

Bishamber Dayal Vs. Govt. of N.C.T. of Delhi and ors.

Bishamber Dayal Vs. Govt. of N.C.T. of Delhi and ors.

SooperKanoon Citation : sooperkanoon.com/703023

Court : Delhi

Decided On : Sep-17-2003

Reported in : 109(2003)DLT28; 2004(73)DRJ689

Judge : Mukul Mudgal, J.

Acts : [Constitution of India](#) - Article 226

Appeal No. : CW 5986/2003

Appellant : Bishamber Dayal

Respondent : Govt. of N.C.T. of Delhi and ors.

Advocate for Pet/Ap. : O.P. Bhatia, Adv

Disposition : Writ petition dismissed

Judgement :

Mukul Mudgal, J.

1. This writ petition challenges the impugned Award dated 13th December, 2002 rejecting the stand of the workman/petitioner herein that he had joined the management, respondent No.3 herein in the month of December, 1955 at the age of 18 years and there was no superannuation age in the company and many workmen worked up to the age of even 70 years. Since the petitioner was retired in the year 1994 upon the company's view that he had attained the age of sixty years, he challenged the retirement on the ground that his correct date of birth entitled him to work even up to the year 1998. He has further submitted that he had produced the school transfer certificate issued by the concerned school in the year 1995 after his retirement which shows his date of birth as 14th July, 1938, entitling him to continue at least up to the age of sixty years till 1998.

2. By the impugned Award dated 13th December, 2002, the Labour Court has found as under:

- (a) That the school transfer certificate was produced by the workman in the year 1995 after his retirement;
- (b) that the workman himself in the Provident Fund nomination form has given the year of his birth as 1934.
- (c) Consequently the management was entitled to retire him at the age of 60.

The award has also relied upon the fact that in July 1994, the workman himself sought extension of service which was granted for a period of three months which also shows that the petitioner's service came to an end even according to his own stand.

3. The reasoning of the labour court is sound as the certificate which is issued in 1995 after the retirement in 1994 is not a contemporaneous document and the petitioner/workman had himself signed his year of birth as

1934 in the provident fund nomination form and thus the petitioner cannot back out of the impact of his own document.

4. In my view the above findings are thus unassailable under Article 226 and accordingly there is no reason to interfere with the findings of the Tribunal. The writ petition is, therefore, dismissed in limine with no order as to costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com