

(2017) 05 RAJ CK 0187
In the Rajasthan High Court
Case No : 3244 of 2016

Om Prakash Mutha s/o Shri Himmatmal Mutha	APPELLANT
Vs	
State of Rajasthan through Finance Secretary	RESPONDENT

Date of Decision : 01-05-2017

Acts Referred:

Citation : (2017) 05 RAJ CK 0187

Hon'ble Judges : Dinesh Mehta

Bench : SINGLE BENCH

Advocate : Pankaj Sharma, P.R. Singh

Final Decision : Allowed

Judgement

1. Shorn of unnecessary details, facts in a nutshell, relevant for the present case are that the petitioner was appointed on temporary basis as Helper with the respondent-University on 02nd November 1981 and thereafter, he was regularly selected against the post of Technician (Pump Driver) on 18th October 1982.
2. According to the facts, narrated by the petitioner, his actual date of birth is 05.03.1957. At the time of joining the service, the petitioner was not having his original Transfer Certificate (TC), Class X certificate, which was lost in flood and as such, he applied for a Duplicate Transfer Certificate from his school, wherein his Date of Birth had been mentioned as 05.03.1954. The respondent University recorded his Date of Birth as 05.03.1954, on the basis of said T.C. On realising the same, the petitioner requested, in writing, to correct his Date of Birth in the record and produced Duplicate marks-sheet of Secondary School Examination, 1978. It is the case of the petitioner that he had been relentlessly requesting the respondent University to correct his Date of Birth in the record.
3. Ultimately, on petitioner's request, the respondent University passed an order dated 07.03.2014 after due inquiry and petitioner's Date of Birth has been corrected and recorded as 05.03.1957, in place of 05.03.1954.

4. Suddenly, the Registrar of the University passed an order dated 16.03.2016, thereby recalling the earlier order dated 07.03.2014 and ordered to relieve the petitioner from service with immediate effect.

5. Mr. Pankaj Sharma, learned counsel for the petitioner, attacked the order dated 16.03.2016 contending that the same has been passed, without affording an opportunity of hearing to the petitioner and that the respondent University has recalled its order dated 07.03.2014, which was passed after due scrutiny in the matter, including summoning report from the Board of Secondary Education.

6. Mr. Sharma also satisfied this Court about petitioner's correct Date of Birth by taking this Court to various documents, including marks-sheet issued by the Board of Secondary Education, the Certificate issued by the Board of Secondary Education and the Transfer Certificates of other Classes issued by Government schools where he studied and photocopy of PAN Card.

7. He contended that it was only on the basis of the duplicate Transfer Certificate, issued by Vidhyashala School, wherein petitioner's Date of Birth has been wrongly shown as 05.03.1954; the respondents have taken petitioner's Date of Birth to be 05.03.1954.

8. Mr. P.R. Singh, learned counsel for the respondent-University, contended that the order under consideration passed by the Registrar of the University on 16.03.2016 is perfectly just and proper and on the basis of the document submitted by the petitioner himself. He, however, despite his best efforts, could not justify the action of the Registrar in reviewing the earlier order dated 07.03.2014, which was passed by him after due inquiry and scrutiny into the matter, that too without affording any opportunity of hearing to the petitioner.

9. Having heard learned counsel for the parties and after perusal of the record of this case, I am of considered opinion that the order dated 07.03.2014 accepting petitioner's Date of Birth as 05.03.1957 is well-reasoned order, having been passed after due inquiry into the matter was final, conclusive and binding on the University. It was passed after taking into consideration various documents placed by the petitioner, as mentioned above, so also photocopies of Permanent Account Number and other documents. On perusal of these documents, even this Court has no iota of doubt that petitioner's Date of Birth is 05.03.1957.

10. It is also not in dispute that pursuant to order passed by this Court, after hearing the counsel for the respondent-University, this Court had passed an interim order on 18.03.2016 and in pursuance thereof, petitioner has served the University till 31st March 2017.

11. Impugned order dated 16.03.2017, is per se against the principles of natural justice and liable to be quashed and set aside. Even on merits, the order under challenge can not clear the test of reasonableness and prudence.

12. As a result of the above discussion, the order dated 16.03.2016 (Annx.17) passed by the Registrar of the respondent-University is quashed and set aside.

13. Needless to observe that the petitioner shall be entitled for all consequential benefits, including pay and other emoluments, for the entire period he has served the respondent-University i.e. till 31st March 2017. The writ petition is accordingly allowed.

Write Petition Allowed.