



2025:UHC:11371-DB

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

THE HON'BLE CHIEF JUSTICE MR. G. NARENDAR

AND

THE HON'BLE JUSTICE MR. ALOK MAHRA

SPECIAL APPEAL NO.55 OF 2025

19th December, 2025

Sarojani Devi Semwal.

....Appellant

Versus

State of Uttarakhand & others.

...Respondents

Presence:-

Ms. Medha Gaur, Advocate for the appellant.

Mr. J.C. Pandey, Standing Counsel for the State of Uttarakhand.

Mr. Piyush Garg, Advocate for respondent nos.2 & 3.

ALOK MAHRA, J.

JUDGMENT

There is delay of 1031 days in filing the Appeal.

2. Reasons furnished in the affidavit filed in support of delay condonation application are sufficient to condone the delay. Accordingly, the application for condonation of delay (I.A. No.1 of 2025) is allowed and the delay in filing the Appeal stands condoned.

3. Appellant is the writ petitioner. She filed



the writ petition in the year 2021, seeking the following reliefs:

“A) Issue any other Writ, order or direction in the nature of Mandamus commanding and directing the respondents to treat 16-12-1963 as correct date of birth of the petitioner as per the service book entry.

B) Issue any other Writ, order or direction in the nature of Mandamus commanding and directing the respondents not to retire the petitioner from services on 31-12-2021 on the basis of incorrect entry of date of birth in service record.

4. Briefly put, the case of the appellant before the learned Single Judge is as follows:

The petitioner was appointed as a Labourer in the Electricity Department on 12.12.1986 under the Dying-in-Harness Rules. At the time of appointment, the petitioner had submitted a Certificate issued by the Gram Pradhan, Semi, and the Gram Panchayat Adhikari, Bamoth, District Chamoli, as proof of her age. Based on the said certificate, her date of birth was recorded as 16.12.1963 in Column 3(A) of Form No. 13. It is the case of the petitioner that on 12.06.2021, the Department informed her that she would superannuate on 31.12.2021 on attaining the age of superannuation, treating her date of birth to be 09.12.1961. Petitioner made representations, which were dismissed and the petitioner was made to retire on 31.12.2021. Feeling aggrieved by her premature retirement, she preferred Writ Petition (S/S) No. 1657 of 2021. Learned Single Judge of this Court vide



judgment dated 23.12.2021 dismissed the writ petition. The learned Single Judge held that it is settled proposition of law that correction of date of birth at the fag end of the career is not permissible. Feeling aggrieved by the aforesaid judgment dated 23.12.2021, the appellant is before us.

5. We have heard Ms. Medha Gaur, Advocate for the appellant, Mr. J.C. Pandey, Standing Counsel for the State of Uttarakhand and Mr. Piyush Garg, Advocate for respondent nos.2 & 3.

6. Learned counsel for the appellant submits that as the appellant had not passed the matriculation examination, she had, at the time of her appointment, furnished a certificate issued by the Gram Pradhan, duly authenticated by the Gram Panchayat Adhikari, in which her date of birth was recorded as 16.12.1963. The said date was accordingly entered in her service book. It is further contended that even in the Family Pension papers as well as in the confirmation order dated 12.11.1999, her date of birth was recorded as 16.12.1963. However, subsequently, the Department, without affording any opportunity or issuing due notice, altered her date of birth from 16.12.1963 to 09.12.1961.

7. Per contra, learned counsel for respondent nos.2 and 3 contends that at the time of the appellant's appointment, she was required to undergo a medical fitness examination, and in the certificate issued by the Medical Officer, her age was recorded as 25 years. It is



therefore submitted that, based on the said medical assessment, the appellant was correctly superannuated upon attaining the age of superannuation on 31.12.2021.

8. Since the determination of age at the time of appointment is governed by the statutory provisions contained in The Uttarakhand Recruitment to Services (Determination of Date of Birth) Rules, 2003, which stipulate that the age of a candidate shall be determined on the basis of the date of birth recorded in the matriculation or equivalent certificate, and in cases where the employee has not passed the matriculation examination, the date of birth entered in the service book at the time of initial appointment shall be treated as the employee's date of birth. Furthermore, learned counsel for respondent nos. 2 and 3 have fairly conceded that no show cause notice was issued to the appellant prior to altering her recorded date of birth from 16.12.1963 to 09.12.1961. It is a well-settled principle of law that the date of birth of an employee entails civil consequences and, therefore, any alteration thereto cannot be made unilaterally by the employer without affording the employee an opportunity of hearing.

9. In view of the foregoing facts and circumstances, the Special Appeal is allowed. Consequently, the impugned order dated 23.12.2021 is hereby set aside, and the writ petition stands allowed. Since the appellant/petitioner was prematurely retired on 31.12.2021, it would be just and equitable, in the



interest of justice, to direct that she shall be entitled to 50% of the arrears of salary for the period from 01.01.2022 to 31.12.2023. The date of birth of the appellant/petitioner shall be treated as 16.12.1963, as originally recorded in her service book at the time of appointment and, accordingly, she shall be deemed to have superannuated on 31.12.2023. The respondents are directed to release 50% of the arrears of salary to the appellant/petitioner for the aforesaid period and, thereafter, recalculate and revise her pension, treating her to have remained in service up to 31.12.2023. The entire exercise shall be completed within a period of four weeks' from the date of production of a certified copy of this order.

(G. NARENDAR, C.J.)

(ALOK MAHRA, J.)

Dated: 19.12.2025
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JAIWAL

Digitally signed by ARPAN JAIWAL
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