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**(2012) 07 P&H CK 0123**  
**In the Punjab And Haryana At Chandigarh**  
**Case No : CWP No. 8324 of 2011**

Gurinder Pal Singh

APPELLANT

Vs

State of Punjab and Another

RESPONDENT

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**Date of Decision :** 17-07-2012

**Acts Referred:**

**Citation :** (2012) 07 P&H CK 0123

**Hon'ble Judges :** Tejinder Singh Dhindsa, J

**Bench :** Single Bench

**Advocate :** GS Bal, for the Appellant; Suvir Sehgal, Additional Advocate General, Punjab, for the Respondent

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## Judgement

Tejinder Singh Dhindsa, J.—The present writ petition has been filed by the petitioner impugning the order dated 14.3.2011, Annexure P8, whereby his claim for re-instatement on the post of Panchayat Secretary has been declined. Facts, in brief, would require notice.

2. The petitioner was amongst 909 persons to be appointed on the post of Panchayat Secretary in October 2001. Vide order dated 10.12.2002, the State Government set aside the entire selection as also the appointments thereafter made for the posts of Panchayat Secretaries including the appointment of the petitioner. Thereafter, upon a representation submitted by the persons whose services were terminated, all the Panchayat Secretaries except the petitioner were taken back in service on the post of Panchayat Secretary on contract basis at a fixed salary of Rs. 5000/- per month. Upon enquiries having been made by the petitioner as regards he not having been re-appointed on contract basis at par with the other persons whose services also had been terminated, the petitioner learnt that an objection has been raised that his age was not within the prescribed limit for which the initial recruitments had been made i.e. as on the cut off date of 1.9.1997 his age was less than 18 years.

3. The petitioner contends that since his date of birth had been wrongly

mentioned as 20.10.1979 in his matriculation certificate, accordingly, he approached the Punjab School Education Board for correction of his date of birth which, in fact, was 18.1.1977. The petitioner contends that he had produced the requisite proof as regards his correct date of birth which was duly verified and certified by the School where the petitioner had appeared as a regular student as also in terms of the birth certificate issued by the Registrar of Births and Deaths. Accordingly, the Punjab School Education Board made the necessary correction in the matriculation certificate wherein the date of birth was correctly mentioned as 18.1.1977, Annexure P2. Relying upon such fresh certificate issued by the Punjab School Education Board wherein the correct date of birth had been entered, the petitioner is stated to have made repeated representations to the respondent-authorities but the same did not evoke any response. Finally, the petitioner got a legal notice dated 8.9.2010, Annexure P7, served upon the respondents wherein the correct date of birth based upon the matriculation certificate issued afresh by the Punjab School Education Board had been relied upon and a prayer was made for re-instating the petitioner in service on the post of Panchayat Secretary on contractual basis. However, in terms of impugned order dated 14.3.2011, Annexure P8, the legal notice has been ordered to be filed and as such, his claim stands rejected.

4. Reply on behalf of respondents 1 and 2 was duly filed. A stand has been taken by the State of Punjab that the petitioner did not have the requisite age of 18 years as on 1.9.1997 as the date of birth submitted by him in terms of the matriculation certificate had been recorded as 20.10.1979. A further stand has been taken to justify the passing of order dated 14.3.2011, Annexure P8, that since at the time of applying for the post i.e. in the year 1997, his age was less than 18 years, as such, his services had been rightfully terminated in the year 2002.

5. I have heard Mr. GS Bal, learned counsel appearing for the petitioner and Mr. Suvir Sehgal, Additional Advocate General, Punjab.

6. There would be no dispute as regards the fact that the services of the petitioner had been dispensed with on the sole basis that as per the cut off date i.e. 1.9.1997, the petitioner was less than 18 years of age as per the matriculation certificate that he had submitted in which his date of birth was recorded as 20.10.1979. In terms of the averments made in the petition as also in the light of the fresh matriculation certificate issued by the Punjab School Education Board, Annexure P2, his date of birth stands duly corrected and is recorded as 18.1.1977. It was on such basis that the petitioner had represented and even got the legal notice issued in terms of pleading that in terms of such corrected date of birth, he was certainly more than 18 years of age as on the cut off date i.e. 1.9.1997. Clearly, such factual situation regarding correction having been made in the certificate issued by the Punjab School Education Board afresh and the petitioner being more than 18 years of age as on 1.9.1997 has not been considered while passing the impugned order dated 14.3.2011, Annexure P8.

The order dated 14.3.2011 clearly suffers from non-application of mind. The petitioner was clearly vested with a right for consideration of re-instatement in service to the post of Panchayat Secretary be it on contract basis at par with the other employees whose service had been terminated along with the petitioner and who had since been re-instated.

7. For the reasons recorded above, order dated 14.3.2011, Annexure P8, is set aside. Directions are issued to the respondent-authorities to consider the claim of the petitioner for re-instatement on the post of Panchayat Secretary on contract basis afresh in the light of the matriculation certificate, Annexure P2, issued by the Punjab School Education Board taking his date of birth to be 18.1.1977. Such exercise be concluded within a period of eight weeks from the receipt of the certified copy of this order and the claim of the petitioner regarding re-instatement on the post of Panchayat Secretary be decided in terms of passing a speaking order. Writ petition allowed in the aforesaid terms.