

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT APPEAL No. 1448 of 2016

JUDGMENT: (*Per VRS,J*)

Aggrieved by the dismissal of his writ petition, seeking the correction of an alleged wrong entry made in the service register relating to his date of birth, the writ petitioner is before us by way of this intra-Court appeal.

2. Heard Mr. Putluri Srinivasa Rao, learned counsel for the appellant.

3. The appellant entered service on 21.03.1982 in the respondent-organization, as Badili Filler. He was appointed originally in GDK-6A, Incline RG-II Area. He was transferred to OCP-III Incline on 09.04.1999. Later, he was promoted to the post of Coal Filler Category-I, Coal filler Category-II, Coal Filler Category-III, and as Pump Operator, respectively, in the years 1987, 1994 , 2003 and 2015.

4. As per the Rules in force, the appellant was served with an advance intimation in January, 2015, to the effect that he will be retiring on superannuation on 08.02.2016, and that, therefore, he will be retiring by the end of the month, namely, February, 2016.

5. Contending that his correct date of birth was 21.08.1963, as per the school records, and that, therefore, he was entitled to continue in service up to 20.08.2023, the appellant filed a writ petition in W.P.No.37723 of 2015. The writ petition was dismissed by a learned single Judge, holding that the attempt of the appellant to have his date of birth corrected, was highly belated one and that, therefore, as per the various decisions of the Supreme Court, he was not entitled to the relief claimed. It is against the said order that the appellant is before us.

6. The first contention of the learned counsel for the appellant was that when the appellant entered service on 21.03.1982, the service card was prepared in the handwriting of an Officer of the respondent-organization and that, therefore, it is a case of the respondent-organization treating the appellant as an illiterate employee. Such cases, according to the learned counsel, are covered by Rule 3 (vi) of the Age Retirement rules. According to the learned counsel, the entries made in 1999 at the time of the transfer of the appellant, cannot be put against him, in view of the fact that even his service card was prepared only eight years later. Therefore, it is his contention that the case of the appellant could not have been thrown out, on the ground of delay or laches.

7. We have carefully considered the above submissions.

8. At the outset, there is no denial of the fact that the petitioner entered service in March, 1982, and it was only after he was served with a notice one year in advance in the year 2015, that he woke up to the issue of the entry relating to his date of birth. Therefore, *prima facie*, the learned single Judge was right in applying the ratio laid down in various decisions of the Supreme Court, to the effect that the practice of approaching the Court at the fag end of the career has to be discouraged.

9. It is true that Rule 3 (vi) of the Rules contemplate two different procedures for entering the date of birth in the record of service, in the case of literates and illiterates. The appellant has studied up to 9th standard. He has gained several promotions after entry. We do not know, how he could be called an illiterate employee.

10. In any event, Rule 3 (vii) of the Rules stipulates that the date of birth, as recorded in accordance with these Rules, should be held to be binding, and that no alteration of such date should be permitted subsequently. Therefore, that puts a seal upon the dispute raised by the appellant.

11. It is also true that the Rules stipulate a detailed procedure for determination/verification of the age of employees. But, Part (B) of those Rules deals with variations in the record of service. This is not a case of variation in the record of service.

12. The learned counsel for the appellant also brought to our notice an order passed by a learned single Judge of this Court in W.P.No.42369 of 2016, whereby a list of directions have been issued to the very same respondent-organization, for subjecting the employees to medical examination. We do not know, under what circumstances, such directions were issued *de hors* the Rules.

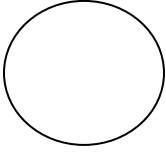
13. Therefore, we are of the considered view that there is no scope for interference with the order of the learned single Judge. Hence, the Writ Appeal is dismissed.

Consequently, miscellaneous petitions if any pending in the writ appeal shall stand dismissed. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

28th December, 2016
cbs



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