

Ramji Singh Vs. State of U.P. and Others

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Court : Allahabad

Decided On : Dec-15-1998

Reported in : 1999(2)AWC1223

Judge : D.K. Seth, J.

Acts : [Constitution of India](#) - Article 226; [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 340

Appeal No. : C.M.W.P. No. 14758 of 1992

Appellant : Ramji Singh

Respondent : State of U.P. and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : P.K. Jain, Adv.

Judgement :

D.K. Seth, J.

1. By means of present writ petition, the petitioner had sought to correct the date of birth as on 4.7.1937 instead of 1.7.1934 as recorded in his service book, on the basis of High School Certificate, which is Annexure-1 to the writ petition.

2. In the writ petition, the petitioner has described himself as son of Jai Murti Singh. On the basis of this High School Certificate (Annexure-1), the petitioner had obtained an interim order to the extent that until ordered otherwise or the date on which the petitioner attains the age of superannuation, to be computed on the basis of date of birth given in the High School Certificate of the petitioner, whichever is earlier, the petitioner shall not be retired and shall be entitled to all the benefits of employment.

3. Mr. Ajay Bhanot, learned Brief Holder for the State relying on the statements made in paragraphs 5 and 15 of the counter-affidavit, contends that the petitioner having applied for correction in the date of birth at the fag end of his service career on the basis of the certificate which he had never produced till the eve of his retirement, cannot claim any right on the basis thereof, particularly when the date of birth as sought for by the petitioner, if accepted, then he would be less than 18 years of age on the date of his entry into service. Apart from the fact that the petitioner had himself endorsed on three volumes of the service book with his own signatures and entered the date of birth as on 1.7.1934 as well as while affirming affidavit in Writ Petition No. 2994 of 1981 stating that he was 47 years of age on 27th May, 1981, which calculates his date of birth to be in the year 1934. Therefore, the petitioner having obtained the interim order by misleading the Court, he should be brought to book.

4. I have heard Mr. Bhanot and perused the records.

5. Annexure-C.A. 3 which is a zerox copy of service record of the petitioner signed by petitioner himself, shows that his father's name was Sri Murat Singh, which is also apparent from Annexure-C.A. 5 as well as C.A. 1. In the writ petition filed by the petitioner before Lucknow Bench of this Court which is Annexure-C.A. 7, the petitioner had described himself as son of Sri Murat Singh whereas in the present writ petition, he has claimed himself to be the son of Jai Murti Singh. The certificate which was annexed with this writ petition as Annexure-1, is in respect of one Ramji Singh son of Jai Murti Singh having studied in a school at Azamgarh.

6. In order to appreciate the situation, it would be relevant to quote the statement made in paragraphs 5 and 15 of the counter-affidavit hereinbelow :

'5. That the contents of para No. 3 of the writ petition as stated are wrong hence are denied. The petitioner himself has stated his date of birth as 1st July, 1934 in his service book, not only this when volume I of his service book was filled up, then volume II of his service book was prepared which was started from 1.4.1969, in this volume also the petitioner himself has filled up his date of birth as 1st July, 1934. Again when the volume III of his service book was prepared in which the petitioner himself has written his date of birth as 1st July, 1934 which was started from 1.7.1983. All these three volumes of petitioner's service book were duly signed by the petitioner. The photostat copy of the I and II page of second volume of his service book is annexed as Annexures-C.A. 3 and C.A. 4 and I and II page of petitioner's volume III of service book are annexed as Annexures-C.A. 5 and C.A. 6 to this counter-affidavit. Not only this, the deponent has to state that the petitioner has filed Civil Misc. Writ Petition No. 2994 of 1981 in the Lucknow Bench of High Court, Allahabad in which petitioner has mentioned his father's name as Shiv Murat Singh and has written his age as 47 years. The affidavit given in support of the writ petition is dated 27th May, 1981 in which he has again mentioned his age 47 years which also indicates that his date of birth is of 1934 and not of 1937 as has been stated by the petitioner. During this long span of his service, petitioner has never shown his High School Certificate, copy of which has been now annexed in the above mentioned writ petition as Annexure-1. This High School Certificate appears to be of some other Ramji Singh whose father's name is Jaimurti Singh whereas the petitioner has been describing his father's name as Murat Singh and his year of birth 1934. For the first time in the present writ petition, he has brought a new case which is highly doubtful to be believed, hence the contentions of the petitioner is denied, he is estopped and is not entitled to change his date of birth from 1st July, 1934 to 4th July, 1937 after completing his service. A photostat copy of the writ petition is annexed as Annexure-C.A. 7.'

'15. That the contents of paragraph Nos. 14 and 15 of the writ petition are denied. From the perusal of the service book of the petitioner which was prepared on 7.5.1955 in which the petitioner himself has written his date of birth as 1st July, 1934 and has also signed, the same cannot be allowed to take a contrary stand when he was about to retire. The minimum age for entering into Government service is 18 years. If petitioner's contention, i.e., date of birth was 4.7.1937, then

his age on 7.5.1955 would have been less than 18 years and he was not entitled to enter into Government service on that date, whatever may be the reasons which are based known to the petitioner. He has taken advantage by mentioning his date of birth as 1.7.1934 till the year his superannuation came, only few months before the date of his superannuation, he has tried his luck by taking a contrary case for the first time in his service career, from which no advantage he can derive, as he himself has filed a writ petition in the year 1981 and has also written the 1 pages of three volumes of his service book.'

The above statements are supported by the copies of relevant documents which are photo copies being Annexures-C.A. 1 to C.A. 7. I have perused and examined those documents.

7. Upon examination of the materials, it is apparent that the petitioner is son of Sri Murat Singh alias Murat Singh. In the writ petition filed before Lucknow Bench of this Court being Writ Petition No. 2994 of 1991, the petitioner had described himself as son of Sri Murat Singh and had affirmed the said affidavit stating his age as 47 years on 27th May, 1981, which if calculated relates back to the year 1934. In case the petitioner's date of birth is treated to be as on 4.7.1937. In that event when he entered into service on 7th May. 1955 he would be less than 18 years' of age when minimum age limit for entry into Government service is 18 years. The petitioner appears to have utilised a certificate of one Ramji Singh son of Jai Murti Singh in order to enable him to obtain the benefit by misleading this Court. He had presented this writ petition on 23.4.1992 when he was sought to be retired on 30.6.1992. He had never produced the certificate contained in Annexure-1 to the writ petition earlier nor he had prayed for correction of the date of birth before the eve of his retirement.

8. Thus, it appears that the petitioner had sought to correct his date of birth through this writ petition at the fag end of his career. In the case of Burn Standard Company v. Deena Bandhu Majumdar, JT 1995 (4) SC 29, the Apex Court had held that writ petition seeking correction of age at the fag end of service career cannot be entertained.

9. The present writ petition is, therefore, dismissed.

10. It is apparent that the petitioner has sought to use Annexure-1 as a part of the affidavit treating the same to be genuine though he had reasons to believe the same to be ingenuine. He has also obtained an interim order by misleading this Court by using an ingenuine document. Thus, the process of the Court has been abused with impunity. Unless exemplary cost is awarded in order to send proper signals to such litigants, the Court would be failing in its duty of preserving sanctity in the process of the Court. In such circumstances, this writ petition is dismissed with cost assessed at Rs. 5,000 to be recovered from the petitioner. It would also be open to the respondents to recover the amount that might have been paid to the petitioner after 30.6.1992 pursuant to the interim order dated 18th May, 1992 if he had continued in service, either from the retirement benefits payable to him or through any mode as would be permissible in law. Having regard to the gravity of the abuse of the process of Court, the Registrar is directed to lodge a complaint before the appropriate forum under Section 340 of C.P.C. against the petitioner. If such a complaint is lodged, the appropriate forum would deal with the same in accordance with law according to its own wisdom and discretion.

Let a copy of this order be placed before the Registrar for necessary action. A copy of this order countersigned by the Bench Secretary be furnished to Mr. Ajay Bhanot, learned Brief Holder for the State.