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(2009) 03 JH CK 0001

In the Jharkhand High Court

Awadh Bihari Dubey — APPELLANT

Vs

SAIL, Bokaro Steel Plant and Others — RESPONDENT

Date of Decision : 27-03-2009

Acts Referred:

Citation : (2009) 03 JH CK 0001

Hon'ble Judges : D.G.R. Patnaik, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

D.G.R. Patnaik, J.—Demand of the petitioner against the respondents is for correction of the entry in respect of his date of birth in his service records, as per the School Leaving Certificate, and for which he had prayed in this writ application for an appropriate direction to the respondents.

2. Counter-affidavit has been filed on behalf of the respondent SAIL.

3. Heard learned Counsel for the petitioner and the learned Counsel for the respondents.

4. The case of the petitioner in brief is that he was appointed under the respondent SAIL in the Hokum Steel Plant, Hokum on 31st March 1973. At the lime of his appointment, he had produced his School Leaving Certificate in proof of his date of birth as 7.7.1949. The same date of birth was entered in the proposal form of the petitioner''; Lilt Insurance Policy and also in the Medical Book issued by the medical department of the company.

On the bonafide belief that his date of birth was correctly entered into his service records, the petitioner did not have any reason either to suspect, nor any occasion to verify his service records as maintained by the respondent employer.

It was only on his obtaining the duplicate Medical Book since the original book was misplaced, that he came to learn that in his service book, his date of birth has been incorrectly entered as 7.7.1947 and on such basis, he was informed

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that he would superannuate in July 2007.

The petitioner''s grievance is that the respondents have made interpolation in his service records and have changed the entry regarding his date of birth to his prejudice and in doing so, they had not even issued any prior notice to him lo explain the matters. Such decision having been taken after more than 23 years of his service, is, according to the petitioner, totally illegal, arbitrary and with malafide intention.

5. Learned Counsel for the petitioner would explain that the petitioner hid obtained and produced his School Leaving Certificate which was issued to him way back in the year 1971 by the School and the same was produced by him before the respondent employer at the time of his appointment in 1973. As such, the dale of birth as reflected in the certificate cannot be disputed and the same has to be accepted and treated as correct.

6. In their counter-affidavit, respondents have denied and disputed the entire claim of the petitioner. Shri Ananda Sen, learned Counsel for the respondents submits that at the time of joining the respondent company, the petitioner was required to fill up a Personal Data Form along with the attestation form. The date of birth as filled in by the petitioner in his Personal Data Form, was 7.7.1947. Learned Counsel explains further that the Medical Books are issued on the basis of the Proforma application to be filled in by the employee. The petitioner appears to have wrongly stated in the proforma his date of birth as 7.7.1949 and on the basis of such declaration, the Medical Department of the employer had issued the Medical Book to him. It was only when the petitioner had applied for the duplicate Medical Book by filing his application in the requisite proforma that on verification, it was detected that the declaration regarding his date of birth was wrong and his actual date of birth, as per his Service Records originally entered, was 7.7.1947. Referring to the copy of the original Personal Data Form annexed as Annexure-A to the supplementary counter-affidavit, learned Counsel submits that the forms bears the handwriting and signature of the petitioner and as would be evident from the document itself, there is no interpolation or overwriting in the entry against the date of birth and as such, the petitioner cannot claim that the respondents lave in any manner made any interpolation in his Personal Data Form.

7. Counsel for the petitioner would explain that the petitioner''s stand in respect of Annexure-A is that the aforesaid document is a forged and fabricated document altogether and it does not bear either the petitioner''s handwriting or his signature. Learned Counsel explains that the petitioner never puts his signature by writing his full name Rather, he puts his signature only by writing initials of his name along with his title.

Reiterating that the respondents had malafidely made interpolation in his Personal Data Form in respect of his date of birth and that too behind the back of the petitioner, learned Counsel for the petitioner submits that such act on the

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part of the respondents is illegal and arbitrary. Learned Counsel would rely in support of his contention, en the judgment passed by this Court in the case of Raj Bhuwan Singh Vs. Steel Authority of India and Others, . Furthermore, as would appear from the facts of the lace, respondents have not attempted to make any alteration or change in the original entry in the- petitioner''s date of birth. Rather, by referring to the entry in the Personal Data Form, respondents have assessed the date of superannuation and had intimated the same to the petitioner by (he impugned notice.

8. From the rival submissions, the facts which emerge and that the petitioner was appointed under the respondent SAIL on 30.5.1973. At the time of his appointment, a Personal Data Form was filled in, in which his date of birth was mentioned as 7.7.1947.

The petitioner had claimed that on being informed that his date of birth was recorded as 7.7.1947 in his Personal Data Form, he had submitted his application on 29.5.2006 (Annexure-6), requesting the respondents to correct the entry of his date of birth and to record the same as 7.7.1949 on the basis of his School Leaving Certificate and also on the basis of his original Medical Book.

On perusal of the photocopy of the Personal Data Form (Annexure-A), it would be apparent that there is no interpolation whatsoever in the entry against the petitioner''s date of birth. The petitioner in this writ application, has now wanted to challenge Annexure-A on the ground that it does not bear his handwriting or his signature. From perusal of the application (Anexure-6) which the petitioner had admittedly filed before the respondent authorities for correction of his dale of birth, it appears that he has not challenged the Personal Data Form as being a fabricated document on the ground that it does not bear his handwriting or signature. It is apparent that the petitioner has taken such stand for the first time in this writ application. It also appears that in his application (Annexurc-6), signature of the petitioner contains his full name and not the initials, as the learned Counsel for the petitioner would want to explain.

9. The petitioner being a literate and educated person, he is not only capable to sign, but also capable to read and write. The Personal Data Form bearing the handwriting and signature of the petitioner has to be treated as genuine. In absence of any explanation offered by him as to how and why did he mention his date of birth as 7.7.1947 in his own handwriting in his Personal Data Form, it has to be deemed that entry in respect of his dale of birth made in the Personal Data Form, is correct and he cannot dispute the same at this stage. It appears that having obtained the earlier Medical Book by managing to incorporate his date of birth as 7.7.1949, petitioner had wanted to assure himself that such entry in the Medical Book would be treated as conclusive proof of his date of birth.

10. The judgment in the case of Ram Bhuwan Singh (Supra), would not help the petitioner in the facts and circumstances of this case. In the case of Ram Bhuwan Singh (Supra), the Personal Data Form had clearly indicated that there was

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interpolation in the entry in respect of the date of birth and since the Personal Data Forms of employees arc expected to be maintained in the exclusive custody of the employer, it was upon the enployer to explain as to how the interpolation came to be made. In the instant case, there is no interpolation whatsoever in the petitioner''s Personal Data Form.

11. It is by now well settled that the Personal Data Form, filled in by the employee at the time of his appointment containing details of his identity, address and date of birth, is a document which is binding both upon the employer and the employee.

12. In the facts and circumstances, I find no merit in this application. This application is accordingly dismissed.

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