
(2019) 08 GAU CK 0014
In the Gauhati High Court
Case No : Writ Appeal No. 110 Of 2019

Ajit Ranjan Das

APPELLANT

Vs

Indian Oil Corporation Ltd And Ors

RESPONDENT

Date of Decision : 07-08-2019

Acts Referred:

Citation : (2019) 08 GAU CK 0014

Hon'ble Judges : Arup Kumar Goswami, J; Manish Choudhury, J

Bench : Division Bench

Advocate : A. Ganguly, A. Dhanuka, S.N. Sarma, K. Kalita

Final Decision : Dismissed

Judgement

A.K. Goswami, J

1. Heard Mr. A. Ganguly, learned counsel for the appellant. Also heard Mr. S.N. Sarma, learned Senior counsel appearing for all the respondents.

2. The father of the appellant was a Mazdoor under the Assam Oil Company. In his Employee's Dependent Certificate, year of birth of the petitioner was shown as 1958. Since the year is only indicated, the date of birth of the petitioner was taken as 31.12.1958. In course of time, the petitioner also got employment as a Mazdoor on 27.12.1978 in the same very establishment, but by then the name of the company had undergone a change and it came to be known as Assam Oil Company Corporation. Presently the establishment is known as Indian Oil Corporation Ltd. (Assam Oil Division), for short, IOCL.

3. The case of the petitioner before the learned Single Judge is that his date of birth was recorded as 31.12.1958 instead of 21.10.1960 in his service book. He had applied for correction of the date of birth vide representations dated 09.08.1979, 25.07.1983, 08.03.1995, 02.07.2003 and 14.12.2016. The respondents rejected the prayer vide letter dated 20.12.2016 and accordingly, the writ petition was filed.

4. In order to demonstrate that his date of birth is 21.10.1960, two certificates issued by Headmaster of the Assam Oil Company Boys' High School, Digboi, dated 06.01.1977 and 06.08.1978, were pressed into service. Along with that the copy of an admit card issued by the Board of Secondary Education for the High School Leaving Certificate Examination was also relied on to contend that the same would demonstrate the date of birth of the appellant is 21.10.1960. The petitioner had appeared in the High School Leaving Examination in the year 1979 and thus, it is apparent that he had gained employment prior to appearing in the said examination.

5. It is not disputed by the learned counsel for the parties that the original of the Employee's Dependent Certificate was produced before the learned Single Judge. However, Mr. Ganguly would contend that there is no clarity on which date the said certificate was prepared.

6. Mr. Ganguly has submitted that based on the record of Employee's Dependents given by the father of the petitioner, the learned Single Judge dismissed the writ petition and that apart, the Court had taken delay and laches in filing the writ petition as an additional ground for dismissal. Mr. Ganguly has submitted that the authority has acted arbitrarily in entering the date of birth in the service book of the petitioner solely on the basis of the so called declaration made by the father of the petitioner. Immediately after passing the HSLC Examination, the petitioner had drawn the attention of the authorities by placing, amongst others, the admit card to contend that his date of birth was wrongly recorded. The record of Employee's Dependent Certificate is also not a document which could have been taken note of by the respondent authorities in view of Clause 3.4.3(b) of Chapter 3 of the Personnel Manual of IOCL, which stipulates the kind of documents that can be relied upon in case of a non-matriculate and evidently, the Employee's Dependent Certificate is not one of such documents envisaged.

7. It is further submitted that the learned Single Judge also erred in law in holding the petition to be suffering from delay and laches in as much as the respondents took inordinately long period of time to dispose of the representations filed earlier and only in the year 2016, a response was given by rejecting the prayer of the petitioner.

8. Mr. Ganguly has further submitted that the learned Single Judge was not correct in disbelieving the certificates dated 06.01.1977 and 06.08.1978 issued by the Headmaster of the School.

9. Mr. Sarma, on the other hand, has submitted that the learned Single Judge had considered the matter in right perspective and there is no merit in the writ petition. It is further submitted that the petitioner had himself also endorsed the date of birth recorded in his service book as 31.12.1958.

10. We have considered the submissions of the learned counsel for the parties and have perused the materials on record.

11. While passing the order dated 22.02.2019, whereby the writ petition was dismissed, the learned Single Judge had taken note of the following judgments:-

(a) Gendalal Vs. Union of India & ors., reported in (2007)15 SCC 553, (b) State of Orissa Vs. Prayarimohan Samantaray & ors., reported in (1977)3 SCC 396, (c) State of Madhya Pradesh & ors. Vs. Premlal Shrivastava, reported in (2011)9 SCC 664, (d) G.M. Bharat Coking Coal Ltd., West Bengal Vs. Shib Kumar Dushad & ors., reported in (2000)8 SCC 696.

12. From the materials on record, what is evident is that the year of birth of the petitioner was recorded as 1958 in the declaration of the dependants by the petitioner's father and the document was signed by the father of the petitioner.

The father retired on 01.01.1979. Evidently, such record was maintained after the year 1962 as name of Purnima Das (daughter) was entered in the said record with the date of birth as 27.08.1962. Above the place earmarked for the date, there is a signature along with date 01.12.1969.

13. The learned Single Judge did not place reliance on the certificates issued by the Headmaster of A.O.C. Boys' High School, Digboi, as according to the learned Single Judge, the signatures appearing in the said certificates, even to a layman, will appear to be different. It was also noted that even though the prayer for alteration of date of birth was rejected in the year 2016, the writ petition came to be filed only in the last year of his service.

14. It may not be necessary for us to record any finding with regard to the certificates issued by the Headmaster as they will pale into insignificance in view of the admit card issued subsequently. No doubt, the admit card would indicate the date of birth of the petitioner to be 21.10.1960. But when the father had indicated the year of birth of the petitioner to be 1958 and based on that the respondent authorities had taken the date of birth to be 31.12.1958, that being the last date of the year, it is not understood how anybody, on a subsequent date, could have given 21.10.1960 as the date of birth of the petitioner, either for admission in school or for the purpose of admit card.

15. The father is the best person along with the mother to indicate the date of birth of the children. Though normally a date of birth recorded in the admit card would have precedence, when there is a document of earlier point of time containing declaration made by the father indicating the year of birth of the children, we are of the opinion that the same has to be given primacy and in the above background, we do not find any infirmity with the reasoning assigned by the learned Single Judge in drawing the eventual conclusion.

16. Taking that view, we find no merit in this appeal and accordingly, the same is dismissed.