

GAHC010086812018



2024:GAU-AS:12177

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

Case No. : WP(C)/2685/2018

NIRANJAN MEDHI
S/O LATE PHUKAN CHANDRA MEDHI, VILLAGE- PIRADHARA WARD NO.
2, DISTRICT BONGAIGAON, P.S. ABHAYAPURI, PIN 783384

VERSUS

THE STATE OF ASSAM AND 2 ORS.
REPRESENTED BY THE SECRETARY TO THE GOVT. OF ASSAM,
TRANSPORT DEPARTMENT, DISPUR, GUWAHATI - 781006

2:THE ASSAM STATE TRANSPORT CORPORATION

REPRESENTED BY THE MANAGING DIRECTOR
PALTAN BAZAR
PARIBAHAN BHAWAN
GUWAHATI - 781008

3:THE MANAGING DIRECTOR
ASSAM STATE TRANSPORT CORPORATION
PALTAN BAZAR
PARIBAHAN BHAWAN
GUWAHATI - 78100

Advocate for the Petitioner : MR. A CHOUDHURY, MR. A K BARUAH, A M I RAHMAN

Advocate for the Respondent : SC, TRANSPORT, SC, A S T C

**BEFORE
HONOURABLE MR. JUSTICE N. UNNI KRISHNAN NAIR**

ORDER

Date : 28.11.2024

Heard Mr. A. K. Baruah, learned counsel for the petitioner. Also heard Ms. M. D. Bora, learned Standing counsel, Transport Department appearing for the respondent no. 1 and Mr. G. N. Sahewala, learned Senior Counsel assisted by Mr. M. Sahewala, learned counsel for the Assam State Transport Corporation, representing the respondent nos. 2 & 3.

2. The petitioner in the present proceeding has prayed for a direction upon the respondent authorities to consider the contention of the petitioner that his actual date of superannuation would occasion only on 31.03.2020 and not on 31.03.2018, as held by the respondent Assam State Transport Corporation (ASTC).

3. As projected in the writ petition, the petitioner was appointed as a Handyman by the ASTC on 01.09.1978. The petitioner has contended that his actual date of birth as per the school records is 01.03.1960. The petitioner had earned promotions while in service in the said Corporation and while working as a Senior Conductor, he had received a communication dated 06.01.2018, issued by the Chief Personal Officer, ASTC, wherein the petitioner was informed that the petitioner would attain the age of superannuation of 60 years on 31.03.2018 and he would be released from the service on that day. The petitioner being aggrieved proceeded to submit a representation in the matter before the authorities. The said representation of the petitioner was rejected by the authorities of the ASTC vide communication dated 13.03.2018; and accordingly, the petitioner retired from his services on 31.03.2018. The petitioner, thereafter, pursued the matter with the ASTC authorities and on failing to get a favorable

response, proceeded to institute the present proceeding before this Court on 26.04.2018.

4. The materials brought on record would go to reveal that in the service book of the petitioner his date of birth has date of birth has been recorded as "01.03.1958" and the same was authenticated by the petitioner, in his service book, by putting his signature. The petitioner during his service career had never disputed the date of birth recorded in his service book at the time of his entry into the service and the application for correction of his date of birth was so made only after the respondent ASTC had issued the notice of superannuation dated 06.01.2018 to the petitioner.

5. The learned counsel for the petitioner by referring to the School Leaving Certificate brought on record in the present writ petition has submitted that in the school records, his date of birth has been recorded as "01.03.1960". The petitioner submits that he was not in the knowhow of his date of birth so recorded in the service book accordingly, the petitioner submits that the date of birth so recorded in his service book as "01.03.1958" was so recorded on an erroneous presumption, inasmuch as, the date of birth of the petitioner actually is "01.03.1960" as recorded in his School Leaving Certificate. Accordingly, Mr. Baruah, learned counsel for the petitioner submits that the date of birth so recorded in his service book being erroneous, the respondent ASTC by reckoning the School Leaving Certificate and the date of birth of the petitioner so recorded therein, ought to have corrected the service book and facilitated the petitioner to continue in his service till the date of his actual superannuation which according to the learned counsel for the petitioner, would have so occasioned on 31.03.2020. The learned counsel for the petitioner, in the above premises has submitted that the notice of superannuation as issued by the respondent authorities vide the communication dated 06.01.2018, would call for an

interference and the petitioner is required to be deemed to be in service till 31.03.2020 with all consequential benefits of pay and allowances.

6. Mr. G. N. Sahewala, learned Senior Counsel appearing for the respondent ASTC has produced the service book of the petitioner and therein, the date of birth of the petitioner has been recorded as "01.03.1958". Mr. Sahewala, learned Standing Counsel has submitted that the provisions of F.R. & S. R. is applicable to the employees of the ASTC and accordingly, referring to the note below the provisions of S.R. 8 has submitted that the said provisions bars consideration of any application submitted by an employee within a period of three years from his date of superannuation. Mr. Sahewala, learned Standing Counsel has contended that the date of superannuation, as mentioned in the said note below S.R. 8, has to be understood the date of superannuation so calculated basing on the date of birth of the employee recorded in his service book. Mr. Sahewala, further submits that the petitioner having submitted the application only on the eve of his retirement, for correction of his date of birth, the same would not mandate a consideration and accordingly, the authorities of the ASTC vide communication dated 13.03.2018 had rejected such claim made by the petitioner.

7. I have heard the learned counsels appearing for the parties and perused the materials available on record.

8. On perusal of the original service book of the petitioner as produced before this Court by Mr. G. N. Sahewala, learned Standing Counsel, it is revealed that therein, the date of birth of the petitioner has been so recorded as "01.03.1958". It is also found that the petitioner's signature also figures in the first page of the service book wherein the date of birth of the petitioner has been so recorded. The petitioner in the present proceeding has not alleged the signature so contained in the first page of the service book, is not his. It is seen that the petitioner after authenticating the date of birth so recorded in his service book,

continued in his service without taking any steps for alteration of the date of birth so recorded in his service book till 28.02.2018, when he had for the first time approached the respondent authorities for correction of his date of birth as recorded in his service book. In terms of the date of birth so recorded in his service book, the petitioner was slated to retire on 31.03.2018 and accordingly, it is found that only a month prior to the date of such retirement, the petitioner had moved before the authorities for correction of his date of birth as recorded in his service book.

9. Note 8 appended to S.R. 8 bars any request for correction of date of birth, if the same is not preferred before three years from the date of superannuation. The said three years period for superannuation is so calculated by reckoning the date of birth so recorded in the service book. Accordingly, reckoning the date of birth so recorded in the service book of the petitioner as "01.03.1958", any application that was required to be made by the petitioner herein, for correction of his date of birth was mandated to be so made prior to 31.03.2015, if not earlier.

10. The petitioner in the present proceedings has contended that his actual date of birth is "01.03.1960", and such claim is so based on a School Leaving Certificate issued by the Ramdia Higher Secondary School, Kamrup, Assam. However, the said certificate is found to have been so issued only on 28.02.2018. It is not understood as to why in the event the petitioner had pursued his studies till Class-X in Ramdia Higher Secondary School, Kamrup, Assam, such certificate was not produced before the respondent ASTC at the time of entry into service which had so occasioned on 1978. The certificate having been procured only on 28.02.2018 and not at the time of his initial entry into service, the said certificate would not merit an acceptance for the purpose of determining the age of the petitioner at this belated stage.

11. In view of the above discussions, this Court finds no ground to accede to the prayer made by the petitioner. Accordingly, the prayer made by the petitioner to deem that he was continued in his services till 31.03.2020 would not merit an acceptance.

12. In view of the above, this writ petition is held to be devoid of any merit and the same stands dismissed. However, there would be no order as to costs.

JUDGE

Comparing Assistant