

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 499 of 2015

Kapileswar Dash

....

Appellant

Mr. U. C. Mohanty, Advocate

-versus-

Tata Power Central Odisha

....

Respondents

Distribution Limited (TPCODL)

None

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

Order No.

ORDER

29.09.2022

02. 1. The prayer in the memo filed today by learned counsel for the Appellant seeking to substitute the Respondents with Tata Power Central Odisha Distribution Limited (TPCODL) is allowed. The said memo is taken on record. The corrected consolidated cause title of the writ appeal filed today is taken on record. The cause title stands corrected accordingly.
2. The Court has perused the impugned order dated 10th July, 2015 of the learned Single Judge in W.P.(C) No.3845 of 2009, which reads as under:

“Heard Mr. U.C. Mohanty, learned counsel for the petitioner.

The petitioner files this petition seeking for a direction to opposite parties to allow him to continue in his service up to 31.03.2011 treating his date of birth as 01.04.1953 along with all consequential service benefits.

Since there is a dispute regarding correction of date of birth of the petitioner in the School Certificate, this

Court is not inclined to make any declaration to that effect. However, liberty is granted to the petitioner to move appropriate forum seeking such declaration.

With such liberty, the writ petition stands disposed of.”

3. Mr. U. C. Mohanty, learned counsel for the Appellant relies on the decision in *Mohd. Yunus Khan v. U.P. Power Corporation Limited*, (2009) 1 SCC 80, *State of Orissa v. Binapani Dei*, AIR 1967 SCC 1269 and *Kalu Charan Mishra v. General Manager (Electrical), Orissa Hydro Power Corporation Ltd.*, 2011 (I) OLR—449 and submits that notwithstanding that the Petitioner may have superannuated on the basis of the date of birth as recorded in the service record long ago, his entitled, upon this Court accepting his contention regarding the correct date of birth, to the complete arrears of salary if he had retired only on 31st March, 2011 by treating his date of birth as 1st April, 1953.

4. The correction of a date of birth in the service record can happen only on the basis of a decree of a Civil Court. It could not have been sought by filing a writ petition under Article 226 of the Constitution of India. On that short ground, the Court is unable to find any error having been committed by the learned Single Judge in declining to grant the relief prayed for by the Appellant.

5. The appeal is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge