

Anup Kumar Panda Vs. Board of Secondary Education and ors.

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Court : Orissa

Decided On : Jul-03-2009

Reported in : 108(2009)CLT267

Judge : A.S. Naidu and; S.C. Parija, JJ.

Appellant : Anup Kumar Panda

Respondent : Board of Secondary Education and ors.

Disposition : Petition dismissed

Judgement :

S.C. Parija, J.

1. The Petitioner while working as Operator (Field) in Balasore LPG Bottling, plant under Indian Oil Corporation Ltd, was issued with a charge-sheet dated 23.08.2006 (Annexure-14) for giving false information regarding his age at the time of his employment and thereby committing fraud and forgery. The allegations in the charge-sheet reads as under:

I. That at the time of the interview for the post of Jr. Operator (Field) on 12.04.95 at Hotel Toronto, Januganj, Balasore, you have submitted a false date of birth in the declaration form (Form PA(S) 053) indicating your date of birth as 23.04.1975 with a malafide intention to be eligible for the post of Jr. Operator (Field).

II. That upon your preliminary selection, when you were called upon to submit the true copies of your School Leaving Certificate as proof of your age vide our Appointment Letter No. P&A;/1121/ER dated 16.6.1995, you did not submit the copy of the School Leaving Certificate even though you had taken the same (as per the counterfoil, certificate No. being Folio No. 79 (1) and SLC Number 0239279 dated 12.07.93) from the office of the Nilagiri Road High School on 12.07.93. You had further taken a duplicate School Leaving Certificate No. 0241581 dated 11.10.93. In both the certificates your date of birth was recorded 'as 23.04.1979. Instead you submitted a photocopy of a purported Provisional Certificate cum Memorandum of marks, purported original certificate was shown to the IOC Official also as recorded in the copy on 21.06.95 wherein your date of birth was recorded as 23.04.1975. You have also filed up an Application Form for Employment in the prescribed form on 21.06. 95 wherein also you have indicated your date of birth as 23.04.1975.

III. That on the strength of your false certificate attached with the Application Form you were offered employment subject to terms and conditions as stipulated in the above referred Appointment Letter.

IV. That upon verification of the mark sheet as was submitted by you along with the Application Form dated 21.06.95. Board of Secondary Education, Orissa, Cuttack vide their letter No. 10485 (CRR) dated 30.11.2005 has confirmed that as per records of the Board, Anup Kumar Panda, son of Rajkishore Panda, born on 23.04.79 (Twenty Third April, Seventy Nine) has passed High School Certificate Examination in Third Division bearing Roll No. 34CA008/93/Annual from Nilagiri Road High School.

V. That Head Master of Nilagiri Road High School vide his letter dated 09.12.05 has also confirmed that the date of birth of Sri Anup Kumar Panda, son of Rajkishore Panda, village: Chhanur, District Balasore, a pass out of this school in 1993 is 23.04.79 as recorded in the school admission register.

VI. That at the time of Vigilance investigation by the Vigilance Investigation Officer on 15.12.05, you have submitted a copy of the original Board Certificate dated 31st August, 1995 issued in your favour, wherein the date of birth is recorded as

23.04.1979. It proves that even though you had received the Original Certificate from the Board of Secondary Education, Orissa, wherein your date of birth was recorded as 23.04.1979, you did not submit the same to IOCL authority at your work place with a malafide intention to continue with your employment secured fraudulently.

VII. That you have secured employment with Indian Oil Corporation Ltd. at the age of about 16 years whereas under the notification as well as under the rules of the Corporation the minimum age for recruitment is prescribed as 18 years of age.

VIII. That it is amply proved by the documents referred above that you have submitted false documents as proof of your age at the time of joining the service in the Corporation with fraudulent intention of cheating and securing employment in a wrongful manner with a forged/fabricated certificate indicating a false date of birth.

IX. That you have breached the provisions as incorporated in the Application Form as well as Attestation Form in connection with false submission/ suppression of facts. xxx xxx xxx xxx

2. Accordingly the Petitioner was asked to submit his written explanation to the charges which amounted to misconduct under the Certified Standing Orders of the Corporation.

3. The Petitioner in his explanation dated 13.09.2006 (Annexure-15) stated that his actual date of birth is 23.4.1975 based on his horoscope and that the same has been wrongly mentioned as 23.4.1979 in the High School Certificate issued by the Board of Secondary Education, Orissa. It was further stated that the provisional certificate issued to him by the Nilagiri Road High School, Balesore, reflected his date of birth as 23.4.1975, which was submitted by him to the Corporation, at the time of his interview for the post of Jr. Operator (Field) on 12.4.1995. It was further stated by the Petitioner in his explanation that he came to know about the mistake in recording of his date of birth in the certificate issued by the Board of Secondary Education, Orissa, only when an enquiry was started against him by the Vigilance Department of the Corporation in 2005. It was further stated that on enquiry, the Petitioner found that his correct date of birth i.e. 23.4.1975 was recorded in his first

place of education i.e. Chhanpur U.P.M.E. School. But subsequently when the Petitioner joined at Chhanpur M.E. School, his date of birth was wrongly recorded as 23.4.1979, which continued till his passing the High School Certificate Examination. The Petitioner further submitted in his explanation that he has applied to the Board for correction of his date of birth recorded in the High School Certificate Examination, issued by the Board of Secondary Education, Orissa, which is pending and it will take some time for the Board to correct the certificate.

4. From the record it reveals that the Petitioner subsequently filed a complaint before the State Consumer Disputes Redressal Commission, which was registered as CD. Case No. 67 of 2006, for inaction of the Board of Secondary Education, Orissa to correct his date of birth as recorded in the certificate issued by the Board. The said complaint was disposed of by the Commission, directing the Board to take a decision on the representation of the Petitioner and communicate the-same to him. The Board of Secondary Education, Orissa, vide its letter dated 12.1.2007 (Annexure-17) rejected the representation of the Petitioner for correction of the date of birth from 23.4.1979 to 23.4.1975 as per Clause-39 of Section-VI of Chapter-X of Board's Regulation.

5. From the counter affidavit filed by the Board of Secondary Education, Orissa-Opposite Party No. 1. it reveals that the Petitioner had filled up the application form in his own hand writing, for appearing in the High School Certificate Examination, 1993 conducted by the Board, wherein the date of birth of the Petitioner had been mentioned as 23.04.1979. The said application of the Petitioner had been forwarded by the Headmaster of the concerned Institution after due verification from the records of the school and on the basis of such details furnished in the application, the Board had recorded the same in its permanent records of Tabulation Register and Certificate Register and the certificate had been issued by the Board on the basis of such entry. Further as the Petitioner was aware of his date of birth as 23.04.1979, as recorded in his Admit Card, Provisional Certificate-cum-Memorandum of Marks of Original Pass Certificate supplied by the Board in the year 1993, there was no possibility of the Petitioner not knowing his date of birth, as recorded in those documents. Moreover, Clause-39 of Section-VI of Chapter-X of the Board's Regulation

provides only for correction of clerical error or printing mistake in the certificate, which can be carried out within three years from the date of passing the examination. No objection having been raised by the Petitioner with regard to his date of birth as recorded in the certificate issued by the Board, till the year 2006, there was no scope for correcting the certificate at a belated stage.

6. The Petitioner in this Writ Petition has challenged the action of the Indian Oil Corporation Ltd. in initiating a departmental proceeding against him for giving false information regarding his age at the time of the employment and also the order of the Board of Secondary Education, Orissa, rejecting his representation for correction of his date of birth, though the cause of action is distinctly separate.

7. Considering the submissions of Learned Counsel for the parties and keeping in view the averments made in the counter affidavit filed on behalf of the Board-Opposite Party No. 1, the decision of the Board, rejecting the prayer of the Petitioner for correction of date of birth cannot be faulted. So far as the challenge to the initiation of the disciplinary proceeding by the Indian Oil Corporation Ltd., by issue of charge-sheet against the Petitioner, the same is premature.

The Writ Petition being devoid of merits, the same is accordingly dismissed and the interim Order Dated 09.03.2007 stands vacated.

A.S. Naidu, J.

I agree.

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