
(2008) 09 PAT CK 0117
In the Patna High Court
Case No : CWJC No. 6897 of 2006

The Union of India and Others

APPELLANT

Vs

Ramdeo Singh

RESPONDENT

Date of Decision : 04-09-2008

Acts Referred:

Citation : (2009) 1 PLJR 796

Hon'ble Judges : C.M. Prasad, J; Barin Ghosh, J

Bench : Division Bench

Advocate : Hemendra Pd. Singh, for the Appellant; Gautam Bose, Ratna Das and Ajay Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Barin Ghosh and C.M. Prasad, JJ.—The respondent-petitioner approached Central Administrative Tribunal, Patna Bench, Patna, in O.A. No. 446 of 2000 challenging the order dated 10th March, 2004, whereby it was held out that the date of birth of the respondent is 28th February, 1942. By the said order the respondent was superannuated. The bone of contention of the respondent before the Tribunal was that from various documents emanating from the records of the petitioner would demonstrate that the date of birth of the writ petitioners was 28th February, 1947, and not 28th February, 1942 as was purportedly held out in the order dated 10th March, 2004. In this connection, reliance was placed upon the seniority list dated 1st April, 2000. The respondent brought to the notice of the Tribunal that in a list prepared on 24th October, 2001, showing the names of the persons who would be retiring in February, 2002, the name of the petitioner originally featured, which was subsequently withdrawn holding out that the date of birth of the respondent is 28th February, 1947. In the counter-affidavit filed by the petitioner before the Tribunal it was contended that the year of birth of the respondent is 1942 and the same has been recorded in the seniority list published in 1989, 1991 and 1995.

2. Before the Tribunal the attestation form of the respondent was produced

alongwith his Matriculation certificate. In addition to that School Leaving Certificate and Transfer Certificate of the respondent were produced. All of them suggested that the respondent was born on 20th February, 1947. The Tribunal noticed that there is an entry in the service records of the respondent that he had appeared at Higher Secondary examination but failed. The Tribunal noticed that a person who has appeared in higher examination need not appear in Matriculation examination, but if the transfer certificate is accepted, the respondent appeared at the Higher Secondary examination at the age of fifteen years. At the same time the Tribunal noticed that in 1989, in the seniority list the respondent was shown to have been born on 28th February, 1942, but in the seniority list of 1st February, 2000 he was shown to have born on 28th February, 1947. The Tribunal, at the same time, noticed that the name of the respondent was originally included in the list of employees who retired in 2002 and, subsequently, the name of the respondent was withdrawn from the said list.

3. From the judgment and order of the Tribunal it does not appear that the petitioner held out before the Tribunal that it investigated the discrepancy between attestation form and the transfer certificate. In the circumstances, the Tribunal opined that the petitioner having accepted the version of the respondent in the immediate past, there cannot be any retrospective correction of date of birth. The Tribunal allowed the said Original Application and thereby quashed the order dated 10th March, 2004.

4. In the present writ petition it is the contention of the petitioner that the attestation form and the transfer certificate of the respondent have been interpolated by making "2" to "7". It is the contention of the petitioner that the handwriting experts have opined to that effect. There is nothing to suggest that the respondent was informed that the petitioner suspects either on the basis of such opinion or otherwise that "2" has been altered to "7" and thereupon after giving an opportunity to that effect an adjudication has been made. If such a recourse had been taken, it could be proved that an attempt was made to alter "7" into "2" unsuccessfully. Be that as it may, there was no such contention before the Tribunal. Furthermore, the petitioner thought incorrectly that an opinion of an expert is conclusive proof of the matter upon which opinion has been expressed. In the circumstances, we see no reason for interference. The writ petition is dismissed.