

(2010) 12 UK CK 0120
In the Uttarakhand High Court
Case No : Writ Petition (S/B) No. 247 of 2008

Bhattu Singh Kandari

APPELLANT

Vs

The State of Uttarakhand and Others

RESPONDENT

Date of Decision : 06-12-2010

Acts Referred:

Citation : (2010) 12 UK CK 0120

Hon'ble Judges : Barin Ghosh, C.J.;V.K. Bist, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Barin Ghosh, C.J.—On 7.9.2000, Petitioner was told that he having been born on 3.9.1944, would retire on completion of sixty years in September, 2004. Petitioner filed Claim Petition No. 10 of 2004 and thereby contended that he was born on 3.9.1948 and accordingly, would retire at the end of September, 2008. While the claim petition was pending, the Petitioner was informed on 8.4.2004 that his date of birth shall be reckoned as 3.9.1948 for all practical purposes. Petitioner, accordingly, withdrew Claim Petition No. 10 of 2004.

2. On 8.4.2004, it was held out that the date of birth of the Petitioner was recorded in his service record as 3.9.1948, and subsequently the same was altered to 3.9.1944. It was stated that the same is not permissible.

3. After Petitioner withdrew claim petition No. 10 of 2004, on 29.9.2004 it was held out to the Petitioner that his date of birth shall be reckoned as 3.9.1944 and not as 3.9.1948. In the said letter, it was indicated that the date of birth of the Petitioner was recorded in his service record as 3.9.1944 and subsequently, the same was sought to be altered to 3.9.1948. Again, it was held out that the said alteration is not permissible. Petitioner, accordingly, retired on the last date of September, 2004. Subsequent thereto, Petitioner filed Claim Petition No. 39 of 2007. In the said claim petition, Petitioner contended that his date of birth was originally recorded as 3.9.1948 in his service record, which was later on altered

to 3.9.1944.

4. In the counter affidavit filed to the claim petition, it was contended that the date of birth of the Petitioner was recorded originally in his service record as 3.9.44, which was later on altered to 3.9.1948, under the signature and authority of one Sri Raturi, the then Divisional Forest Officer.

5. In such circumstances, the issue was whether in the service record of the Petitioner, what date of birth of the Petitioner was recorded initially. Was it 3.9.1944 or the same was 3.9.1948? The Tribunal called for the service record, looked into the same and found that originally the date of birth was recorded as 3.9.1944, and the same was later on purported to be changed under the signature of Sri Raturi to 3.9.1948. Surprisingly, in the body of the petition, no challenge has been thrown to the said finding. On the other hand, there is a clear-cut admission in paragraph 12 of the writ petition as regards correctness of the said finding. It has been stated in the said paragraph that even if some cuttings in the service record was made by the competent authority on the basis of available record and the same was duly signed by him without any application or demand of employee to that effect, the employee could not be held responsible for such act. It is surprising that the Petitioner could approach this Court with the case of the nature made out in the writ petition, despite finding of fact by the Tribunal, not disputed in the writ petition. The writ petition is thoroughly misconceived, malafide and has been filed only with an object of wasting court's time. The conduct of the writ Petitioner is also to be noted, he approached the Tribunal in the year 2007 after having had retired at the end of September, 2004.

6. The writ petition is, accordingly, dismissed.