

GAHC010073092021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/319/2021

PRADIP CHANDRA KALITA
S/O LT. HARENDRA NATH KALITA, R/O JYOTINAGAR EAST JYOTINAGAR,
NOONMATI ROAD, HOUSE NO. 88, GUWAHATI-781021, DIST. KAMRUP (M)
ASSAM

VERSUS

THE STATE OF ASSAM AND 3 ORS.
REP. BY THE COMMISSIONER AND SPECIAL SECRETARY TO THE GOVT.
OF ASSAM, PWD (ROAD) DEPTT. DISPUR, GUWAHATI-781006

2:THE CHIEF ENGINEER
PUBLIC WORKS DEPTT. (ROADS)
CHANDMARI
GUWAHATI-781003
DIST. KAMRUP (M) ASSAM

3:THE EXECUTIVE ENGINEER
NALBARI RURAL ROAD DIVISION NALBARI
DIST. NALBARI
ASSAM
PIN-781335

4:THE BOARD OF SECONDARY EDUACTION
ASSAM
REP. BY ITS SECRETARY BOARD OF SECONDARY EDUCATION ASSAM
BAMUNIMAIDAM GUWAHATI-781021
DIST. KAMRUP (M)
ASSAM

Advocate for the Petitioner : MR. P K ROYCHOUDHURY

Advocate for the Respondent : SC, PWD ROAD

**BEFORE
HONOURABLE THE CHIEF JUSTICE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 29-11-2021

Heard Mr. P.K. Roy Choudhury, learned counsel for the appellant. Also heard Mr. T.C. Chutia, learned standing counsel, SEBA, appearing for the respondent No.4.

The appellant/writ petitioner has challenged the order of the learned Single Judge dated 12.03.2021 passed in WP(C) No.357/2020, by which the writ petition of the appellant/writ petitioner was dismissed.

Brief fact of the case is that the appellant/writ petitioner was working as an Engineer in Public Works Department. The date of birth recorded in his service record is 01.01.1960 and consequently, the appellant/writ petitioner was to retire from service on attaining the age of superannuation on 31.12.2019. The prayer made in the writ petition was for correction of his date of birth recorded in the service record. The writ petition was dismissed by the learned Single Judge vide order dated 12.03.2021 against which he has come before this Court.

It has been submitted by the learned counsel for the appellant/writ petitioner that during the pendency of the aforesaid writ petition, the petitioner has retired from service on attaining the age of superannuation.

After hearing the learned counsel for the appellant/ writ petitioner and the learned counsel for the respondent No.4, we find that nowhere in the writ petition the appellant/writ petitioner has given any averment as to what is his recorded date of birth in the High School/ Matriculation Certificate. He relied upon an Admit Card given to him by the Board of Secondary Education, Assam,

where it is recorded that at the relevant time his age is 16 years 2 months. This Admit Card pertains to the year 1976. Then the appellant/writ petitioner produced a Certificate of the present Headmaster of Hahara L.P. School, who states that the appellant/writ petitioner was admitted at Hahara L.P. School on 04.02.1965 and his age was recorded as four years on 08.02.1965 in Class-I. On the basis of this Certificate, the appellant/writ petitioner wants to change his date of birth. The recorded date of birth of the appellant/writ petitioner is 01.01.1960, which the appellant /writ petitioner now wants to change in the year of his retirement to 01.02.1961.

It is a settled principle of law that the date of birth recorded in Service Book cannot be changed towards the end of service. Moreover, in the present case, the recorded date of birth is admittedly 01.01.1960, which is on the strength of a High School Certificate of the appellant/writ petitioner. He wants to make changes on this settled date of birth by means of a Transfer Certificate which was given to him not at that relevant point of time but now in the year 2019.

This is an absolutely frivolous writ petition and has, therefore, been rightly dismissed by the learned Single Judge.

The appeal has no merit. We dismiss the writ appeal with a cost of Rs.25,000/- (Rupees Twenty Five Thousand). The appellant/writ petitioner is directed to deposit the cost before the Registry of this Court within a period of two weeks from today.

JUDGE

CHIEF JUSTICE

Comparing Assistant