

(2004) 08 JH CK 0104
In the Jharkhand High Court
Case No : LPA No. 890 of 2003

Ramavtar Mochi

APPELLANT

Vs

State of Bihar (Now Jharkhand) and Others

RESPONDENT

Date of Decision : 31-08-2004

Acts Referred:

Citation : (2004) 4 JCR 187

Hon'ble Judges : M.Y. Eqbal, J; Hari Shankar Prasad, J

Bench : Division Bench

Advocate : Jay Prakash Jha and Din Dayal Saha, for the Appellant; GP-III, for the Respondent

Final Decision : Dismissed

Judgement

1. By the impugned judgment, the learned Single Judge refused to decide the issue with regard to the correction of date of birth. The actual issue was, when and how the age of the petitioner recorded in the service book as thirty years was managed to be interpolated and recorded as twenty years. The learned Single Judge has held that this is a matter to be adjudicated by the civil Court and not under Article 226 of the Constitution of India. We are also definitely of the view that such disputed question with regard to the date of birth of an employee cannot be adjudicated under Article 226 of the Constitution.

2. Learned counsel appearing for the appellant put reliance on the judgment of a Bench of Patna High Court in the case of Baidyanath Singh v. BCCL and Ors., reported in ILR 2000 Pat 30. In that case, the fact was that the date of birth of the petitioner was originally recorded in the service book as 3.1.1946 which was subsequently struck-off and in that place, thirty five years was entered. Admittedly, this alteration or interpolation in the service book was made at the instance of the respondent employer behind the back of the petitioner. On these facts, the Court held that superannuation on the basis of altering the age by the employer without giving notice to the employee was illegal.

3. But in the instant case, it appears from the Annexure-A of the counter affidavit in the writ petition that the age of the petitioner was mentioned as thirty years and figure "three" was made "two" and thus, thirty years was made twenty years. It is specific case of the respondent employer that the petitioner managed to get the age interpolated by making it twenty years from thirty years. Having gone through Annexure-A, it is evident that this interpolation was made at the instance of the employee.

4. Taking into consideration all these facts, we do not find any error in the impugned judgment passed by the learned single Judge. This appeal is dismissed.