

ORDER DATED 18-7-2001.

Learned counsel for the applicant and his associates are absent without any request for adjournment. As in this case pleadings have been completed it is not possible to drag on the matter indefinitely. We have, therefore, heard Shri J.K. Nayak, learned Additional Standing Counsel for the Respondents and have also perused the records.

2. In this Original Application, the applicant has prayed for quashing the order dated 22-7-1999 at Annexure-3 retiring him from the post of E.D.S.P.M., Bamur w.e.f. 6.1.2000 on attaining the age of superannuation of 65 years. He has also prayed that the Departmental Authorities should be directed to allow him to continue in service till 3.7.2001.

3. The case of applicant is that he was initially appointed as EDBPM, Bamur BO in order dated 8.3.1973. This order dated 8.3.1973 which is at Annexure-1 shows his date of birth as 3.7.1936. This is also corroborated by the School Leaving Certificate dated 17.6.1952 issued by Kamakhyanagar ME School showing his date of birth as 3.7.1936. This S.L.C. is at Annexure-2. Applicant has stated that after getting notice of retirement on 22.7.1999 he represented on 28.1.1999 at Annexure-4 for accepting his date of birth as 3.7.1956 which according to applicant was wrongly recorded in the Departmental records as 7.1.1935 but no favourable consideration was shown to him. He filed a further representation dated 20.4.2000, which is at Annexure-5. In the context of the above the applicant has come up with the prayers referred to earlier.

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4. Respondents filed counter opposing the prayers of applicant.

5. No rejoinder has been filed.

6. It is not necessary to refer to all the averments made by the Respondents in their counter as these will be taken into account while considering the submissions made by learned Additional Standing Counsel Mr.J.K.Nayak. It has been submitted by the Respondents in their counter that the letter dated 8.3.1973 at Annexure-1 was not issued to the applicant and this is a fake letter and the date of birth mentioned as 3.7.1936 in this letter is also a fake date. Respondents have submitted that the applicant was working as EDBPM in Bamur BO. This office was upgraded in 1978 to ED sub post office. Shri Sahoo, was addressed in letter dated 1.2.1978 to submit application with required documents if he is willing to work as EDSPM. This letter dated 1.12.78 is at Annexure-R/1. In response to this, the petitioner submitted his application dated 16.12.1978 (Annexure-R/2). In this application signed by him he has clearly mentioned his date of birth as 7.1.1935. Respondents have pointed out that later on the applicant was addressed on several occasions to give documents in support of his age and educational qualification etc. but there was no response from him. On the basis of the date of birth as indicated by the applicant himself in his application dated 16.12.1978, his date of birth was taken as 7.1.1935. Respondents have also stated that the representation dated 2.8.1999 has not been

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received by the Respondents and the first application was received from the applicant only on 20.4.2000 after the case of applicant's son for appointment to the post vacated by the applicant was rejected. Respondents have also stated that the S.L.C. has been checked up and found to be a fake document. In the context of the above the Respondents have opposed the prayers of applicant.

7. From Annexure-R/2, it is clear that the applicant himself stated his date of birth as 7.1.1935. In view of this there is no illegality on the part of the Departmental Authorities to accept 7.1.1935 as the date of birth of the Applicant, because the same has been disclosed by the applicant himself. It is also to be noted that the SLC is dated 12.6.1952 and obviously if this certificate was correct, then at the time of applying on 16.12.78 this certificate was in the hand of applicant. It is, therefore not believable that he had given a wrong date as his date of birth.

8. So far as the SLC is concerned, the Respondents have pointed out that from the ~~form of~~ certificate it appears that this certificate was printed in Chhatrasathi press, Cuttack-2 but in 1952 the Chhatrasathi Press, Cuttack-2 was not in existence as has been found by the Respondents on enquiry. Moreover, from the ~~form of~~ the certificate itself it appears that the certificate is meant for the students who have passed the High School Certificate examination. There is, therefore, no reason why the Headmaster will give a

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Certificate in this form to the applicant who according to the averments has passed class VII examination. We have considered these averments of the Respondents and we find that the Respondents have reasonable grounds of doubting the genuineness of the SLC at Annexure-2.

9. Moreover, it appears from the counter that prior to the ~~considering~~ ^{fitting} of the application on 6.6.2000, he applied for sanction of gratuity in his letter dated 29.12.1999. From this it appears that at the time of applying of gratuity he has accepted his date of birth as 7.1.1935. In consideration of the above, we hold that the application is without any merit and the same is rejected. No costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

S. Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
18.7.2001

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final order
dt. 18.7.2001 issued
to counsel for
both sides.

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