
(2011) 05 SHI CK 0050
In the High Court Of Himachal Pradesh
Case No : CWP-T No. 2805 of 2008

Ratti Ram

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 05-05-2011

Acts Referred:

Citation : (2011) 05 SHI CK 0050

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Rajiv Sharma, J.—Petitioner, by way of this petition, has sought a direction to the Respondents to correct his date of birth from 15.8.1948 to 15.8.1955, with all consequential benefits.

2. The Petitioner was appointed on daily wage basis as Labourer in the year 1989 in Kandaghat Sub-Division. He was conferred the work charged status on 31.3.2000. According to condition No. 5, he was directed to produce evidence of his age and medical fitness certificate. He furnished the affidavit sworn on 22.8.2000 (Annexure R-2) whereby he himself has given his date of birth as 15.8.1945. He was retired on 31.8.2005.

3. Mr. S.R. Sharma, Advocate appearing vice learned Counsel for the Petitioner has strenuously argued that the actual date of birth of his client was 15.8.1955 and not 15.8.1945. He has placed strong reliance on Annexure A-2 dated 9.10.1995, Annexure A-3, dated 8.5.2000 and Annexure A-4, copy of Births and Deaths Register, dated 10.8.2000 to substantiate his submissions.

4. According to Mr. Vikas Rathore, learned Deputy Advocate General, the date of birth of the Petitioner has been correctly recorded as 15.8.1945 on the basis of Annexures R-1 and R-2, respectively.

5. I have heard learned Counsel for the parties and gone through the pleadings.

6. Petitioner was made work charged, as noticed above, on 31.3.2000. He was directed to produce the proof of his age. He submitted the affidavit (Annexure R-2) duly sworn on 22.8.2000. According to the said affidavit, his date of birth was recorded as 15.8.1945. In the confirmation order dated 15.10.2001, the date of birth of the Petitioner has been recorded as 15.8.1945 against Sr. No. 58.

7. Mr. S.R. Sharma, Advocate appearing vice learned Counsel for the Petitioner has vehemently argued that the date of birth of his client has been wrongly recorded in the service book. According to him, the date of birth of his client as per Annexure A-2 is 15.8.1955. He has also relied upon Annexure A-3, dated 8.5.2000 whereby the Chief Medical Officer has opined his to be 45 years. He has also placed strong reliance on Annexure A-4, copy of the Births and Deaths Register issued on 10.8.2000 whereby his client's date of birth has been recorded as 15.8.1955.

8. It is intriguing to note that if the date of birth of Petitioner was 15.8.1955 as per Annexure A-2, dated 9.10.1995, he could have got the same entered in the service record at the time of conferment of work charge status. Petitioner has not explained why he has not produced this affidavit sworn on 9.10.1995 before the Executive Magistrate at the time when the entry was made in the service book. Annexure A-3 is the copy of certificate issued by the Chief Medical Officer. He has given the age of the Petitioner to be about 45 years in the year 2000 merely on the basis of appearance. It cannot be relied upon. He was required to conduct scientific test to determine the age of the Petitioner. Similarly, Annexure A-4, dated 10.8.2000 also does not inspire confidence since there is over-writing in this document.

9. According to muster roll, Annexure R-1, for period 1.1.89 to 31.1.89, the Petitioner was 42 years old. In affidavit Ex.R-2, he himself has given his date of birth as 15.8.1945. The same was reiterated in the confirmation order dated 15.10.2000. There is sanctity attached to the entries made in the service book as per the provisions of S.R. 197 to 202. The Petitioner in this case has tried to project a false case so far as his date of birth is concerned. He wanted to take advantage of 10 years on the strength of Annexures A-3 and A-4, which do not inspire confidence. In Annexure A-4, the entry has been made only on 10.8.2000. The Petitioner, in these circumstances, has been rightly retired on 31.8.2005 after attaining the age of superannuation.

10. Accordingly, in view of the observations and discussion made hereinabove, there is no merit in this petition and the same is dismissed, so also the pending application(s), if any.

No costs.