
(2013) 09 JH CK 0092
In the Jharkhand High Court
Case No : WP (S) No. 4479 of 2011

Manoj Kumar Verma

APPELLANT

Vs

The State of Jharkhand and Others

RESPONDENT

Date of Decision : 20-09-2013

Acts Referred:

Citation : (2013) 4 JLJR 455

Hon'ble Judges : Aparesh Kr. Singh, J

Bench : Single Bench

Advocate : D.C. Shukla, for the Appellant;

Final Decision : Disposed Off

Judgement

Aparesh Kr. Singh, J.—Heard learned counsel for the parties. The petitioner is aggrieved by order of superannuation dated 13.1.2011, Annexure-2 by which according to him he has been forced to retire six months prior to his actual date of retirement i.e. on 31.1.2011.

2. Learned counsel for the petitioner submits that the petitioner had passed the Matriculation examination in March, 1968 under the Bihar School Examination Board from a school namely Mrs. K.M.P.M. Bahuddheshiye School Jamshedpur. His date of birth recorded in the matriculation certificate is 4.7.1951. The said certificate, however, was lost in respect of which, he had informed the Officer-in-Charge, Sonari, Police Station, Jamshedpur. He has sworn an affidavit in respect of the same and also written a letter addressed to the Secretary, Bihar School Examination Board, Bihar, Patna for issuance of duplicate Matriculation certificate, which is contained at Annexure No. 5 series to the rejoinder filed on behalf of the petitioner. The said certificate has been issued on 28.2.2011 after the petitioner was forced to retire on 31.1.2011 by the impugned notice. The petitioner has placed reliance upon the seniority list, which is Annexure-1/1 contained in memo No. 1120 dated 2.10.2009, where also at serial No. 271, his date of birth is shown as 4.7.1951 instead of 4.1.1951, which has been made the

basis of his retirement by the respondents. Therefore, the petitioner has made representations before the Director General of Police; Jharkhand vide Annexure-2 series, which has remain unredressed. The petitioner has also enclosed his Service Book annexed as Annexure-3 to the rejoinder filed on behalf of the petitioner where also his date of birth has been shown as 4.7.1951 and the same has been signed by the Deputy Inspector General (Training)-cum-Principal, P.T.C., Hazaribagh dated 8.2.2013, In such circumstances, the petitioner has come before this Court.

3. The respondents on the basis of the statements made in the counter affidavit filed on their behalf stated that the Service Book of the petitioner got burnt at Rail Police Station, Jamshedpur and only few portions of the burnt" pages remained intact. There is no visible entry of date of birth on the remaining burnt papers. In such circumstances, the applicant himself has filled up all the columns of Service Book in his own handwriting and the same has also not been certified by the Superintendent of Police, Saraikela or any competent authority, which is annexed as Annexure-A to the counter affidavit. Thereafter, the respondents have issued a letter dated 12.9.2010 followed by letter dated 13.1.2011 indicating that the petitioner is going to superannuate on attaining 60 years on 31.1.2011 according to his date of birth i.e. 4.1.1951. In such circumstances, on attaining age of superannuation, he has been retired on 31.1.2011.

4. On being asked, learned counsel for the respondents, however, is not able to show or explain the basis for taking the date, 4.1.1951 as date of birth of the petitioner, which is in contradiction to the other records showing his date of birth as 4.7.1951.

5. I have heard learned counsel for the parties and have gone through the relevant materials on record including the impugned notice. The facts, which have been stated on behalf of the parties, indicate that the Service Book of the petitioner was burnt and fresh Service Book has been prepared. This is the reason for the discrepancies in the date of birth of the petitioner. In such circumstances, reliance has to be placed upon the existing contemporaneous records in the office of the respondents. One of the records, which is annexed as Annexure-1/1 to the writ petition dated 22.5.2009 shows the date of birth of the petitioner against his name at serial No. 271 as 4.7.1951 in the provisional seniority list upon which, objections were asked for by the Office of the Director General-cum-Inspector General of Police, Jharkhand, Ranchi. The petitioner has also procured the duplicate of the matriculation certificate from the office of the Bihar School Examination Board, which is Annexure-1 to the writ petition issued on 28.2.2011 showing his date of birth 4.7.1951.

6. The respondents, however, have not been able to disclose any basis for treating his date of birth as 4.1.1951. In such circumstances, in the interest of justice, it would be appropriate to direct respondent No. 3, Additional Director General of Police, Special Branch, Ranchi to get the matter inquired into from the office of the Bihar School Examination Board from where the petitioner is said to

have passed the matriculation examination in March, 1968 in second class to ascertain the correctness of the date of birth recorded in the duplicate matriculation certificate issued on 28.2.2011. Respondent No. 3 would also take into account other contemporaneous documents maintained in the office of the respondents such as seniority list/gradation list issued time to time including Annexure-1/1 dated 2.5.2009. After concluding such an inquiry, he shall proceed to take an informed decision, in respect of the correct date of birth of the petitioner as claimed by him, preferably within a period of 12 weeks from the date of receipt of a copy of this order. Thereafter, if decision is found in favour of the petitioner, the petitioner be accorded the consequential benefits in respect of the salary for remaining period of his service as also other post retirement benefits thereafter within a reasonable period of 8 weeks. This writ petition is disposed of in the aforesaid terms.