



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

**RSA-2765-2007 (O&M)
Decided on: 21.05.2026**

STATE OF HARYANA AND ANR.

.....Appellants

Vs.

ASHOK KUMAR AND ANR.

.....Respondents

Whether only the operative part of the judgment is pronounced? NO
Whether full judgment is pronounced? YES

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. Harish Nain, Assistant Advocate General, Haryana.

Mr. Satbir Singh Gill, Advocate
for the respondent.

SUDEEPTI SHARMA J.

1. The present appeal is preferred against judgment and decree dated 29.05.2007 passed by learned Additional District Judge, Sirsa whereby appeal filed by the respondent against judgment and decree dated 23.07.2005 passed by learned Civil Judge (Sr. Division), Sirsa was allowed.

2. Brief facts of the case are that respondent No.1 was an employee of Education Department, Haryana. The date of birth of respondent is 06.11.1968 as per the record of Registrar, Birth and Deaths, Sirsa, whereas, in the academic record of respondent including the matriculation certificate the date of birth of respondent was wrongly mentioned as 04.05.1967. He approached the appellants for correction of his service record but they did not do so, therefore, respondent filed civil suit for correction of his date of birth in the concerned government record. Civil suit filed by him was dismissed by learned Civil Judge (Sr. Division), Sirsa vide



judgment and decree dated 23.07.2005. He filed appeal against judgment and decree dated 23.07.2005 which was allowed by learned Additional District Judge, Sirsa vide judgment and decree dated 29.05.2007. Hence, the present regular second appeal.

3. Learned State counsel contends that learned First Appellate Court by relying upon attested photostat copy which could not be read in evidence, allowed the appeal filed by the respondent. He further contends that respondent joined on 04.04.1995, whereas, the civil suit was filed on 10.01.2001 and as per rules, the correction in date of birth can be asked for within two years from the date of joining. He, therefore, prays that the present appeal be allowed and judgment and decree dated 29.05.2007 passed by learned Additional District Judge, Sirsa be set aside.

4. To support his arguments, he relies on the following judgments:-

- i. ***Dhani Ram Chaudhar Vs. State of Haryana and another, 2005(1) SCT 571***
- ii. ***State of Maharashtra & Anr. Vs. Gorakhnath Sitaram Kamble & Ors., 2005 INSC 783***

5. *Per contra*, learned counsel for the respondent contends that learned First Appellate Court has rightly allowed the appeal filed by the respondent against the judgment and decree passed in civil suit. He, therefore, prays that the present regular second appeal be dismissed.

6. To support his arguments, he relies on judgment passed by this Court titled as ***The State of Haryana, Through Collector, Kurukshetra and others Vs. Chander Singh Alias Chander Bhan, 1988(2) P.L.R. 264.***



7. I have heard learned counsel for the parties and perused the whole record of the case with their able assistance.

8. A perusal of the record shows that admittedly respondent joined service on 04.04.1995 and he filed civil suit on 10.01.2001 for correction of his date of birth from 04.05.1967 to 06.11.1968. As per service book issued by Secretary Board of School Education, Haryana, Bhiwani his date of birth is shown as 04.05.1967 in the matriculation certificate as well. Learned trial court thoroughly examined the rule applicable in case of the respondent and still dismissed the civil suit filed by him. It would be apposite to reproduce the rule governing the issue involved in the present regular second appeal i.e. Punjab Financial Rules Volume 1:-

“Every person newly appointed to a service or a post under Govt. should at the time of appointment declare that date of his birth by the Charistian era with confirmatory evidence as Matriculation Certificate, Municipal birth certificate and so on. If the exact date is not known as approximate date may be given. 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 Servant's service under government and once recorded, it cannot be altered except in the case of a clerical's error, without the previous orders of Government.

ANNEXURE A:-

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 servant in question, be deemed to be conclusive unless he



applies for correction of of his age as recorded within two years from the date of his entry into government service. Government, however reserves the right to make a correction in the recorded age of a Government servant at anytime against the interest of that Government servant when it is satisfied that the age recorded in his service or in the History of service of a gazetted Government servant is incorrect and has been incorrectly recorded with the object that the Government servant may derive some unfair advantage therefrom.

2. XX XX XX XX

3. When a Government servant, within the period allowed makes an application or 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 certificates, Janam 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."”

9. Now coming to the finding given by learned Trial Court in civil suit filed by the respondent by taking into consideration the rule as referred to above. The relevant portion of the finding given by learned trial court is reproduced as under:-

“14. In the instant case, it has not been alleged or proved by the defendants that the plaintiff had in any



manner gained for himself a benefit which he was otherwise not entitled to, in as much as, he would have been eligible for appointment as a teacher on the date he joined service whether his date of birth was 4.5.1967 or 6.11.1968. He thus earned no undue benefit in securing the service by mentioning date of birth to be 4.5.1967. thus there seems to be no fraud or misrepresentation on the part of the plaintiff and thus there is no estoppel which would debar him from claiming and proving that the date of birth earlier given at the time of entering into service would not be corrected. The ratio of law laid down in authority The State of Haryana, through Collector Kurukshetra and others (supra) cited by the learned counsel for the plaintiff is fully applicable the present case. Certainly the plaintiff is within his right to show that his date of birth earlier given at the time of his entering into service was not the correct one.”

10. A perusal of the above shows that learned Trial Court has categorically held that respondent earned no undue benefit in securing the service by mentioning his date of birth to be 04.05.1967, therefore, there seems to be no fraud or misrepresentation on the part of respondent. And no estoppel which would debar him from claiming and proving that the date of birth earlier given at the time of entering into service would not be corrected. This portion of judgment was never challenged by the appellants. Further it is not the case of the appellants that the respondent filed civil suit at the fag end of his service career for undue benefit. And learned Trial Court dismissed the civil suit filed by the respondent also on the ground that respondent did not produce his original birth certificate.



11. A perusal of the record further shows that respondent moved an application for additional evidence alongwith appeal on 23.08.2005/01.06.2006 and both were dismissed on 29.05.2007 by learned First Appellate Court.

12. So far as the contention of appellant with respect to the challenge to the dismissal of application for additional evidence by respondent is concerned, the same is rejected since the appeal as well as the application for additional evidence were decided on the same day and learned First Appellate Court accepted the appeal filed by the respondent. Respondent was examined as PW1. He submitted his affidavit along with other documents. In his cross examination, he stated that at the time of admission, the forms were filled by school authorities and in matriculate certificate, the date of birth had been shown as 04.05.1967 which was written by the teacher himself. Further that he did not approach the authorities for change of date of birth and Ex.P7 i.e. birth certificate of respondent was issued by Health Department on 13.05.1992. His father Karam Chand was examined as PW2 who stated that the date of birth of his son Ashok Kumar was 06.11.1968 instead of 04.05.1967 and he has five other children whose date of birth certificates were attached as Ex.P6 to Ex.P11. In his cross examination these documents were not in dispute except a suggestion that date 04.05.1967 was rightly incorporated on the record. The only reason for dismissal of the civil suit by Trial Court was that respondent could not prove Ex.P7 (birth certificate) but it totally ignored the testimony of PW1 and PW2. A bare reading of Ex.P7 i.e. the birth entry of respondent issued by Health Department, Haryana cannot be doubted.



Further it is not the case of appellants that birth certificate is forged and fabricated. More so, since the civil suit filed by the respondent was dismissed on the ground that the respondent placed on record attested photocopy (Ex.P-7) and not the original of his birth certificate, that is the reason that respondent moved an application for placing on record the original birth certificate alongwith appeal by moving an application for additional evidence. The reason for not placing on record the original birth certificate with the civil suit is also mentioned in the application filed for additional evidence. Though the same is dismissed, but since it is part of record the reason mentioned therein cannot be ignored by this Court. The relevant part of application for placing on record additional evidence is reproduced as under:-

“ Undoubtedly the original extract should have been produced before the court but same could not be done due to the reason bonafide belief of appellant/plaintiff and that of counsel as well that same would be required to be produced before the Department. ”

13. A bare reading of above shows that the intention of respondent was to prove his case after dismissal of civil suit by placing on record the original document through application for additional evidence which though was rejected. The basic fact is that the birth certificate was not forged and fabricated. And the evidence of respondent and his father also proves the birth certificate attested copy of which was placed on record. Even in cross examination the veracity of PW1 and PW2 could not be shaken.



14. Now coming to the judgments referred to by learned State counsel. The same would not be applicable in case of respondent since in both the cases, the correction in date of birth was sought for at the fag end of their service career but in the present case the correction is sought for during initial service.

15. In view of the above, I do not find any infirmity in judgment and decree dated 29.05.2007 passed by learned Additional District Judge, Sirsa and the same is upheld.

16. Since the present regular second appeal pertains to the year 2007 and the respondent filed civil suit in the year 2005 for correction of date of birth in the concerned Government records. And despite the fact that there was no stay granted by this Court the respondent was not allowed to continue by considering his date of birth to be 06.11.1968.

17. Therefore, after almost 19 years of filing the present regular second appeal this Court would not force the respondent to further go into litigation i.e. execution. In view of the same, the appellants are directed to implement judgment and decree dated 29.05.2007 passed by learned Additional District Judge, Sirsa forthwith.

18. Accordingly, the present regular second appeal is ***dismissed***.

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

21.05.2026

Saahil/Ayub

(SUDEEPTI SHARMA)
JUDGE

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