
(2006) 08 UK CK 0023

In the Uttarakhand High Court

Case No : Defective Special Appeal No. 07 of 2003

Smt. Annpurna Devi and Others

APPELLANT

Vs

State of Uttar Pradesh and Others

RESPONDENT

Date of Decision : 02-08-2006

Acts Referred:

Uttar Pradesh Recruitment to Services (Determination of Date of Birth) Rules, 1974 — Rule 2

Citation : (2007) 1 UC 287

Hon'ble Judges : Rajeev Gupta, C.J.; J.C.S. Rawat, J

Bench : Division Bench

Advocate : Pramod Belwal and Deep Joshi, for the Appellant; Beena Pande and N.C. Gupta for Respondents Nos. 2 to 4, for the Respondent

Final Decision : Dismissed

Judgement

Rajeev Gupta, C.J.—Sri Pramod Belwal, Advocate with Sri Deep Joshi, Advocate for the Appellants.

Smt. Beena Pande, Advocate for Respondent No. 1.

Sri N.C. Gupta, Standing Counsel for Respondents 2 to 4.

2. On due consideration, Delay Condonation Application is allowed and the delay in filing the Special Appeal is hereby condoned.

3. The learned Counsel for the parties are heard on admission.

4. The Appellants have filed this Special Appeal against the impugned judgment dated 27-08-2003 passed in Writ Petition No. 131 of 2001 (S/S) whereby the writ petition filed by original Petitioner Jethu Prasad was dismissed.

5. Original Petitioner Jethu Prasad filed the writ petition in the year 1991 for the following reliefs:

(a) to issue an appropriate Writ, Order or Direction in the nature of Certiorari,

quashing the impugned Sanction Order, dated 18-2-1991, as contained in Annexure "3", and the finally passed impugned order of Retirement, dated 19-7-1991, as contained in the Annexure "10" attached to the writ petition;

(b) to issue an appropriate writ, order or direction, in the nature of Mandamus, commanding the Respondents No. 2 to 4, to allow the Petitioner to continue to discharge his duty at the post of Chaprasi, as before, and not to relieve him or take charge from him;

(c) to issue an appropriate Writ, Order, or Direction, in the nature of Mandamus, Commanding the Respondents No. 2 to 4, to treat the Petitioner to be in continuous service at the post of Chaprasi, on the basis that his date of birth is 18-8-1946, and to correct the entries in the Petitioner's Service Book and the other records in the Department accordingly;

(d) to issue an appropriate Writ, Order or Direction .in the nature of Mandamus, commanding the Respondents No. 2 to 4, pay the Petitioner his due salary at the prescribed rate even after 30-6-1991, as if the impugned order of retirement dated 19-7-1991 and the impugned Sanction Order dated 18-2-1991, had never been passed at all;

(e) to issue an appropriate Writ, Order or Direction of such nature and in such terms to the Respondents No. 1 to 4 or any of them, to give to the Petitioner such other relief as may be found necessary in the facts and circumstances of the case as well as may be found expedient in the interest of justice, which the Hon'ble Court may deem fit in the instant case;

(f) to award costs of this Writ Petition to the Petitioner, against the Respondents 1 to 4 or any of them.

6. Original Petitioner Jethu Prasad joined service as "Mate" in the Irrigation Department in the year 1979. In his service records, his date of birth was recorded as 19-06-1931. On his attaining the age of 60 years on 30-06-1991, he was retired from service vide Order dated 19-07-1991.

7. The Petitioner's entire claim was based on the plea that his correct date of birth was 18-08-1946 and the date of birth recorded in the Service-Book was incorrect. The Petitioner, therefore, sought correction of his date of birth in the service records and other consequential reliefs.

8. The learned Single Judge did not find any substance in the submissions advanced on behalf of the Petitioner in view of Rule 2 of U.P. Recruitment to Service (Determination of Date of Birth) Rules, 1974, which expressly provided that the date of birth recorded in the Service-Book shall be final and no application or representation shall be entertained for correction of such date or age in any circumstances whatsoever.

9. Sri Pramod Belwal, the learned Counsel for the Appellants vehemently argued that thp authorities and the learned Single Judge have erred in not giving due

weight to the material which was submitted by the Petitioner to establish that his correct date of birth was 18-08-1946.

10. The Petitioner joined service in the year 1979. It is difficult to believe that it did not come to his knowledge for a period of more than 10 years that his date of birth recorded in the Service Book is 19-06-1931. The Petitioner sought correction of his date of birth in the service record for the first time in the year 1991, which was his year of retirement. Thus, an attempt to get the date of birth corrected was made by the Petitioner at the fag end of his service career.

11. On due consideration of the submissions of the learned Counsel for the parties; the reasonings given by the learned Single Judge in the impugned judgment; above mentioned broad features of the case; and the fact that the date of birth was sought to be corrected at the fag end of the Petitioner's service career, we do not find any infirmity in the impugned judgment which may warrant interference in the Special Appeal.

12. The Special Appeal, therefore, is liable to be dismissed and is dismissed summarily.