
(2021) 01 SHI CK 0121
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 5351 Of 2020

Chimmed Angmo

APPELLANT

Vs

State Of H.P. & Ors

RESPONDENT

Date of Decision : 08-01-2021

Acts Referred:

Evidence Act, 1872 — Section 35

Citation : (2021) 01 SHI CK 0121

Hon'ble Judges : Sureshwar Thakur, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Kush Sharma, Ashwani Sharma, J.S. Guleria

Final Decision : Allowed

Judgement

Sureshwar Thakur, J

1. Through, the extant writ petition, the writ petitioner seeks correction, in her date of birth, from the one, borne in Annexure A-1, wherein, her date of

birth is reflected as 10.12.1958, to, 01.07.1960, and, as becomes echoed, in Annexure A-2.

2. In the reply, furnished to the extant writ petition, by the respondents concerned, their occurs an opposition to the relief, as becomes canvassed, in

the extant writ petition, and their opposition is confined to the factum, (i) that the writ petitioner's bio-data, as became furnished to the employer,

and as becomes borne, in Annexure A-2, becoming filled up, by her, thereupon, absolute sanctity, is, to be meted thereto, (ii) that her belated endeavor

at this stage, hence estops her, to, seek the apposite correction being made, (iii) moreso, when she, during the entire span of her service, under the

respondents concerned, omitted to seek correction of her date of birth, whereupon, reiteratedly the extant relief is deniable to her.

3. Be that as it may, there is no opposition, in the reply filed to the extant writ petition, vis-à-vis, the authenticity of drawing(s), of, Annexure A-2, (a) nor there is any contention that Annexure A-2, hence not emanating from the authority, rather holding the valid empowerment, to either author it or to issue it, (b) nor any contention is raised, in the reply, furnished to the writ petition, by the respondents concerned, qua in the issuance of Annexure A-2, its author, not bearing in mind all the apposite documents, which became in contemporaneity therewith, hence submitted theretofore, by the parent(s) or natural guardian(s), of, the writ petitioner, (c) nor any contention is therein raised, qua hence, the, recording of the date of birth of the writ petitioner, being a sequel, of, any concoction or any collusion inter se the writ petitioner, and, the Secretary of the Gram Panchayat concerned. Consequently, in the absence of, the, afore unfoldings in the reply, on affidavit, furnished to the extant writ petition, this Court is constrained to conclude, that since, the Secretary of the Gram Panchayat concerned, who has authored, Annexure A-2, and, when is otherwise, the validly contemplated authority, to issue it, hence he/she did in the issuance of Annexure A-2, vis-à-vis, the writ petitioner, (d) rather bore in mind, all the contemporaneous therewith records. Since the afore act of the Secretary of the Gram Panchayat, is done, in the discharge of his official duties, and, when hence, to the afore official act, a rebuttable presumption of truth, becomes through the mandate of Section 35 of the Indian Evidence Act, is rather attracted, yet when no valid contention, qua therewith is, either raised nor obviously any cogent evidence, for dislodging the efficacy, of, the afore presumption, becomes adduced by the respondents concerned, thereupon, (e) the presumption of truth, as becomes attached to the afore official act performed, by the Secretary of the Gram Panchayat concerned, does enjoy, an aura of conclusivity, (f) and thereupon, the espoused correction is enjoined to be made by the respondents concerned, in the date of birth of the writ petitioner, in the apposite service record, de hors, any contra therewith any entry occurring in Annexure A-1, Annexure whereof is merely a bio-data, of the writ petitioner, and does not either occupy any legal pedestal, co-equal to Annexure A-1 nor does it underwhelm the vigour of Annexure A-2. Consequently, the afore correction is, a, validly strived endeavor, and is ordered to be made, de hors, the writ petitioner becoming superannuated. Moreover, the afore delay in making of the extant endeavor, by the writ petitioner, would also not

constrain this Court to not give sanctity, to, Annexure A-2.

4. Therefore, the extant writ petition is allowed, and, if the writ petitioner has not crossed 60 years of age, she be re-instated in service, with all

consequential therewith benefits, becoming forthwith bestowed upon her. However, if she has crossed 60 years, she be given all consequential

pecuniary benefits. All pending applications are disposed of.