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(2005) 01 OHC CK 0001

In the Orissa High Court

Case No : Writ Petition (C) No. 373 of 2005

Chakradhar Pradhan — APPELLANT

Vs

Managing Director, Orissa State Co-op. Agricultural and Rural Dev. Bank Ltd. and Others — RESPONDENT

Date of Decision : 31-01-2005

Acts Referred:
Orissa General Financial Rules, 1959 — Rule 65

Citation : (2005) 99 CLT 672

Hon'ble Judges : N. Prusty, J;I.M. Quddusi, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

I.M. Quddusi, J.—Heard Mr. N. Lenka. Learned Counsel for the petitioner, Mr. A.K. Mishra, Learned Counsel for the Opp. Party No. 1 and Mr. A.K. Pandey, Learned Counsel for Opp. Party No. 2.

2. This Writ Petition has been filed by the petitioner for quashing the Order dated 1.1.2005 (Annexure-4) by which the petitioner was intimated that he will retire from his service with effect from 31.1.2005 as well as for correction of his date of birth in his Service Book and allow him to continue in his service till 31.1.2006.

3. Learned Counsel for the petitioner submits that the actual date of birth of the petitioner is 2.1.1948. Inadvertently the date of birth has been wrongly recorded in his Service Book as 2.1.1947. On the basis of such wrong entry in the Service Book by Order dated 1.1.2005 (Annexure-4) he was intimated to retire from his service with effect from 31.1.2005. After receipt of the Order dated 1.1.2005, the petitioner has approached this Court on 10.1.2005 by filing this Writ Petition at the feg end of his service career for correction of his date of birth.

4. In support of his contention, the petitioner has filed the Duplicate Matriculation certificate which was issued in his favour on 21.12.2004 wherein the entry against the date of birth has been mentioned as 2.1.1948. But the fact

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remains that the petitioner entered into service in the year 1969. During the entire service career, he has never raised any objection about such wrong entry of date of birth in his Service Book.

5. Mr. Pandey, Learned Counsel for the Opp. Party No. 2 during the course of hearing drew our attention to the Rule 65 of Section IV of Orissa General Financial Rules, which is being followed by the opposite parties. The said Rule clearly indicates that every person on entering the Government service shall declare his date of birth ..... supported by documentary evidence ..... The date of birth so recorded shall not except, in case of clerical error, be altered without prior approval of the Government. Where alteration becomes necessary due to clerical error, the appointing authority may on application made in that behalf within a reasonable time, cause the date of birth to be corrected. Representations made for correction of date of birth near about the time of superannuation shall not be admitted.

6. Mr. Mishra, Learned Counsel for Opp. Party No. 1 submits that the present petition at this belated stage, for correction of the date of birth, should not be entertained, especially on the eve of the superannuation of the petitioner. The petitioner was well aware of the entry of the date of birth in his Service Book and throughout his service career he has never raised objection to the same nor approached the concerned authority for correction of the same. Furthermore, the petitioner as a token of acceptance of the entries made in his Service Book had put his signature at the bottom of such entries and gave his finger impressions by the side of entries. Mr. Misra, in support of his contentions relied upon the decision of the Hon''ble Apex Court in the case of State of Punjab and Ors. v. S.C. Chadha reported in (2004) 1 ATT (SC) 337 wherein it has been held that claim for correction of date of birth has to be made in accordance with procedure prescribed and within the time fixed by any Rule or Order..... application must be within at least a reasonable time ..... and cannot be entertained after decades, especially on the eve of superannuation of such public servant.

7. In the instant case, the petitioner entered into the service in the year 1969, gave his signature as well as finger impressions as against the entries made in the Service Book as a token of acceptance of such entries, did not raise any objection with regard to the entry of the date of birth as 2.1.1947 in the Service Book within a reasonable time, filed the application for such correction on 24.12.2004 - when he is to retire on 31.1.2005 i.e., after about 35 years of his service at the feg end of his career when he is at the verge of his retirement. Keeping in view the Rule 65 of Section IV of Orissa General Financial Rules which is being followed by Opposite Party-Organisation and also the observation of the Hon''ble Apex Court with regard to correction of the date of birth and the fact that the petitioner woke up from deep slumper after a long period of 35 years of his service i.e., at the feg end of his service career when he is at the verge of retirement, we are of the view that such application cannot be entertained at this stage and furthermore any such interference by this Court will be prejudicial to

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the interest of his immediate junior, who is waiting for long to be promoted to the post of the petitioner immediately after his retirement.

8. In view of the above, we are not inclined to entertain this Writ Petition and the same is accordingly dismissed.

N. Prusty, J.

9. I agree.

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