
(2010) 11 OHC CK 0052
In the Orissa High Court
Case No : O.J.C. No. 6205 of 2000

Ramchandra Sutar

APPELLANT

Vs

Rourkela Development Authority

RESPONDENT

Date of Decision : 23-11-2010

Acts Referred:

Citation : (2011) 1 ILR (Ori) 188

Hon'ble Judges : L. Mohapatra, J;Aruna Suresh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

L. Mohapatra, J.—The Petitioner, who was working as a Roller Driver under the Rourkela Development Authority, has filed this writ application assailing the order in Annexure-1 dated 31.5.2010 issued by the Secretary, Rourkela Development Authority intimating him therein that he has retired from service and relieved of his duty with effect from 31.5.2000.

2. Case of the Petitioner is that he was appointed as a Car Driver under the opposite party in the year 1974. In the year 1980-81, he was entrusted with the work of driving a roller and with effect from 27.3.1997 he was promoted to the post of Motor Mechanic. While working as such, he was served with a notice in Annexure-1 intimating him therein that he had retired from service with effect from 31.5.2000. According to the Petitioner, his date of birth is 8.5.1948, which is supported by the School Transfer Certificate in Annexure-2, and, therefore, he could not have been made to retire with effect from 31.5.2000 taking the date of birth to be 2.5.1942.

3. A counter affidavit has been filed by the opposite party. It is stated in the counter affidavit that the D.S.P.(Vigilance), Rourkela in his letter dated 1.5.1997 requested to conduct an inquiry so far as the Petitioner is concerned on the basis of certain allegations. On the basis of the request of the D.S.P. (Vigilance) as well as S.P. (Vigilance), Sambalpur, the Secretary, Rourkela Development authority in

his confidential letter dated 6.1.1998 directed the Planning Member, Rourkela Development Authority to enquire into the allegations and accordingly, an inquiry was conducted. The allegations relate to manipulation of the date of birth in the Service Book and upon conducting an inquiry, a report was submitted to the effect that the date of birth of the Petitioner is 2.5.1942 but the same has been manipulated as 2.5.1948 in the Service Book. On the basis of such report, the Petitioner was made to retire in Annexure-1.

4. The learned Counsel appearing for the Petitioner assails the order in Annexure-1 on three grounds. The first ground of challenge is that there is no material on record to show that it is the Petitioner, who manipulated date of birth in the Service Book. Therefore, he cannot be held responsible for any kind of manipulation as revealed from the inquiry report. The second ground of challenge is that the Service book clearly indicates the date of birth to be 2.5.1948 and the same has also been signed by the then Assistant Town Planner and Zone Officer of the opposite party. The third ground is that the inquiry was conducted behind the back of the Petitioner and the Petitioner had not been given any opportunity to meet the findings contained in the said inquiry report. Shri Mohapatra, the learned Counsel appearing for the opposite party, on the other hand, submitted that a bare perusal of the original Service Book clearly indicates that the "Digit 8" appearing against the date of birth has been manipulated. Apart from the above, the other documents Annexure-B and Annexure-C series also indicate the date of birth of the Petitioner as 2.5.1942 and not 2.5.1948 as reflected in the Service Book.

5. By order of the Court, Shri Mohapatra, the learned Counsel appearing for the opposite party has produced the original Service Book of the Petitioner. The entry relating to date of birth clearly indicates that the "Digit 8" has been interpolated though the same has been signed by then Town Planner and Zone Officer. But it is clear that the endorsement and the signature of the said Officer appearing under the date of birth are in a different ink and to the naked eye it appears to have been entered subsequently. Annexure-B is a Declaration and Nomination Form under the Employee's Provident Funds Scheme, 1952 wherein the date of birth of the Petitioner has been mentioned as 2.5.42 and the same has also been signed by the Petitioner. Similarly the C.C.R. of the Petitioner from 18.12.1982 to 31.3.1983 reflects the date of birth as 2.5.1942. The C.C.R. for the period from 14.8.1990 to 31.3.1991 also indicates the date of birth as 2.5.1942. Therefore, there are prima facie materials placed before the Court to show the date of birth to be 2.5.1942. Apart from the above, Annexure-2, the Transfer Certificate on which much reliance has been placed by the Petitioner indicates the date of birth to be 8th May 1948 whereas the date of birth entered in the Service Book is 2.5.1948. Therefore, there is anomaly in the date of birth appearing in the Transfer Certificate as well as the Service Book. These disputed questions of fact cannot be decided in a writ petition since the same require evidence. We are therefore of the view that since materials are available to show the date of birth of the Petitioner to be 2.5.1942 and there appears to be manipulation in relation

to "Digit 8" in the Service Book of the Petitioner in relation to the date of birth, it is not possible to decide the disputed questions of fact in a writ petition.

6. Accordingly, we decline to allow the prayer of the Petitioner and dismiss the same.

7. Writ petition dismissed.