
(2016) 04 JH CK 0046
In the Jharkhand High Court
Case No : L.P.A. No. 451 of 2015

Bhola Ram

APPELLANT

Vs

State of Jharkhand & Others

RESPONDENT

Date of Decision : 05-04-2016

Acts Referred:

Citation : (2016) 2 JCR 644

Hon'ble Judges : Virender Singh, C.J. and Shree Chandrashekhar, J.

Bench : Division Bench

Advocate : Md. Sajid Yunus, Navin Kr. Singh & Fahad Allam, Advocates, for the Appellant; Vikash Kumar, JC to AAG, for the Respondent

Final Decision : Dismissed

Judgement

Virender Singh, C.J.—Dismissal of the writ petition being W.P.(S) No. 3053 of 2014 filed by the appellant-writ petitioner (hereinafter to be referred as petitioner) has given him cause to move this Court through the medium of the instant Letters Patent Appeal, which is at admission stage.

2. Petitioner was a Warder in Loknaya Jayprakash Narayan Central Jail, Hazaribagh. He, vide order dated 30th May, 2014 was retired from service considering his date of birth as 14th May, 1954 as entered in his service book. Since there was some interpolation with regard to the year of birth in the service book, both in numericals and in words also, a show cause notice was served upon him to put forth his stance. The matter was then inquired into which resulted into passing of detailed order dated 30th May, 2014 by Inspector General(Prisons), which ultimately led to retiring the petitioner from service w.e.f. 31.05.2014.

3. The learned writ Court has not only entered into every aspect of the instant matter but, for its satisfaction also perused the original service book, reference thereto is made in para-10 of the impugned judgment. Apart from that, what was noticed by the learned writ Court is that in the medical fitness certificate

prepared at the time of appointment, the Civil Surgeon-cum Chief Medical Officer, Hazaribagh had entered the date of birth of the petitioner as 14.5.1954. Furthermore, the G.P.F. Officer, Hazaribagh vide letter no. 294 dated 23.5.2014 transmitted the record which reveals the date of birth of petitioner as 14th May, 1954. With regard to the School Leaving Certificate, learned writ Court has commented upon the same adversely. It would be apt to re-produce the observations made by the learned writ Court in para-10. It reads:

"10. Having gone through the records and after hearing the parties at length, the impugned orders under Annexure 12 and 13 do not call for any interference by this Court, due to following facts, reasons and judicial pronouncements:

(i). On perusal of the original service book, it appears that there has been interpolation in the service book by change of year i.e.1954 to 1964, both in numeral and in words, which is in Devnagri, and the said over-writing is made by different ink and further there is no signature of the competent authority over the said over-writing, which creates serious doubt. Furthermore, there is no gainsaying that it is the petitioner, who is the beneficiary of such over-writing.

(ii). In Medical Fitness Certificate prepared at the time of appointment, the Civil Surgeon-cum-Chief Medical Officer, Hazaribagh entered the date of birth of the petitioner as 14.05.1954. Furthermore, the G.P.F. Officer, Hazaribagh vide letter date 294 dated 23.05.2014 has also communicated date of birth of the petitioner as 14.05.1954.

(iii). On perusal of Annexure B to the counter affidavit, it appears that the District Education Officer, Hazaribagh has submitted report to the effect that aforesaid school was affiliated by the then Sub-Divisional Education Officer, Hazaribagh only for class IV to Class VII and not for Class IX for which School Leaving Certificate was issued and further the school was neither affiliated to CBSE, ICSE nor Jharkhand Academic Council. Therefore, the said certificate was rightly not accepted by the respondents authorities.

(iv). The decisions cited by the petitioner is of no assistance to the petitioner since the factual aspect of the petitioner is quite different from the facts in issue in the said decisions.

(v). That the change in date of birth at the fag end of the service career has been deprecated by the Hon''ble Apex Court and petitioner cannot take advantage of the overwriting made in the service book so as to become a beneficiary of such interpolation/over-writing.

(vi). Apart from the factual assertions made by the respondents, documentary evidences lean in favour of the respondents so as to negative the claim of the petitioner.

(vii). Moreover, it is no more res integra that the disputed question of facts regarding veracity or genuineness of the certificate pertaining to date of birth cannot be effectually adjudicated by the Writ Court. Therefore, the reliefs sought

for in the writ application is thoroughly misconceived, illegal and unsustainable."

4. The contention raised by learned counsel for the petitioner that even if there is over-writing in service book with regard to year of the birth, it is not attributable to the petitioner and appears to be some error, cannot be accepted. The medical record, which indicates the date of birth of the petitioner as 14.5.1954, was prepared on 28th April, 1983 and if at all any error had crept in the service book which was contrary to the medical record, it can be corrected at any stage by the respondents. Not only that the petitioner has not thrown any challenge to the date of birth indicated in the medical certificate prepared in 1983.

5. Keeping all these aspects into consideration, it can be safely concluded that the change in the year of the birth from 1954 to 1964 is on account of interpolation. The petitioner being beneficiary of such interpolation thus, has rightly been retired on 31.5.2014 and he cannot derive benefit of another ten years of service. The net result is that the appeal on hand merits dismissal.

6. Ordered accordingly.