

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P (C) No. 24231 of 2020

Govind Charan Moharana

.....

Petitioner

Mr. D.K.Mohapatra. Advocate

Vs.

Union of India and others

.....

Opposite parties

Mr. P.K.Parhi, ASGI along with Mr. P.K.

Das, CGC

CORAM:

DR. JUSTICE B.R. SARANGI

MISS JUSTICE SAVITRI RATHO

ORDER

27.04.2022

Order No.

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This matter is taken up through hybrid mode.

2. Heard Mr. D.K. Mohapatra, learned counsel for the petitioner and Mr. P.K. Parhi, learned Assistant Solicitor General of India along with Mr. P.K. Das, learned Central Government Counsel for the opposite parties.

3. The petitioner has filed this writ petition seeking to quash the order dated 03.01.2020 passed in O.A. No.679 of 2014, by which the Central Administrative Tribunal, Cuttack Bench, Cuttack has dismissed the said O.A.

4. Mr. D.K. Mohapatra, learned counsel for the petitioner contended that the petitioner was initially appointed as Khalasi under the opposite parties on work charge basis on 25.10.1972 and then he was promoted as Carpenter on 01.07.1976 and as Carpenter Grade-1 on 29.09.1987. He came to know on 08.07.2014 that his date of birth recorded in his service book was corrected to 10.02.1957, instead of 10.02.1955, which was

recorded in the School Leaving Certificate. Then, he submitted an application on 17.07.2014 pointing out such correction in the service book and requested to allow him to continue in service taking 10.02.1957 as his date of birth, as per School Leaving Certificate. But opposite party no.4 rejected his application on 31.07.2014 on the ground that the School Leaving Certificate cannot be accepted for changing the date of birth in terms of the DOPT OM dated 30.11.1979.

5. Mr. P.K. Parhi, learned Assistant Solicitor General of India appearing along with Mr. P.K. Das, learned Central Government Counsel for the opposite parties contended that the petitioner declared his date of birth to be 10.02.1955 at the time of his appointment by filing an affidavit sworn to by his father on 25.04.1973, which stated that although the School Leaving Certificate mentioned his date of birth as 10.02.1957, but as per his horoscope, his date of birth is 10.02.1955. It is contended that on the basis of such affidavit, his date of birth was corrected to 10.02.1955 in his service book and he had endorsed such correction by putting his signature on the first page of the service book. It is also contended that the request for change of the date of birth was received from the petitioner after completion of 41 years of service and that he had declared his date of birth to be 10.02.1955 in the option form for Central Government Employees Insurance Scheme signed on 26.12.1977. It is further contended that the seniority lists circulated by the opposite parties in the years 2004, 2008, 2009, 2011 and 2012 showed the petitioner's date of birth as 10.02.1955, which was never objected to by him. It is further contended that the petitioner has served for 42 years

which is the maximum permissible length of service as per the Rules. If his date of birth is accepted as 10.02.1957, his age at the time of entry into government service would be 15 years 9 months. It is lastly contended that the petitioner had submitted his pension papers on 25.09.2014 and 04.10.2014 declaring his date of birth as 10.02.1955. It is further contended that since the date of birth of the petitioner is disputed one, this Court has no jurisdiction to entertain this writ petition.

6. The tribunal, after due adjudication, vide order dated 03.01.2020 passed in O.A. No.679 of 2014 came to the following conclusion:

“The applicant does not accept the affidavit submitted by his father about his age at the time of his initial appointment. That does not explain why he could not apply for correction of the date of birth within five years from the date of joining service as required under the DOPT OM dated 30.11.1979. The explanation that the applicant did not know about his date of birth as recorded in his service book till 2014 is not acceptable, in view of his declaration of age for the purpose of Central Government Employees Insurance Scheme and disclosure of his date of birth in the seniority list from time to time since 2004. Further, there is no averment of the applicant to the effect that he had requested the competent authority to inform about his date of birth in his service book through inspection or otherwise. It is clear that no attempt was made by the applicant to approach the authorities for correction of his date of birth as per his SLC within the time limit as specified by DOP& T. His belated request for correction of the date of birth is not tenable in view of the OM dated 30.11.1979 of the DOPT.”

7. Since there is dispute with regard to date of birth of the petitioner in the service book, this Court has no jurisdiction to entertain this writ petition in view of the decisions of the apex Court rendered in the cases of ***Karnataka Rural Infrastructure Development Ltd. vrs. T.P. Nataraja and Others***, 2021 SCC Online SC 767; ***Bharat Coking Coal Limited and Others vrs. Shyam Kishore Singh***, (2020) 3 SCC 411 and ***Jigya Yadav (Minor) (through Guardian/Father Hari Singh) vrs. Central***

***Board of Secondary Education and Others*, (2021) 7 SCC 535.**

8. Thereby, the order dated 03.01.2020 passed by the Central Administrative Tribunal, Cuttack Bench, Cuttack in O.A. No. 679 of 2014 is well justified. However, liberty is granted to the petitioner to approach the appropriate forum for declaration of his correct date of birth.

9. With above observation, the writ petition stands disposed of granting liberty as aforesaid.

Issue urgent certified copy as per rules.

Alok/Puspa

**(DR. B.R. SARANGI)
JUDGE**

**(SAVITRI RATHO)
JUDGE**

