
(2013) 02 JH CK 0046

In the Jharkhand High Court

Case No : Writ Petition (S) No. 2781 of 2001

Radhey Shyam Singh

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 14-02-2013

Acts Referred:

Citation : (2013) 2 AJR 462 : (2013) 4 JLJR 29

Hon'ble Judges : Aparesh Kumar Singh, J

Bench : Single Bench

**Advocate : U.P. Singh, Binod Kumar and Sachin Kumar, for the Appellant;
Sameer Saurab, J.C. to A.G., for the Respondent**

Final Decision : Dismissed

Judgement

Aparesh Kumar Singh, J.—Heard learned counsel for the parties. The petitioner has alleged that he has been arbitrarily and illegally retired from service w.e.f. 30th June, 2001, against which he has approached this Court.

2. According to the petitioner, his date of birth is recorded as 15th January, 1945 in the matriculation certificate issued by the Bihar School Examination Board vide Annexure-1. He was appointed as a Sepoy in Bihar Military Police (BMP) VIII on 16th April, 1964 vide Annexure-2. It is the contention of the petitioner that initially a wrong entry of his date of birth was made as 1st July, 1942. Immediately he represented by a representation dated 14th January, 1965 before the Commandant, BMP-VIII, Phulwarisharif, Patna to make necessary correction in his date of birth in the service book. However, in the year 1991, the petitioner came to know that his date of birth has not been corrected and the certificate had also been misplaced. He again represented before the respondent-Deputy Inspector General (Admn.), BMP on 14th August, 1991. The Commandant BMP-IX, Jamalpur thereafter corresponded with DIG Eastern Range, Jamalpur through his letter dated 23rd August, 1991 that his date of birth is recorded as 1st July, 1942, but according to his academic qualification and the certificate shows that 15th January, 1945 is the date of birth. The

petitioner thereafter preferred a writ petition in the year 1999 being CWJC. No. 6847 of 1999 when the grievances of the petitioner were not being redressed despite his efforts and an order of status quo was passed by the Patna High Court on 21st June, 2000. The said writ petition was, however, disposed of by order dated 11th August, 2000 by giving direction to the petitioner to produce the original matriculation certificate and if he is able to show that he has taken the examination prior to his appointment, then his date of birth should be corrected i.e. as 15th January, 1945. The petitioner, however, superannuated in the meantime on 20th June, 2000 which was given effect to after disposal of the writ petition because of the order of the status quo. The petitioner thereafter filed a review being Civil Review No. 233 of 2000 which was however dismissed vide order dated 11th April, 2001. While dismissing the review application this Court held that the petitioner was made to retire during the pendency of the earlier writ application but he had not made attempt to challenge the premature retirement and as such on his retirement he has sought to seek a review of an order under which he was directed to produce the original certificate for correction of his date of birth. In these circumstances, the review petition was dismissed. The petitioner had thereafter chosen to file this present writ application challenging his retirement as being arbitrary, illegal and based upon an incorrect date of birth though the respondents had got sufficient evidence that his date of birth was 15th January, 1945 instead of 1st July, 1942.

3. The respondents have however contested the claim of the petitioner stating that the date of birth once entered into the service book, cannot be altered in a casual manner and the petitioner had superannuated in the meantime when his earlier writ petition was pending wherein he was directed to produce the original certificate which he failed to do.

4. The facts and circumstances of the case, although appear to be harsh but the fact remains that the correction in the date of birth entry was challenged in the year 1999 by the petitioner at the verge of his retirement and on indulgence granted by the Patna High Court earlier, he could not produce the original copy of the matriculation certificate. Though it is the case of the petitioner that the original certificate had been submitted before the respondents and had been misplaced by them, but then in the year 2000 determining the question whether the certificate was actually submitted or misplaced is dependent upon an inquiry on a question of fact at the fag end of the service of the petitioner. In these circumstances, when he superannuated, the Review Court also refused to entertain the review application for modification of the earlier order as he had not challenged his premature retirement. In these circumstances, at such length of time, this Court does not find any reason to interfere in its writ jurisdiction. Accordingly, the writ application is dismissed.