

Order dated 9.5.2001

Heard Shri P.K.Padhi, learned counsel for the petitioner and Shri A.K.Bose, learned Sr.St.Counsel for the Respondents and also perused the records.

In this application the petitioner has prayed for a direction to respondents to reinstate him to the post of E.D.D.A., Adampur Branch Office, by taking his date of birth as 7.6.1937 and for all consequential service benefits till his date of superannuation taking his date of birth as 7.6.1937. Respondents have filed their counter opposing the prayer of the applicant and the applicant has filed rejoinder.

The case of the applicant is that he was appointed as E.D.D.A., Adampur on 13.8.1955 and all of a sudden he was made to retire w.e.f. 21.8.1998, taking his date of birth as 7.6.1933. Respondents have stated that taking the applicant's date of birth as 7.3.1933 into account he was to retire on 7.6.1998, but he was wrongly allowed to continue and ultimately he was retired w.e.f. 21.8.1998. In support of his contention that his date of birth is 7.6.1937, the applicant has relied on Gradation List where his date of birth has been mentioned as 28.11.1937. He has also mentioned that in his horoscope his date of birth is mentioned as 7.6.1937. Thirdly he has stated that at the time of his appointment had submitted the School Leaving Certificate, which shows his date of birth as 7.6.1937. On the above grounds he has come up with the prayers referred to earlier.

It is not necessary to refer to the averments made by the respondents in their counter, as these will be referred to while considering the submissions made by the learned counsel for both sides.

The entry with regard to date of birth in the gradation list is not relevant for the present purpose, because gradation list is not a document, on the basis of which correct date of birth of an employee can be determined. Moreover, the entry made in the gradation list against the date of birth of the applicant is different from the date as claimed by the applicant. It has been held in several decisions that for

determining the date of birth, horoscope is not a reliable document and in view of this horoscope cannot be relied upon. As regards the School Leaving Certificate, allegedly it is ~~was~~ submitted by the applicant that at the time of his joining, Respondents in their letter at Annexure-R/1 directed him to submit documents in support of date of birth and in reply thereto he stated that the School Leaving Certificate is ~~no~~ more available with him as it has been destroyed in the meantime. Respondents have relied upon the descriptive particulars, copy of which has been enclosed at Annexure-R/4. In the descriptive particulars, the date of birth of the applicant has been mentioned as 7.6.1933 and the applicant has signed the same and put his finger impressions. This has also been attested by the then Overseer Mails. The applicant has denied that the signature appearing therein is ~~not~~ his signature. On a cursory verification we find that the signature of the applicant appearing in the descriptive particulars is similar to that of the signature appearing in the ~~attested~~ form. As Annexure-R/4 is a document in which the applicant himself has acknowledged his date of birth as 7.6.1933, he cannot be permitted to try to change the date of birth after passage of several decades. In view of this we hold that the applicant is not entitled to get his date of birth changed to 7.6.1937 and also not entitled to get any of the reliefs prayed for in this O.A. which is accordingly rejected, but without any order as to costs.

MEMBER (JUDICIAL)

Johnathan Varghese
VICE-CHAIRMAN
9.5.2001

Free copies of
Final order
dt. 9.5.2001 issued
to Counsel for
both sides.

Pras
S.C.T.S

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