
(2008) 09 AHC CK 0228
In the Allahabad High Court

Kumar Pal Singh	Vs	APPELLANT
Chief Managing Director, U.P. Power Corporation Ltd. and Others		RESPONDENT

Date of Decision : 12-09-2008

Acts Referred:

Citation : (2008) 4 AWC 3683 : (2009) 120 FLR 191 : (2008) 3 UPLBEC 2459

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Vineet Saran, J.—Heard learned Counsel for the petitioner as well as Sri J.P. Pandey, learned Counsel for the respondents. Pleadings have been exchanged. With consent of the learned Counsel for the parties this writ petition is disposed of at the admission stage itself.

2. The petitioner had joined as a Runner on 1.10.1970 in the respondent-Electricity Department. At the time when he entered service, his date of birth was recorded as 12.1.1949. The petitioner represented for change of his date of birth and got himself medically examined within a couple of years of his entering into service. The Civil Surgeon examined the petitioner on 18.4.1972 and gave a certificate that the petitioner was 21 years of age, meaning thereby that his date of birth would be 18.4.1951. Accordingly, by order dated 14.5.1972 amendment was made in his service book to the effect that his date of birth was 18.4.1951 instead of 12.1.1949. Now by means of the impugned order dated 6.5.2008, he has been informed that the change in the date of birth after entering into service is not permissible in pursuance, of the Circular" dated 30.6.1975. Challenging the said order this writ petition has been filed. A further prayer has been made that the petitioner may be permitted to continue in service till 30.4.2011, instead of 31.1.2009 which would be as per the impugned order dated 6.5.2008.

3. The specific case of the petitioner is that immediately after entering into

service the petitioner had got his date of birth corrected and that now after 36 years of such correction having been made in his service book, at the fag end of his career, the same cannot be changed to his detriment and that too on the basis of a Circular which had been issued subsequent to the correction having been made.

4. Just as an employee is normally not to be permitted to have his date of birth corrected to his advantage at the fag end of his career, in the same way the employer also cannot be permitted to correct the date of birth of the employee at the fag end of the career of such employee. The ground that the age as recorded at the time of entry in service cannot be corrected as per the Circular dated 30.6.1975 cannot be accepted as the correction had been made in the service book of the petitioner more than three years prior to the issuance of said Circular. The respondents have not denied such correction having been made on 14.5.1972. They also do not allege that any manipulation or fabrication had been done at the hands of the petitioner.

5. In such view of the matter, since for the last more than three and half decades the date of birth as recorded in the service book of the petitioner has been 18.4.1951, he would be entitled to continue in service as per the said date of birth and thus he would be completing his age of superannuation, which is 60 years, in the month of April, 2011 thereby he would be entitled to continue till the end of April, 2011.

6. This writ petition stands allowed.

7. The order dated 6.5.2008 is quashed.

8. The petitioner would be permitted to continue in service till the end of April, 2011.

No order as to cost.