

Before Surya Kant, J

GURDEV SINGH,—Petitioner

versus

STATE OF PUNJAB AND OTHERS,—Respondents

CWP No. 2012 of 2010

5th February, 2010

Constitution of India, 1950—Art. 226—Punjab Civil Services Rules, Chapter II-Rl.2.5—Petitioner seeking correction of date of birth on basis of duplicate matriculation certificate—Department rejecting request of petitioner for change of his date of birth—As per statutory service Rules no change in date of birth can be made unless the Government employee concerned applies for change within two years of his appointment—Petitioner applying for after more than 28 years of his appointment—Petition dismissed.

Held, that as per the statutory service Rules governing the service conditions of the petitioner, the date of birth, mentioned in the Matriculation Certificate produced at the time of entering into government service, shall be presumed to be correct and conclusive and no change in the said date of birth can be made unless the Government employee concerned applies for change within two years of his appointment in the Government service.

(Para 8)

Vivek Salathia, Advocate *for the petitioner.*

SURYA KANT J. (ORAL)

(1) In this Civil Writ Petition, the petitioner seeks quashing of the order dated 2nd October, 2008 (Annexure P5), whereby the respondent-Department has refused to change his date of birth.

(2) The petitioner is working as a Junior Assistant in Water Supply and Sanitation Department, Government of Punjab. He joined the Department on 21st February, 1978. The undisputed fact is that the date of birth of the petitioner as mentioned in the original Matriculation Certificate issued

on 6th December, 1971 (Annexure P1) by the Punjab School Education Board, is 1st April, 1953. Obviously, the aforesaid date was recorded in his Service Book also. On 31st July, 2007, the petitioner got issued a "Duplicate Matriculation Certificate" from the Punjab School Education Board (Annexure P3) showing his date of birth to be 1st April, 1955.

(3) On the basis of the aforesaid revised certificate, the petitioner applied for the change of his date of birth to the Department which has been declined to him *vide* the impugned order (Annexure P5).

(4) There is no gainsaying that the service conditions of the petitioner, in this regard, are governed by Rule 2.5, Chapter II, of the Punjab Civil Services Rules, Which reads as follows :—

"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 unless he applies for correction of his age as recorded with the two years from the date of his entry into government service. Government, however, reserves that right to make a correction in the recorded age of Government employee at any time against the interests of the government employee 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."

(5) Similarly, Rule 3.4 to 5 of the B & R Manual which also appears to be applicable in the petitioner's Department, reads as follows :—

"3.45(i) A declaration of age made at the time of (upkeep of service books) for the purpose of, entry into government service, shall against the Government servant in question, be deemed to be conclusive unless he applied for correction of his age into government service. Government, however, reserves its right to make a correction in the recorded age of Government servant

at any time against the interest of that government servant when it is satisfied that the age recorded in his service book or in the history of services of a Gazetted Officer is incorrectly recorded with the object that the Government servant may derive some unfair advantage therefrom.

- (ii) When a service book is opened the appointing authority shall verify the date of birth of the person concerned and note in his service book the mode of verification adopted in each case. Only the following documents shall be accepted for purposes of verification :—
- (a) Certified extracts from birth registers, provided the name of the child is specifically mentioned.
 - (b) Certified copies of entires made in school and college registers;
 - (c) Certified copies of extracts from Gazette notification containing the results off examinations. If the age or date of birth is given therein;
 - (d) The matriculation certificate or a certified copy of the notification publishing the result of the Matriculation examination.
- (iii) When the government servant within the period mentioned in sub para (i) above, makes an application for the correction in 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 registers, university or school age certificates, janam parties or horoscopes. It should, however, be remembered that it is entirely discretionary on the part of the sanctioning authority i.e. Chief Engineer in the case of non-gazetted officers and the State Government in the case of Gazetted Officers, to refuse or grant such applications and no alterations should be allowed unless it has satisfactorily been proved that the date of birth as originally given by the applicant was *bona fide* mistake and that he has derived no unfair advantage, therefrom.

(iv) The result of every such enquiry should, in the case of non-gazetted servants, briefly stated in their service books and if a correction is sanctioned, the fact should be reported to the A.G. Care should be taken to see that the annual establishment lists are brought into agreement with the service books.”

(6) Relying up on these provisions that the respondents have declined to entertain the request of the petitioner regarding change of his date of birth at this belated stage.

(7) I have heard learned counsel for the petitioner at some length and perused the documents on record.

(8) In my considered view no interference with the impugned order is called for by this Court. As per the statutory service Rules governing the service conditions of the petitioner, the date of birth, mentioned in the Matriculation Certificate produced at the time of entering into government service, shall be presumed to be correct and conclusive and no change in the said date of birth can be made unless the Government employee concerned applies for change within two years of his appointment in the Government service.

(9) The petitioner was appointed on 21st February, 1978. He himself produced the Matriculation Certificate dated 6th December, 1971 (Annexure P1) carrying his date of birth as 1st April, 1953.

(10) Now-a-days it appears to be too common amongst the Government employees nearing their retirement to start procuring documents like birth certificates and seek change in their date(s) of birth to further continue in service. The authorities need to deal with such applications carefully and with circumspect. In the case in hand, the Education Board, for no reason whatsoever, has issued a “Duplicate Matriculation Certificate” with a changed date of birth to enable the petitioner to take undue advantage of the changed date. Though it cannot be said with certainty but the object of the entire exercise of the Education Board appears to help the petitioner’s continuance in service beyond the year 2011.

(11) Reliance placed upon by the petitioner on the decision of a Co-ordinate Bench dated 24th March, 2009 in the case of **Vijay Kumar versus State of Punjab and others**, (CWP No. 3294 of 2007) is of no help for two reasons. Firstly, the afore-cited decision does not refer to the statutory rules which are of binding nature unless struck down by a Writ Court on the plea of unconstitutionality etc. Secondly, that was a case where the Department itself held a fact-finding enquiry regarding the correct date of birth of the employee and found his claim to be factually correct. No such exercise has been undertaken in the case in hand.

(12) For the reasons afore-stated, I do not find any merit in this writ petition.

(13) Dismissed.

R.N.R.