

(2018) 05 UK CK 0138
In the Uttarakhand High Court
Case No : Writ Petition No. 317 (SS) of 2017

AKHTAR KHAN

APPELLANT

Vs

UTTARAKHAND STATE TRANSPORT CORPORATION LIMITED
AND ANOTHER

RESPONDENT

Date of Decision : 22-05-2018

Acts Referred:

U.P. State Road Transport Corporation Employees (other than officers) Service Regulations, 1981 — Regulation 14 (3)

Citation : (2018) 05 UK CK 0138

Hon'ble Judges : ALOK SINGH, J

Bench : Single Bench

Advocate : Shiv Pandey, Ashish Joshi

Final Decision : Allowed

Judgement

1. Petitioner was working on the post of Driver with the respondent Corporation with effect from 1985. As per service record, petitioner's date of birth is 29.05.1959. On 07.10.2015, petitioner renewed his driving license and the office of Regional Transport Authority has wrongly mentioned the date of birth of petitioner as 29.01.1950. Petitioner deposited copy of his license in the office of Respondent Corporation. Coming to know that petitioner's date of birth recorded in service book is different from the driving license, respondent no. 2 treated this as a fault on the part of the petitioner, issued order dated 29.06.2016, retiring him with effect from 30.06.2016. Feeling aggrieved, petitioner has approached this Court.Â
2. Heard Mr. Shiv Pandey, Advocate for the petitioner and Mr. Ashish Joshi, Advocate for the respondent.Â
3. Learned counsel for the petitioner submits that respondent no. 2 has passed by the impugned order in haste; there is no fault of the petitioner in

changing the date of birth; and Â by no stretch of imagination, it can be presumed that any employee would increase his date of birth thereby preponing his date of retirement.Â

4. He has placed reliance on Regulation 14 (3) of the Regulations known as the U.P. State Road Transport Corporation Employees (other than officers) Service Regulations, 1981. Regulation 14(3) reads as under:-Â

â??14. Age.-

(1)â?|â?|â?|â?|â?|â?|â?|â?|â?|..Â

(2)â?|â?|â?|â?|â?|â?|â?|â?|â?|â?|â?|..Â

(3) Date of birth of an employee recorded in the certificate of examination, referred to in sub-regulation (2), or, where an employee has not passed

any such examination, the date of birth or age recorded in his service book at the time of his entry into service shall be deemed to be his correct date

of birth or age as the case may be and no application or representation for correction of the date of birth or age shall be entertained in any

circumstances whatever.â??

5. He has further placed reliance on the judgment dated 23.08.2016 passed by Coordinate Bench of this Court in WPSS No. 1385 of 2016 (Usman Ali

Vs. Uttarakhand State Transport Corp. and others) deciding the same controversy.Â

6. Regulation 14(3) shows that the date of birth recorded in the service record of an employee shall be deemed to be the correct date of birth, unless

he has done his high school prior to his entry into service. In the present case, the petitioner joined his service in the year 1985 and when he joined the

services, he was not having high school qualification and therefore, in his case Regulation 14 (3) will be applicable. The date of birth, which shall be

taken into consideration for the purposes of his superannuation, will be the one, recorded in the petitionerâ??s service book.Â

7. In view of the above, the writ petition succeeds and is hereby allowed. The orders dated 29.06.2016 is hereby quashed. The petitioner shall be

deemed to be in service with all consequential benefits and his date of birth for the purposes of retirement shall be 29.05.1959. No order as to costs.Â