

(2013) 02 JH CK 0062
In the Jharkhand High Court
Case No : CWJC No. 766 of 2000 (R)

Jitendra Nath Verma

APPELLANT

Vs

Damodar Valley Corporation and Others

RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Citation : (2013) 2 AJR 743 : (2013) 2 JLJR 122

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

Advocate : Sanjoy Piprawall, for the Appellant; S.K. Ughal, for the Respondent

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard the counsel for the parties. The original petitioner, Pashupati Nath Verma has been substituted by his son, Jitendra Nath Verma on account of death of the petitioner during the pendency of the writ application. The petitioner-employee has sought quashing of the order of punishment dated 8.8.1996 by which a punishment of withdrawal of only 10% of the pension for the period of 5 years was allowed to him. He has also assailed the appellate order dated 7.9.1998 as well as order dated 16.4.1999 by which he was communicated about the fate of the appeal. Petitioner has also prayed for a direction upon the respondents to pay wages to the petitioner for the period 1.2.1992 to 17.7.1992.

2. The facts which are relevant for deciding the issue are as follows. The petitioner claim to had been appointed as Assistant Grade-III under the respondent-Damodar Valley Corporation (D.V.C.) on 8.2.1957. According to him in the year 1981 he made an application for correction of his date of birth in the service book which was recorded as 3.1.1934, since his correct date of birth was 3.1.1937. The petitioner was however, asked to retire on 31.1.1992 as per the date of birth recorded in his service book. Subsequently, he produced a copy of matriculation certificate of Bihar School Examination Board (B.S.E.B.) wherein

according to him the date of birth was recorded as 3.1.1937. However, when the petitioner again protested on reaching his superannuation on 3.1.1992 vide his representation dated 19.2.1992 (Annexure-5), vide letter dated 3.4.1992 of the Joint Secretary, B.S.E.B., the D.V.C. was informed of his date of birth as 3.1.1937 (Annexure-6). On communication made to the B.S.E.B., Patna by the Director of Personnel, D.V.C. vide Annexure-7, the Joint Secretary replied on 4.7.1992 reiterating the date of birth of petitioner as 3.1.1937. The petitioner was allowed to resume duties on 18.7.1992. However, it appears that the Chairman of the B.S.E.B. gave his response on 19.2.1994 to the letter of the Vigilance Officer, D.V.C. vide Annexure-11 that the actual date of birth is 3.1.1934 and not 3.1.1937. The petitioner was charged for having resorted to forging document in getting his date of birth corrected and continued in service on that account. The petitioner in the meantime retired on 31.1.1995. The departmental proceeding, thereafter concluded after his retirement and after due show cause to the petitioner the order of punishment was passed allowing him to withdraw only 10% of the pension for 5 years. His appeal was also rejected vide impugned order dated 7.9.1998 by the Chairman, D.V.C. and the fate of his appeal was communicated to him on 16.4.1999.

3. The grounds for challenging the aforesaid order of punishment on behalf of the petitioner is that the departmental proceeding had been continued after his retirement on the basis of which punishment order had been passed which is contrary to law. It is further submitted that the issue relating to date of birth was inquired by the respondents from the office of B.S.E.B. and was responded to by the Joint Secretary of B.S.E.B. in 1992 only, whereafter he was allowed to assume his duties. The Chairman, B.S.E.B. had no occasion to write letter disputing his date of birth after the aforesaid exercise.

4. The respondents in their counter affidavit have made a categorical stand that the application of the petitioner said to be made on 14.12.1981 was, on inquiry by the Examination Bureau, C.I.D., West Bengal, found that it bore a forged signature of one Mr. A.R. Das, Senior Divisional Engineer, Civil, Maithan. Even the madhyamik certificate produced by the petitioner bearing no. 01241 shows that it did not carry the symbol of B.S.E.B. like in the other certificate. Subsequently, on suspension inquiry was made by the respondents from the office of B.S.E.B., Patna and the Chairman, B.S.E.B., through letter dated 19.2.1994 (Annexure-11) categorically informed on scrutiny that the date of birth of the petitioner is 3.1.1934, which is recorded in the records of the Board and the correction of it showing date of birth as 3.1.1937 was unauthorized. It is therefore, submitted that petitioner was proceeded against departmentally during his service and the punishment order was passed after his retirement on the basis of proper inquiry report giving adequate opportunity to defend himself. The Appellate as well as Review Authority, accordingly affirmed the order of punishment. Therefore, in view of the grave charge against the petitioner for furnishing fake certificate, no leniency should be accorded to him. It is further contended by the respondents that the petitioner entered into service in the year 1956 showing his date of birth

in the service records but he raised dispute regarding his date of birth in 1980s only, which also on inquiry was found to be bearing forged signature of one A.R. Das.

5. I have heard counsel for the parties at length. The facts of this case present a picture that on the basis of a document the petitioner continued in service till 31.1.1995, though according to his service book he ought to have retired on 31.1.1992. The alleged correction of the date of birth was again found to be based on fabricated document on the categorical report of the Chairman of B.S.E.B. contained at Annexure-11. The petitioner, thereafter, was given adequate opportunity to defend himself in the departmental proceeding, which was initiated in his service career. The contention of the petitioner that departmental proceeding cannot be continued after his retirement by the respondents does not cut much ice as the same were initiated during his service period for alleged acts of forgery in the service book. In these circumstances, this Court, in exercise of its discretionary jurisdiction does not find any reason to interfere with the consistent findings in the impugned orders for the alleged forgery of date of birth and thereby continuing in service for the period beyond his actual date of retirement. This writ petition is dismissed as without having any merit.