

Jag Parshad Vs Union of India and Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Nov. 8, 2012

Acts Referred: Constitution of India, 1950 " Article 226, 227

Citation: (2013) 169 PLR 527

Hon'ble Judges: Satish Kumar Mittal, J; Inderjit Singh, J

Bench: Division Bench

Advocate: Shashi Kant Gupta, for the Appellant;

Final Decision: Dismissed

Judgement

Inderjit Singh, J.

In this writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner has challenged the order

dated 30.8.2012 (Annexure. P16) passed by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh (respondent No. 5) (hereinafter

referred to as "the Tribunal"), whereby O.A. No. 291/PB/2012 filed by him against the order dated 24.1.2012 (Annexure-P.10) rejecting his

representations for correction of his date of birth from 22.10.1952 to 14.5.1964 has been dismissed. The petitioner has further prayed for issuance

of a writ in the nature of mandamus directing respondents No. 1 to 4 to correct the clerical mistake in his date of birth from 22.10.1952 to

14.5.1964. The brief facts of the case are that the petitioner had been given appointment on compassionate ground in the Railways Department in

place of his father who died in 1970. It is the case of the petitioner that in the medical memo, in the service book and the certificate attached with

his appointment papers, the date of birth of the petitioner had been shown as 14.5.1964, however, due to clerical mistake occurred in the office,

his date of birth had been recorded as 22.10.1952. When in the year 2004, the mistake came to his notice and he represented against the same,

he again submitted another representation on 14.5.2010. Vide letter dated 24.1.2012 (Annexure-P.10), respondent No. 2-General Manager,

Northern Railways, Baroda House, New Delhi had rejected his request while relying upon instructions dated 19.11.1990.

2. On the other hand, the case of the respondents is that as per Rule 225 of Indian Railway Establishment Code Volume I (hereinafter referred to

as "Establishment Code"), date of birth is to be recorded by a senior railway servant and witnessed by another railway servant and date of birth so

recorded in the record shall be binding and no alteration of that date shall ordinarily be permitted subsequently. It is also the case of the

respondents that the request of the petitioner had already been rejected vide orders dated 14.7.2007 and 21.5.2008 and these orders had attained

finality and photo copy of his service-book annexed by the petitioner was not a true photo copy of his service book.

3. We have gone through the record and heard the learned counsel for the petitioner.

4. From the record, we find that admittedly, the petitioner joined the service in the year 1982. At that time, his date of birth was recorded in the

service record as disclosed by him. However, after more than 20 years, i.e. on 26.2.2004, without giving any explanation as to why he did not

approach the department earlier for correction of the said entry, he made his first representation claiming that his date of birth was wrongly

recorded in the service record. It is also a fact that the first representation of the petitioner was rejected in the year 2008 and thereafter, he made

another representation, which was rejected vide letter dated 24.1.2012. The petitioner remained sleeping over his rights for about two decades

and as per Rule 225 of the Establishment Code, his date of birth can-not be corrected at the fag end of his service career. The relevant extract of

Rule 225 of Establishment Code is as under:-

225. Date of Birth.- (1) Every person, on entering railway service, shall declare his date of birth which shall not differ from any declaration

expressed or implied for any public purpose before entering railway service.

In the case of literate staff, the date of birth shall be entered in the record of service in the railway servant's own handwriting. In the case of the

illiterate staff, the declared date of birth shall be recorded by a senior railway servant and witnessed by another railway servant.

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(4) The date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be

permitted subsequently. It shall, however, be open to the President in the case of a Group A & B railway servant, and a General Manager in the

case of a Group C & D railway servant to cause the date of birth to be altered.

(i) Where in his option it had been falsely stated by the railway servant to obtain an advantage otherwise in admissible, provided that such alteration

shall not result in the railway servant being retained in service longer than if the alteration had not been made, or

(ii) Where, in the case of illiterate staff, the General Manager is satisfied that a clerical error has occurred, or

(iii) Where a satisfactory explanation (which should not be entertained after completion of the probation period, or three years service, whichever

is earlier) of the circumstances in which the wrong date came to be entered is furnished by the railway servant concerned, together with the

statement of any previous attempts made to have the record amended.

5. It provides that date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily

be permitted subsequently. It is also provided in the Rules that no explanation regarding change of date etc. should be entertained after completion

of the probation period or three years service whichever is earlier. Therefore, as per law the claim of the petitioner has become time barred and the

order passed by respondents is valid and legal.

6. We have gone through the order of the Tribunal. The order of the Tribunal is based on the material on record as well as the law which has been

discussed in detail. After going through the same, we do not find any ground to interfere in the impugned order, passed by the Tribunal. Once the

Tribunal has found that the applicant-petitioner has failed to make out a case in his favour for getting his date of birth altered, no interference is

required by this Court in exercise of its writ jurisdiction. In view of the above, we find no merit in this writ petition and the same is accordingly

dismissed.