

Uoi and ors. Vs. Pratap Singh

Uoi and ors. Vs. Pratap Singh

SooperKanoon Citation : sooperkanoon.com/905583

Court : Delhi

Decided On : Oct-28-2010

Judge : Mr. Pradeep Nandrajog ; Mr. Siddharth Mirdul. J J.

Appeal No. : W.P.(C) 11771-72/2006

Appellant : Uoi and ors.

Respondent : Pratap Singh

Advocate for Def. : Ms.Meenu Mainee, Adv.

Advocate for Pet/Ap. : Kumar Rajesh Singh, Adv.

Judgement :

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?
3. Whether the judgment should be reported in the Digest?

ORDER.(Oral)

1. Respondent Pratap Singh was appointed under the Railways on 11.12.1979 and his service book was prepared. He claims that his date of birth was correctly entered as 19.12.1946 in harmony with the school leaving certificate issued to him by the Head of the GSAS Inter College, Mursan (Hatras) U.P. He further claims that the appointment letter dated 3.12.1979 clearly indicates the acceptance by the

Department of his date of birth being 19.12.1946. Undisputedly due to a fire in the record room of the Divisional Office where his service record was being maintained, the same was destroyed due to fire on 17.2.1980 and thereafter the Department reconstructed the record in which his date of birth was shown to be 7.11.1943. Being shown born nearly 3 years prior to when he claims to be born, Pratap Singh would superannuate 3 years prior to his actual date of superannuation and claims that when it came to his knowledge that the Department had reconstructed his service book and had not associated him in the reconstruction process, his date of birth could not be altered. He thus made a representation to correct the date of birth which representation stands rejected vide order dated 21.5.2005. The said order was challenged by him by an under OA No.1641/2005 which has been allowed with the direction being as under:- "19. In the result, for the foregoing reasons, for a deficiency in the decision-making process I have no option but to remand this case back to respondents for re-consideration, strictly in the light of the observations made above. Though deficiency in the decision-making process has given rise to multiplicity of proceedings, wastage of exchequer and prejudice to the concerned, yet having no alternative but to adopt the aforesaid, respondents are directed to pass a speaking order, within two months from the date of receipt of a copy of this order. If the desired needful is done, consequences will follow. No costs. OA stand disposed of."

2. Suffice would it be to state that as per Pratap Singh, to prove his date of birth to be 19.12.1946 he relied upon:

(i) order dated 3.12.1979 appointing him in which his date of birth has been recorded as 19.12.1946;

(ii) school leaving certificate issued by the Head of GSAS Inter College Mursan (Hatrass) U.P. which again records his date of birth to be 19.12.1946;

(iii) three medical certificates dated 21.5.1996, 21.5.1998 and 26.5.2000 issued by the District Medical Officer when Pratap Singh undertook medical treatment and in which his date of birth recorded was 19.12.1946;

(iv) certificate issued by the Station Masters of different Railway Stations where Pratap Singh had worked between the years 1980 till the year 2003 all of whom certified that as per the record maintained at the Railway Station Pratap Singh's date of birth was 19.12.1946; and

(v) a certificate issued by the North- Eastern Railway Employees' Cooperative Bank certifying that as per their record Pratap Singh was born on 19.12.1946.

3. All the aforesaid documents were produced before the General Manager Railways who was to decide whether while reconstructing the service record of Pratap Singh an error took place when his date of birth got recorded as 7.11.1943.

4. The Department could only produce 2 seniority lists dated 1.4.1987 and 1.4.1993 as per which Pratap Singh's date of birth was entered as 7.11.1943.

5. The General Manager Railways noted that Pratap Singh was appointed in Izat Nagar Division on 11.10.1978 and at a fire accident in the Divisional Office in the year 1980 the service record was burnt and that the same was reconstructed and at that point of time Pratap Singh's date of birth was recorded as 7.11.1943. With reference to the seniority list published on 1.4.1987 and 1.4.1993, since the same were never objected to by Pratap Singh, the General Manager Railways concluded that Pratap Singh would be probably born on 7.11.1943.

6. Dealing with the documentary evidence produced by Pratap Singh, the General Manager held that Pratap Singh's representation for correction of the date of birth was towards the fag end of his service. With respect to the appointment letter produced by Pratap Singh in which his date of birth was recorded as 19.12.1946, the General Manager observed that the appointment order was torn and was in an illegible form. As regards the school leaving certificate it was observed that the authenticity of the same could not be verified as the record being old was not available in the school.

7. It be noted that the General Manager Railways has not discussed the documentary evidence produced being medical certificates issued by the District Medical Officer, the certification by 7 Station Masters at the Railway Stations

where Pratap Singh had worked between the years 1980 till the year 2003 as also the certificate issued by the Cooperative Society of which Pratap Singh was a Member of.

8. We note that vide impugned order dated 19.4.2006 the Tribunal has highlighted the non-consideration of all the documentary evidence produced by Pratap Singh. The Tribunal has highlighted that the General Manager has proceeded as if Pratap Singh had made a request that his date of birth be changed, ignoring that the request was not to change the date of birth but to correct the same on the plea that when the service record was reconstructed, Pratap Singh was never associated with the same.

9. It is settled law that an administrative decision taken by ignoring relevant evidence is a faulty decision and corrective action is required to be taken. We have repeatedly asked learned counsel for the petitioner whether petitioner has any proof that when the record was reconstructed after the original was destroyed due to fire in the year 1980, learned counsel fairly concedes that neither he nor his clients has any proof thereof. We have repeatedly asked learned counsel as to wherefrom Pratap Singh's date of birth came to be recorded as 7.11.1943. The counsel has no answer.

10. The only submission made is that in the two seniority lists dated 1.4.1987 and 1.4.1993 Pratap Singh's date of birth was recorded as 7.11.1943 to which Pratap Singh never objected; from which conduct of Pratap Singh, counsel asserts acquiescence on the part of Pratap Singh.

11. Now, upon finding one's seniority position correctly assigned in a seniority list, it may happen that a person may verify no further. We cannot ignore the fact that Pratap Singh was appointed as a porter, a lowly paid humble job and thus one cannot expect vigilance from Pratap Singh which a literate high ranking officer would evidence.

12. Be that as it may, the direction issued by the Tribunal is to reconsider the matter and while so doing discuss the entire documentary evidence produced by Pratap Singh. For the facts noted hereinabove neither can the reasoning nor can

the conclusion arrived at by the Tribunal be said to be requiring interference and hence we dismiss the writ petition.

13. No costs.

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