

(2009) 05 AHC CK 0219
In the Allahabad High Court

Hari Shanker Shukla

APPELLANT

Vs

U.P.State Road Transport Corporation & Anr.

RESPONDENT

Date of Decision : 12-05-2009

Acts Referred:

Citation : (2009) 05 AHC CK 0219

Hon'ble Judges : Chandramauli Kumar Prasad, CJ and Dilip Gupta, J

Final Decision : Dismissed

Judgement

Dilip Gupta, J.

Writ petitionerappellant, aggrieved by judgment and order dated 17.03.2009 passed by a learned Judge in Civil Misc. Writ Petition No. 34882 of 2000 dismissing the writ petition, has preferred this special appeal under Chapter VIII Rule 5 of the Allahabad High Court Rules, 1952.

Short facts giving rise to this appeal are that the writ petitionerappellant (hereinafter referred to as the ""petitioner'') was appointed as Conductor on 28th February, 1970 and according to him inadvertently his date of birth in the service book was recorded as 15th September, 1942. Petitioner has averred that he passed the High School examination in 1969 prior to his appointment and in the High School certificate, his date of birth has been mentioned as 15th September, 1952. According to him, when he came to know in 1999 about the wrong entry of his date of birth in the service book, he filed a representation on 29.08.1999 followed by reminders, for its correction. By order dated 14.05.2000 passed by the Regional Manager, Uttar Pradesh State Road Transport Corporation, petitioner was intimated that he would retire after completing the age of superannuation, i.e.58 years, on 30th September 2000. It is this order, which was challenged in the writ petition.

Respondents resisted the prayer of the petitioner, interalia, contending that before appointment as Conductor on 28th February 1970, the petitioner was, for the first time, appointed as Conductor on 10.11.1967. It was also pleaded that

the date of birth entered in the service book, i.e. 15.09.1942 was countersigned by the petitioner himself. Further plea of respondents was that after two years of joining the service, petitioner passed the High School examination in the year 1969 and in case his date of birth is treated as 15.09.1952, his initial appointment was at the age of 15 years two months. The learned Judge, after considering the rival pleas, dismissed the writ petition vide order dated 17.03.2009, inter alia, observing as follows:

"In the writ petition this fact was conveniently concealed that petitioner was for the first time appointed on 10.11.1967. However, in para 3 of the rejoinder affidavit petitioner had to admit this fact. It has further been stated in para 3 of rejoinder affidavit that in March/April 1968 petitioner was removed from service on the ground that his age was less than 18 years and at that time age limit for appointment was 18 years. It has further been stated that subsequently when the petitioner completed 18 years in 1970 he was given appointment as conductor. The allegations are obviously false. If date of birth of the petitioner had been 15.09.1952 then even on 28.02.1970 when according to para 2 of the writ petition petitioner was initially appointed petitioner should have been minor (i.e. of the age of 17 years, 5 months and few days)."

Heard Mr. Anil Bhushan on behalf of the petitioner. Mr. Ajai Singh appears on behalf of the respondents.

Mr. Bhushan, appearing on behalf of the petitioner, submits that the date of birth recorded in the High School certificate as 15.09.1952 shall be deemed to be the petitioner's correct date of birth and the authority erred in treating his date of birth as 15.09.1942 and retiring him on that basis. In this connection, he has drawn our attention to Rule 2 of the Uttar Pradesh Recruitment to Services (Determination of Date of Birth) Rules, 1974.

We do not find any substance in the submission of Mr. Bhushan. Entry of date of birth in the service book is material not only for the employer but employee also. Undisputedly, the date of birth recorded in the service book of the petitioner, which he countersigned, is 15th September, 1942. Petitioner, for the first time, was inducted in service on 10th November, 1967. He passed High School examination in the year 1969 after joining the service. It is after a period of 29 years that he raised a grievance about his date of birth. In the face of the same, entry made in the High School certificate shall not be decisive.

Accordingly, we are of the opinion that consideration of the matter by the learned Judge does not suffer from any error calling for interference in this appeal.

We do not find any merit in the appeal and it is dismissed accordingly.