

Sheikh Kayyam Vs. the South Eastern Coal Field Limited

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Court : Madhya Pradesh

Decided On : Jun-28-2012

Appellant : Sheikh Kayyam

Respondent : The South Eastern Coal Field Limited

Advocate for Def. : Shri. P. Shankaran

Advocate for Pet/Ap. : Shri. Shakeel Ahmed

Judgement :

1 HIGH COURT OF MADHYA PRADESH : JABALPUR WRIT PETITION
No.9004/2011 Sheikh Kayyum Vs. The South Eastern Coal Field Limited & others

Shri
Shakeel Ahmed, learned Counsel for the petitioner. Mrs. Indira Nair, Senior
Counsel assisted by Shri P. Shankaran, learned Counsel for respondents No.1 to
6.

Present : Honble Shri Justice K.K. Trivedi

ORDER

(28/06/2012) The grievance of the petitioner in short is that his date of birth was incorrectly recorded in his service roll and he was issued a letter for superannuation with effect from 30.06.2012. Earlier when the communication was made with respect to entry in the date of birth, the petitioner made a

representation pointing out that his date of birth was wrongly recorded. Since nothing was being done in this respect, the petitioner came before this Court by filing W.P. No.1754/2010, which was entertained by this Court and was disposed of vide order dated 24.02.2010 with a direction to place the case of the petitioner before the Age Determination Committee. Since this order was not being complied with, a contempt case was filed by the petitioner being Contempt Case No.703/2010. During the pendency of this contempt case, since an order was issued on 10.05.2010, the contempt case was disposed of granting liberty to the petitioner to challenge the said order in fresh proceedings. Therefore, this writ petition has been filed.

2. It is contended that the recorded date of birth of the petitioner as indicated in the service roll as 01.07.1952 is incorrect. In fact his correct date of birth according to education record is 01.10.1953. Apart from this, in the subsequent entries made in the service roll, certain errors were committed, pointing out which the petitioner has made the representation well in time. In fact in the Last Pay Certificate, which was sent from Dhanpuri to Amlai, the date of birth of the petitioner, the date of appointment of the petitioner and the P.F. number all were incorrectly recorded. This error was pointed out by the petitioner and a query was made by the officers of the respondents to verify the service record of the petitioner and to give information whether the date of birth of the petitioner was rightly recorded or not. However, after making repeated requests in this respect by the authorities of the Amlai-Sohagpur area of the respondents, the information was not supplied by the concerned officers and such a dispute could not be resolved. However, nothing was considered by the Age Determination Committee and simply it was said that on account of the duplicate certificate of educational qualification produced by the petitioner, correction in the date of birth of the petitioner was not permissible. Only on the basis of this, the order impugned has been issued rejecting the application of the petitioner. It is contended that there were errors committed by the authorities of the respondents in making the entries in the service roll of the petitioner and, therefore, the petitioner has been made to suffer on account of such error.

3. A return has been filed by the respondents detailing therein that the allegations made by the petitioner are incorrect. It is contended that in the year 1993 the

entries with respect to date of birth were made and the same were signed by the petitioner with open eyes accepting that date of birth of the petitioner is 01.07.1952. Once such an admission was made, it was not open to the petitioner to challenge entries made in the service roll. Further the claim 3 of the petitioner was referred to the committee and the said committee has already found that the date of birth as recorded in the service roll was correct. Therefore, the order impugned was rightly passed and communicated to the petitioner. It is contended that the claim made in the writ petition is misconceived and petition is liable to be dismissed.

4. Though a rejoinder is filed by the petitioner but nothing material is placed on record. However, after perusal of the record, this Court is of the view that the respondents have not conducted a proper enquiry in the matter of verification of date of birth of the petitioner. The entry made in the so called service roll, which was certified by the petitioner on 12.07.1993, simply says that he was 28 years of age in the year 1980. How this date of birth was ascertained as to be 01.07.1952 is not clear. It is the requirement of such particular document that the attested copy of the document in proof of the age is required to be kept. Nothing has been indicated whether this date of birth was ascertained from any other document or certificate produced by the petitioner or not. Secondly, as is evident from the correspondence done by the authorities, some wrong entries were made in the Last Pay Certificate issued in respect of the petitioner with respect to age. An objection was raised by the petitioner and the respondents- authorities were asking for supply of the relevant documents and the certificates or the information so as to decide such objection of the petitioner with respect to the entries made in the Last Pay Certificate. If only on the basis of such Last Pay Certificate certain entries were made in the year 1993, it could not be said that such entries were correct and proper. These facts were to be enquired by the authorities of respondents while the matter was referred before the said authorities or the Age Determination Committee but nothing is placed on record to indicate that 4 this has been done. Consequently, such a stand taken by the respondents cannot be accepted.

5. Resultantly, this writ petition is allowed. The respondents are directed to conduct an enquiry afresh with respect to age determination of the petitioner taking into account the original documents or relevant documents produced at the time of initial appointment of the petitioner or the entries made in this respect in 'B' form at that time. If it is found that the date of birth is incorrectly recorded in the service roll of the petitioner, the same be corrected and he be superannuated according to said date of birth. This exercise be completed within 15 days from today and till such exercise is completed and order is communicated to the petitioner, he be allowed to continue in the employment.

6. With the aforesaid, the writ petition is finally disposed of. There shall be no order as to cost. Certified copy as per rules. (K.K. Trivedi) Judge Skc

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