

Prem Singh Vs. Engineer-in-chief, P.W.D., Lucknow and Others

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Court : Allahabad

Decided On : Aug-08-2000

Reported in : 2000(4)AWC2770; [2000(87)FLR278]

Judge : A.K. Yog, J.

Appeal No. : C.M.W.P. No. 7261 of 1995

Appellant : Prem Singh

Respondent : Engineer-in-chief, P.W.D., Lucknow and Others

Advocate for Def. : S.C.

Advocate for Pet/Ap. : Rajesh D. Khare, Adv.

Judgement :

A. K. Yog, J.

1. This writ petition under Article 226 of the Constitution of India has been filed praying for a writ of certiorari to quash the impugned order dated 23.2.1995 (Annexure-6 to the writ petition) and for writ of mandamus commanding the respondents not to interfere in petitioner's functioning as work-agent till the petitioner attains the age of superannuation and to pay him regular salary month by month and other allowances also.

2. This writ petition was filed by the petitioner in the year 1995. The respondents were granted time to file a counter-affidavit and the petitioner to file rejoinder-affidavit. No counter-affidavit has been filed. The writ petition was dismissed on 13.7.1995. Petitioner filed a restoration application which was allowed by the Court on 12.5.1997, i.e., after about twenty two months i.e., more than one and half year.

3. Learned counsel for the petitioner stated that petitioner was not allowed to work and paid salary after February, 1995.

4. In brief, the undisputed facts of the case are that the petitioner was appointed as work agent in the Department of P.W.D., Government of U. P. in the year 1968. Subsequently he was confirmed vide order dated 23.3.1969 (Annexure-2 to the writ petition), which indicates that he was appointed on 1.3.1968 as work agent on temporary basis.

5. The petitioner states that due to some personal grudge of the authorities, he is being dealt with in an arbitrary manner.

6. The learned standing counsel has pointed out that a counter-affidavit has been filed in the registry. It is not on record. Sri R. D. Khare, learned counsel for the petitioner placed a supplementary affidavit before this Court which was received way back by the learned standing, counsel. The respondents, in para 4 of this Counter alleged Interpolation in the date of birth of petitioner in service record. It is to be disbelieved. The date of birth of petitioner, purports to have been recorded by overwriting in service record as 15.7.1939 which should have been normally prepared when petitioner joined the services. According to the respondent no cutting or over-writing has been made in the date of birth of the petitioner. It is against record. However, the date of birth (15.7.1939) apparently been made on the basis of the certificate dated 15.7.1976 given by the Superintendent of District Hospital, Muzaffarnagar ; photostat copy of which is annexed as part of Annexure-3A to the counter-affidavit. It mentions petitioner's age as 38 years in the year 1976.

7. It is, therefore, clear that the date of birth of the petitioner initially entered in service record was 15.7.1939 and not 15.7.1936 as claimed by the opposite party

overwriting and interpolation are to the effect that figure '9' is made to appear '6' which is evident to naked eyes. Petitioner's age thereafter will be 15.7.1939 and thus he attained age of superannuation in July, 1999, on completing 60 years of age.

8. Petitioner filed several representations to the concerned Executive Engineer for verification of his date of birth in his service record. Copy of the representations are annexed as Annexures-III. III-A, III-B, III-C and III-D to this writ petition. Employees Union also submitted representation to the Executive Engineer Division-I, P.W.D., Muzaffarnagar on 6.9.1991 and raised the issue of manipulation in the service record of the petitioner (Annexure-IV to the writ petition).

9. It is clear that the allegations made against the petitioner are incorrect. Petitioner claimed for promotion to the post of work supervisor, but he was denied promotion, and he was forced to file Claim Petition No. 289/F/IV/1988 before the Public Tribunal, Lucknow, which was allowed on 23.8.1995. The Executive Engineer, however, held that the petitioner be promoted as work supervisor but denied the relief holding that he has superannuated w.e.f. 31.7.1994.

10. It is apparent that the petitioner has been victimised twice at the hands of the respondents officials/employees in the concerned office with an ulterior motive and extraneous consideration to deny promotion to the petitioner.

11. Conduct of the department/ respondents in tampering with the service record of the petitioner cannot be overlooked.

12. It is a fit case where higher authorities should initiate an inquiry to fix the responsibility for the above interpolation (overwriting) or forgery in the service record of the petitioner and punish the erring responsible persons. The officer concerned responsible for maintenance of record and for interpolation the service record should be brought to book. It is further directed that the respondents shall ensure release of petitioner's post-retirement benefits. The respondents are directed to pay 18% interest per annum on amount due for delayed payment for no fault of the employee on the petitioner as held in the recent judgment of the Apex Court in

2000(1)ACJ 824. Also reference be made to the cases in 1996 (Vol. 37) III AWC 1525 (DB) : 1982 UPLBEC 1097 (DB).

13. Writ petition is allowed with costs which I quantify at Rs. 25,000 to be paid within one month of receipt of judgment and to be recovered from the erring official.

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