
(2002) 07 JH CK 0039
In the Jharkhand High Court
Case No : LPA No. 286 of 2002

Sheo Shankar Vishwakarma	Vs	APPELLANT
State of Jharkhand and Others		RESPONDENT

Date of Decision : 17-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 07 JH CK 0039

Hon'ble Judges : S.J. Mukhopadhaya, J; Lakshman Uraon, J

Bench : Division Bench

Advocate : A.K. Pandey, for the Appellant; Rajiv Ranjan Mishra, G.P. II and A. Allam, for the Respondent

Final Decision : Dismissed

Judgement

1. The case relates to date of birth on the basis of which the appellant has been retired from service w.e.f. 31st July, 1999.
2. Before the learned single Judge, the writ petitioner-appellant contended that he was in continuous service of the State since 1959-60 and his date of birth mentioned in the matriculation certificate is 1st August, 1942. The respondents illegally and unreasonably taken the date of birth of petitioner as 1941 and superannuated him one year before.
3. The respondent-State took plea that the writ petitioner-appellant at the time of appointment disclosed the date of birth as 1st August, 1941 concealing the date of birth mentioned in the matriculation certificate. According to matriculation certificate, the age of appellant was about 17 years at the time of appointment. It was further pleaded that the appellant never raised any objection with regard to entry in the service book.
4. Learned single Judge while considering the facts and circumstances, observed that there being disputed question of fact, the issue cannot be adjudicated by this Court in exercise of its writ jurisdiction with liberty to writ petitioner-

appellant, if so advised, to file suit before the civil Court of competent jurisdiction.

5. Counsel for the appellant placed one or other enclosures to suggest that the 7th Respondent, Sri Narendra Mishra being inimical, changed the date of birth in the service book. School leaving and character certificates were produced at the time of appointment which were taken into consideration to record the date of birth in the service book.

6. In view of allegation made by the appellant, this Court directed the respondents to produce the original service book of appellant. From the said service book, it appears that the date of birth of appellant was recorded as 1st August, 1941. Subsequently, the digit "1" was interpolated by different ink and by another ink, it was recorded as 1st August, 1942 with word.

7. So far as educational qualification is concerned, it was mentioned as matric passed in IInd Division. Therein, subsequently, by another ink, it was added "Bihar School Examination Board, Patna dated 1st November, 1959".

8. From the service book, it appears that some interpolation has been made in respect to date of birth. On interpolation, the date of birth was changed from 1st August, 1941 to 1st August, 1942 to the advantage of the appellant. Thus, it cannot be accepted that somebody was inimical to appellant to interpolate the date of birth in the interest of appellant.

9. We find no reason to interfere with the order passed by the learned single Judge. Accordingly, the appeal is dismissed.