

HONOURABLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.8590 of 2017

Date : 04.04.2017

Between :

Smt Ambati Rama Tulasamma, W/o late Chinna Butchi Reddy,
Aged about 49 years, Occu:Time Scale Employee,
R/o H.No.19-207, Jangamaheswarapuram Village,
Gurajala Mandal, Guntur District.

.... Petitioner

And

The Acharya N.G.Ranga Agricultural University,
Admn.Camp Office: Vijaya Durga Towers,
M.G.Inner Ring Road, Guntur, Guntur District, A.P.,
and others.

.....Respondents



The Court made the following:

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ORDER:

Petitioner was appointed in Seed Production Farm as Agricultural Casual Labour on 13.08.1983. She was treated as Time Scale Employee. She was retired from service on attaining the age of 60 years as per the date of birth recorded in service records w.e.f. 31.03.2011. In this writ petition, petitioner challenges the notice dated 16.12.2010 informing the petitioner that she would attain the age of superannuation on 31.03.2011.

2. Learned counsel for petitioner contended that she had enrolled in the Employees Provident Fund and as per the records of the Employees Provident Fund, she had not attained even 50 years by the time she was retired from service. Thus, he would contend that she was retired from service 8 years prior to her actual date of attaining the age of superannuation and the same is illegal.

3. Learned counsel for petitioner asserted that wrong entry of date of birth was made in the service records of the petitioner, taking undue advantage of illiteracy of the petitioner and she was retired prematurely. He would further submit that a glance through the seniority list of 31.03.1999 would show that age of B.Hanumamma was shown as 35 years only, whereas her daughter age was shown as 30 years, implying thereby that at the age of five years, daughter was born to her. Similarly, Ch.Subba Rao is elder brother of

Ch.Yeshaiah, whereas in the seniority list, Subba Rao age was shown as 37 years and age of Ch.Yeshaiah was shown as 42 years. He, therefore, submitted that these are all wrong entries made in the seniority list and the same cannot be the basis to retire. By relying on the decision of the Division Bench of Calcutta High Court in the case of **Gadadhar Konar v. The Union of India and others**¹, he would contend that petitioner is also entitled to relief of reinstatement by setting aside the illegal order of premature retirement.

4. The averments made in the affidavit filed in support of the writ petition and the material papers placed on record would disclose that petitioner is not literate and it appears as there is no other material to show her date of birth, she only places reliance on entry of date of birth made in the Employees Provident Fund account to contend that she has not attained the age of 50 years by the time she was retired. It is not in dispute that at the time of joining service, age of the petitioner was determined and recorded in service record.

5. A reading of the seniority list dated 31.03.1999 would show that by that date, petitioner was shown as 48 years old. If what is contended by the petitioner is true, petitioner ought to have protested against wrong entry of her date of birth, at least, when the seniority list was communicated to her in the year 1999. Petitioner did not protest on the date of birth

¹ 2012 (1) SLR 161

shown against her name. It is also relevant to note that the order impugned was issued on 16.12.2010 informing the petitioner that she would attain the age of superannuation on 31.03.2011. Petitioner retired from service as per the notice issued to her and this writ petition is instituted almost six years later to her retirement. Except for relying on date of birth recorded in the Employees Provident Fund records, no other material is shown in support of her claim.

6. It is settled principle of law that once date of birth is recorded in the service records, the same cannot, ordinarily, be altered. An employee can persuade the employer to alter the date of birth by producing cogent material in support of the claim and it is for the employer, subject to Service Rules/ Regulations concerning the recording/alternation of date of birth, to accept the claim of the employee. It is also settled principle of law, needs no reiteration after long lapse of time after joining service and at the fag end of the service, no employee can claim for correction of entry of date of birth in the service records.

7. The decision relied by the petitioner do not come to her aid. The facts noted in the judgment by Calcutta High Court would show that date of birth was subsequently altered without prior intimation or opportunity to the petitioner and based on the assessment of age by the Age Determination Committee. The original date of birth recorded in the service

records was supported by the School Leaving Certificate of the concerned employee. In the peculiar facts, as assessed by the Calcutta High Court, decision was rendered in favour of the employee holding his retirement prior to attaining the age of superannuation based on altered date of birth was erroneous.

8. In the instant case, petitioner claims wrong entry of her date of birth in the service records after five years from the date of retirement. This claim is also not supported by any authentic material. Apparently, no claim was made while in service. I do not see any error in the information furnished to the petitioner on 27.12.2016 that her request for alteration of date of birth and re-induction into service was not acceptable. I do not see any error in the proceedings dated 16.12.2010 informing the petitioner that she would be retiring from service on 31.03.2011, as apparently the same was issued based on the entry of date of birth in the service records.

9. Writ petition deserved to be dismissed and is accordingly dismissed. There shall be no order as to costs. Miscellaneous petitions, if any pending, are stand closed.

JUSTICE P NAVEEN RAO

Date: 04.04.2017
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