JUSTICE DEEPINDER SINGH NALWA

Present : Mr. M.K.Tiwari, Advocate for the petitioner(s).

Mr. Manbir Singh Batth, Advocate
for respondents No. 1 to 4 in CWP-11991-2016.

Mr. Arav Gupta, Advocate
for respondent No.4 in CWP-22785-2016.

DEEPINDER SINGH NALWA, J. (Oral)

1. The issue involved in the present writ petitions is similar, as such, both the writ petitions are taken up together for disposal and the facts are taken from CWP No.11991-2016.

2. In the present writ petition(s), the petitioner(s) has challenged the order dated 16.05.2016 (Annexure P-4) whereby, a memo has been issued to

the petitioner that he will retire on 30.06.2016 on attaining the age of superannuation i.e. sixty years

2. Brief facts of the case are that the petitioner was appointed as Beldar on 01.03.1984 under the UT Administration, Chandigarh. Thereafter the services of the petitioner were transferred to Municipal Corporation, Chandigarh. Taking into consideration the date of birth mentioned in the service book of the petitioner, the petitioner was served with a memo dated 16.05.2016 (Annexure P-4) whereby, the petitioner was to retire upon attaining the age of superannuation i.e. 60 years on 30.06.2016.

3. Aggrieved against the abovesaid memo dated 16.05.2016 (Annexure P-4), the petitioner has filed the present writ petition.

4. Learned counsel appearing on behalf of the petitioner submits that, in light of Annexure P-2, the petitioner was not liable to retire on 30.06.2016. As per the petitioner, the date of birth is 08.06.1956, as such, the date of birth of the petitioner mentioned in the memo dated 16.05.2016 (Annexure P-4) is incorrect. Learned counsel for the petitioner has relied upon Annexure P-2 dated 18.06.1977, i.e. record of the school, wherein, the date of birth of the petitioner is mentioned as 12.07.1967. He submits that, in light of the abovesaid school record, the petitioner is entitled to retire on 31.07.2027. Reliance is placed on the judgment passed by the Hon'ble Supreme Court in "**Bharat Coking Coal Ltd. and others Vs. Chhota Birs Uranw**", 2014(12) SCC 570.

5. Learned counsel appearing on behalf of the respondents submits that the petitioner has approached this Court after a lapse of 32 years. Reliance is placed on the fundamental rules, which as per learned

counsel are applicable in the case of the petitioner as well. As per the rules, an alteration in the date of birth of a Government servant can be made only within 5 years of his appointment into Government service. As there was no request made by the petitioner for alteration in the date of birth within the above mentioned stipulated period, as such, taking into consideration the date of birth of petitioner, the petitioner has rightly been retired from service on attaining the age of 60 years on 30.06.2016. It has also been brought to the notice of this Court that during the pendency of the present writ petition bearing No.CWP-11991-2016, petitioner-Murgeson has expired and the petitioner is being represented through LRs.

6. I have heard the learned counsel for the parties at length.

7. A perusal of the facts of the present case would show that there is no dispute that the petitioner was initially appointed as a Beldar in the year 1984 in the UT Administration, Chandigarh. Thereafter the service of the petitioner was transferred to Municipal Corporation, Chandigarh on 20.05.1996. The relevant notification showing the transfer of the petitioner dated 20.05.1996 is attached as (Annexure P-1) with the present writ petition. As per the notification, the date of birth of the petitioner is mentioned as 08.06.1956.

8. The petitioner has filed the present writ petition after two decades from the date of issuance of notification (Annexure P-1) claiming that the date of birth mentioned in the abovesaid notification is incorrect whereas, the actual date of birth of the petitioner is 12.07.1967 as per the record of the school (Annexure P-2).

9. It is well settled law that an employee cannot ask for a change of

date of birth at the fag end of his career. Reliance is placed upon the judgment passed by the Hon'ble Supreme Court in Civil Appeal No.7415 of 2010 titled as **"State of Haryana Vs. Satish Kumar Mittal and others"**, decided on **07.09.2010**, whereby it was held that the Courts should not entertain the claim of the parties at belated stage and before the period provided in Rules. Relevant extract is reproduced as below:-

"14. As recorded above, it has been held time and again that the application for correction of date of birth is also to be looked into from the point of view of the concerned department and the employees engaged therein. The other employees have expectations of promotion based on seniority and suddenly if such change is permitted; it causes prejudice and disturbance in the working of the department. It is, therefore, quite correct for the State to insist that such application must be made within the time provided in the rules, say, two years, as in the present case.

15. It is also seen that such applications are made very often, almost at the end of the service of the employee or in any case, belatedly. Whatever may be the reason, the fact remains that in the present case, the application was made after some nine years of Joining into service. Even assuming that first respondent came to know in June 2001 that there was an error in his date of birth entered in the matriculation certificate, as claimed by him, he took more than three years to issue the notice under Section 80 of the CPC and then to file the suit. Whether the suit was time barred or not, the claim was in any case belated. It has to be filed within the time provided or within a reasonable time and it is not to be entertained merely on the basis of plausible material as held in Kirbukaran (supra). As observed by this Court in State of UP v. Shiv Narayan Upadhyaya MANU/SC/0439/2005: 2005 (6) SCC 49:

As such, unless a clear case on the basis of clinching materials which can be held to be conclusive in nature, is made out by the respondent and that too within a reasonable time as provided in the rules governing the service, the court or the Tribunal should not issue a direction or make a declaration on the basis of materials which make such claim only plausible.

16. In the circumstances in our view, the High Court as well as the courts below clearly erred in entertaining the claim of Respondent No. 1 for correction in his date of birth at a belated stage. In such a matter, we are concerned with the correction in the date of birth for the purpose of service record and not for any other purpose. The observation of this Court in para 7 of the Union of India v. Harnam Singh MANU/SC/0216/1993: 1993 (2) SCC 162 in this behalf are quite apt.

7. A Government servant, after entry into service, acquires the right to continue in service till the age of retirement, as fixed by the State in exercise of its powers regulating conditions of service, unless the services are dispensed with on other grounds contained in the relevant service rules after following the procedure prescribed therein. The date of birth entered in the service records of a civil servant is, thus of utmost importance for the reason that the right to continue in service stands decided by its entry in the service record. A Government servant who has declared his age at the initial stage of the employment is, of course, not precluded from making a request later on for correcting his age. It is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the Government servant must do so without any unreasonable delay. In the absence of any provision in the rules for

correction of date of birth, the general principle of refusing relief on grounds of laches or stale claims, is generally applied by the courts and tribunals. It is nonetheless competent for the Government to fix a time- limit, in the service rules, after which no application for correction of date of birth of a Government servant can be entertained. A Government servant who makes an application for correction of date of birth beyond the time, so fixed, therefore, cannot claim, as a matter of right, the correction of his date of birth even if he has good evidence to establish that the recorded date of birth is clearly erroneous. The law of limitation may operate harshly but it has to be applied with all its rigour and the courts or tribunals cannot come to the aid of those who sleep over their rights and allow the period of limitation to expire. Unless altered, his date of birth as recorded would determine his date of superannuation even if it amounts to abridging his right to continue in service on the basis of his actual age.....

17. This being so, the courts should not have entertained the claim of the first respondent belatedly and beyond the period provided in the rules. The rules, in the instant case, all throughout required such application to be made within two years. Therefore, the courts clearly erred in finding fault with the appellant for allegedly, applying the Notification of 13.8.2001 retrospectively which was not the case over here.”

10. Reliance is also placed upon the judgment passed by the Hon’ble Supreme Court in Civil Appeal No. 9246 of 2019 titled as “**Director, Directorate of School Education Vs. V. Ranganathan**”, decided on 06.12.2019, whereby the decision of Tribunal was upheld by the Court in dismissing the OA by holding that there was no reason for the respondent to

submit a plea belatedly for a change in his date of birth in the service records.

Relevant extract is reproduced below:-

“9. The issue as to whether the Respondent had in fact submitted a representation for an alteration of his date of birth on 21 August 1989 is seriously in contest. As we have noted, the Appellant has placed the Respondent under suspension in anticipation of a disciplinary inquiry and a First Information Report has been lodged. But the most significant aspect of the case is that even if such a representation has been submitted in August 1989 and was followed by reminders in April 1991 and May 1995 as the Respondent claims, there was absolutely no justification for him not to pursue his legal remedies at an appropriate point of time. Rule 56 of the Fundamental Rules as amended on 13 November 1979, provides as follows:

The date on which a Government servant attains the age of 58 years or 60 years, as the case may be, shall be determined with reference to the date of birth declared by the Government servant to the time of appointment and accepted by the appropriate authority on production, as far as possible of confirmatory documentary evidence such as High School or Higher Secondary or Secondary School Certificate or an extract from Birth Register. The date of birth so declared by the Government servant and accepted by the appropriate authority shall not be subjected to any alteration except as specified in the note. An alteration of date of birth of a Government servant can be made, with the sanction of Ministry or Department of the Central Government or the Controller and Auditor General in regard to the persons serving in the India Audit and Accounts Department or an Administrator of a Union Territory under which the Government servants are serving, if-

(a) a request in this regard is made within 5 years of his entry into Government service.

(b) It is clearly established that a genuine bonafide mistake had occurred; and

(c) the date of birth so altered would not make him ineligible to appear in any school or University or Union Public Service examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service.

10. In view of the above provision, a request for a correction in the date of birth had to be made within a period of five years of the entry into service. The request for a change in the date of birth in the service records was made virtually at the end of the career of the Respondent. Even if a representation had been submitted on 11 August 1989, it was only in 2017 that the Respondent moved the Tribunal. There was no cause or justification for the delay and was reason enough to reject the OA. Therefore, the Tribunal was correct in coming to the conclusion that the OA had to be dismissed on the ground of delay. The High Court erred in interfering with the judgment of the Tribunal. The High Court has proceeded in a manner contrary to settled principles noted in several decisions of this Court including the decision in Harnam Singh (supra) which was drawn to its attention.”

11. Further in the case of **“State of Orissa and others Vs. Ramanath Patnaik”**, being Civil Appeal No.2673 of 1986, decided on 02.04.1997, the Hon’ble Supreme Court held that when the entry was made in the service record of the employee and when he was in the service, the employee did not make any attempt to get the service record corrected. As such, any amount of evidence produced subsequently be of no avail.

12. As per the relevant rule as applicable to the petitioner, the petitioner could have sought for alteration in the date of birth within a period of 5 years from the entry in the service. A perusal of the facts of the case would show that in fact the petitioner never approached the respondents for alteration in the date of birth within the abovesaid specific period. In regard to reliance made by the petitioner on the judgment passed by the Hon'ble Supreme Court in **Bharat Coking Coal Ltd.'s (supra)** is concerned, in the said case, chance was given to all the employees to identify and rectify the discrepancies in the service record and on the basis of the chance given to the employees, it was held that applying for correction in the date of birth can be raised at belated stage. In the present case, no such chance was given to the petitioner(s) to rectify the discrepancies in their service record, as such, the abovesaid judgment does not help the case of the petitioner.

13. In view of the above, this Court finds no merit in the present writ petitions and accordingly both the petitions are, hereby, dismissed.

14. Pending application(s), if any, also stand disposed of accordingly.

(DEEPINDER SINGH NALWA)
JUDGE

March 23, 2026
ajaysharma

Whether speaking/reasoned. : Yes/No
Whether Reportable. : Yes/No