
(1991) 01 AHC CK 0069
In the Allahabad High Court
Case No : Writ Petition No. 8507 of 1986

Habib Ali

APPELLANT

Vs

Nagar Swasthya Adhikari, Nagar Mahapalika, Lucknow and
Others

RESPONDENT

Date of Decision : 29-01-1991

Acts Referred:

Citation : (1991) 01 AHC CK 0069

Hon'ble Judges : D.K.Trivedi, J

Final Decision : Allowed

Judgement

D.K. Trivedi, J.—By means of this writ petition, the petitioner has challenged the order dated Nil passed by Prabhari Adhikari, Zone II, Nagar Mahapalika, Lucknow, by which the petitioner has been retired on the ground that his date of birth was 2101926.

2. The petitioner was appointed as Safai Hawaldar, Health in Nagar Mahapalika, Lucknow and later on he was designated as sanitary Supervisor. The petitioner's case is that his actual date of birth is July 1930. The said date was also recorded in his Service Book on 1371951 i.e. when the Service Book was prepared and accordingly the petitioner was to retire in July, 1990. In the last week of October, 1985 the petitioner was served with an undated order of retirement, by which it was intimated that his date of birth as recorded in the service book is 2101926 and he will retire in the afternoon of 31101986.

3. The petitioner has filed a photo copy of the extract of Service Book as Annexure 2 to the writ petition. The photocopy of the extract of Service Book shows that originally the date of birth of the petitioner was July, 1930. It appears that July, 1930 was scored out and thereafter the date 2101926 was mentioned in his Service Book. The grievance of the petitioner is that this change in the Service Book was made behind the back of the petitioner and he has no knowledge about this change. The learned counsel for the petitioner has submitted that someone in order to harm the petitioner has scored out the actual

date of birth (July, 1930) and mentioned 2101926, his date of birth in the Service Book. From the perusal of records, it appears that the date July, 1930 was cut and thereafter the date 2101926, as his date of birth was mentioned in the Service book.

4. The present writ petition was filed by the petitioner in the year 1986 and on 11121986, the learned counsel for the Opposite parties was directed to produce original service record of the petitioner in order to ascertain that whether any fabrication or change has been made in the Service Book of the petitioner or not. But upto now, neither the record has been produced nor any counteraffidavit has been filed controverting the facts alleged by the petitioner in his writ petition. There is no denial of the fact that Annexure2 is not extract of the photocopy of the Service Book. The petitioner was a Class IV employee and he was prematurely retired by the Opposite Parties without any fault of his.

5. From the perusal of Annexure2 to the Writ petition, it is proved that originally date of birth mentioned in this paper was July, 1930 and later on it was changed as 2101926. In view of the facts stated above, the present writ petition is liable to be allowed.

6. I, therefore, allow the writ petition and quash the order dated Nil passed by Prabhari Adhikari, Zone II, Nagar Mahapalika, Lucknow. The petitioner will be deemed to be in service upto July, 1990 as alleged by him. The opposite parties are directed to pay salary of the petitioner and other arrears within two months from the date of service of this order and also calculate the pension etc. in accordance with law.