
(2010) 09 UK CK 0170

In the Uttarakhand High Court

Case No : Writ Petition (S/B) No. 199 of 2010

Chandra Bhan Kapil

APPELLANT

Vs

State of Uttarakhand and Others

RESPONDENT

Date of Decision : 08-09-2010

Acts Referred:

Citation : (2010) 09 UK CK 0170

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

Bench : Division Bench

Judgement

Barin Ghosh, C.J.—In the year 1968, the Board of High School and Intermediate Education, Uttar Pradesh, Allahabad, while acknowledged that the petitioner has passed High School Examination - 1968, recorded that he was born on 15th July 1951. In 1977, when the petitioner joined his services, he relied upon the said certificate for the purpose of recording his date of birth in his service records. At that time, it is being contended that the employer was informed that the actual date of birth of the petitioner is 15th July 1954 and that after receipt of the said certificate, petitioner had approached the Board of High School and Intermediate Education, Uttar Pradesh, Allahabad for correction of his date of birth in the said certificate by substituting 15th July 1954. It is being contended that despite several requests made to the Board of High School and Intermediate Education, as yet, no step has been taken to correct the said certificate. In the present writ petition, the petitioner is seeking, amongst others, a mandamus upon the Board of High School and Intermediate Education, Uttar Pradesh, Allahabad to replace 15th July 1951 by 15th July 1954 in the said certificate. In the writ petition, however, the petitioner has not brought on record the extract of the admission register of his school, namely, B.D. Bajoria Intermediate College, Saharanpur, Uttar Pradesh, depicting that the date of birth of the petitioner has been recorded therein as 15th July 1954. The petitioner has also not brought on record the copy of the application filed by him with the Board of High School and Intermediate Education, Uttar Pradesh, Allahabad, while seeking permission of the Board to appear in the High School Examination - 1968. The petitioner, however, is

seeking to rely upon a certificate issued by one Kamal Raj Kardam, Ward Member, Nagar Palika Parishad, Saharanpur, issued on 25th August 2009, holding out that the petitioner was born on 15th July 1954.

2. It is well-settled in law that no reliance can be placed for alteration of date of birth on the basis of a document, emanating after the employee concerned has joined the services. Therefore, no reliance can be placed on the said document.

3. We think that factual questions are required to be gone in and the same cannot be done conveniently while exercising writ jurisdiction. We, accordingly, dispose of the writ petition by permitting the petitioner to approach the Board of High School and Intermediate Education, Uttar Pradesh, Allahabad afresh with a representation, and in the event such representation is made, the said Board is directed to dispose of the representation as quickly as possible, but not later than three months from the date of making of such representation. While disposing of the representation, it would be appropriate on the part of the Board, if it is possible at this belated stage, to refer to the application made by the petitioner, seeking permission of the Board to sit in the examination in question and to note, what date of birth the petitioner had indicated in the said application. While making the representation, it shall be open to the petitioner to obtain appropriate certificate from the Principal, B.D. Bajoria Intermediate College, Saharanpur, Uttar Pradesh, suggesting the date of birth of the petitioner as recorded in the admission register of the said college. It goes without saying that if the petitioner relies upon such certificate, the Board shall be entitled to production of and the Principal of the said college shall be obliged to produce the original of the admission register for consideration by the Board.

4. In the event, the Board alters the date of birth in the certificate, the said alteration, in law, would be a substitution and, accordingly, it shall be open to the petitioner to make a representation to his employer for alteration of the date of birth in the service records on the basis thereof.