
(2009) 07 JH CK 0093
In the Jharkhand High Court

Ramesh Balmiki @ Ramesh

APPELLANT

Vs

Steel Authority of India Limited and Others

RESPONDENT

Date of Decision : 15-07-2009

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2009) 123 FLR 507

Hon'ble Judges : Dhirubhai Naranbhai Patel, J

Bench : Single Bench

Judgement

D.N. Patel, J.—The present petition has been preferred mainly for the reason that as per the respondents, the date of birth of the present petitioner is 26th July, 1947 and. therefore, he has superannuated on 31st July, 2007, but, as per the submission of the counsel for the petitioner, the correct date of birth of the petitioner is 2nd January, 1949 and, therefore, correct date of retirement is 1st January, 2009. Counsel for the petitioner is relying upon Annexures 1 to 5 and submitted that the correct date of birth of the present petitioner is 2nd January, 1949 and the petitioner is wrongly compelled to retire on 31st July, 2007 and, therefore, petitioner is entitled for all the consequential benefits upto 1st January, 2009.

2. I have heard Mr. Kaushal Agarwal learned Counsel for the respondents, who has venemently submitted that Annexures 1 to 5 are nothing and the bare assertion of date of birth is without any evidence and, therefore, no sooner did it, the petitioner has joined the services with the respondents in the month of June, 1968, immediately in the month of July, 1968 as there was no documentary evidence as to date of birth of the present petitioner, he was sending for medical examination. It is also submitted by counsel for the respondents that doctor had examined the present petitioner and had declared his age 21 year as on 26th July, 1968. The petitioner has also signed the said declaration. Thus, the petitioner was fully aware of the medical certificate given by the doctor, which reveals the age of 21 years as on 26th July, 1968. The said certificate is at

Annexure B to the counter affidavit, filed by the respondents. It is also submitted by counsel for the respondents that the document at Annexure B to the counter affidavit is 40 years old document. Therefore, the petitioner has rightly superannuated on 31st July, 2007 and, therefore, there is no substance in this petition and, hence, the same may not be entertained by this Court.

3. Having heard learned Counsels for both the sides and looking to the facts and circumstances of the case, it appears that:

(i) The present, petitioner had joined the services of the respondent-Company on 28th June, 1968. The petitioner has declared his date of birth as 2nd January, 1949, but, as the petitioner could not point out any documentary evidence to substantiate his date of birth, immediately, within period of one month, the respondents sent the petitioner for medical examination on 26th July, 1968.

(ii) It also appears from the facts of the case that the present petitioner was examined by the doctor and as per certificate given by the doctor, his age was 21 years as on 26th July, 1968.

(iii) It also appears from the facts of the case that the said document is at Annexure B to the memo of the counter affidavit, which was also signed by the present petitioner. Thus, the petitioner was fully aware of the document at Annexure B to the memo of the counter affidavit, which was the certificate given by the doctor revealing the age of 21 years of the present petitioner on 26th July, 1968. In view of these facts, the date of retirement of the present petitioner would be 31st July, 2007 as the age of superannuation is 60 years. Looking to the counter affidavit filed by the respondents and looking to Annexure B, it is highly disputed by the respondents that the date of birth of the present petitioner is not 2nd January, 1949, but, it is 20th July 1947.

(iv) Learned Counsel for the petitioner insisted that looking to Annexures 1 to 5, the correct date of birth of the petitioner is 2nd January, 1949. The counter affidavit is supported by a documentary evidence of 1968, which is also counter signed by the present petitioner.

(v) Learned Counsel for the respondents has referred Section 13 of the Registration of the Birth and Deaths Act, 1969 and submitted that the petitioner could have got registered his date of birth even at a belated stage as per the aforesaid provision by the order of the trial Court, by laying proper evidence before the concerned trial Court.

4. As a cumulative effect of the aforesaid facts and reasons, highly disputed question of fact is involved in this petition and, therefore, I am not inclined to exercise powers and extraordinary jurisdiction vested in this Court under Article 226 of Constitution of India to dispel the clouds of disputed question of fact. The evidence is required to be laid before the concerned trial Court.

5. This writ petition is, accordingly, disposed of.