

Jagmal Singh vs State Of U.P. And 5 Ors on 1 May, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:68771

Court No. - 38

Case :- WRIT - A No. - 60724 of 2014

Petitioner :- Jagmal Singh

Respondent :- State Of U.P. And 5 Ors

Counsel for Petitioner :- Akash Khare, Hari Om

Counsel for Respondent :- C.S.C., Irfan Ahmad

Hon'ble Donadi Ramesh, J.

1. Heard Sri Hari Om, learned counsel for the petitioner and learned Standing Counsel for the State-respondents.

2. This writ petition has been filed for the following reliefs:-

" I. To issue a writ, order or direction in the nature of certiorari quashing the order dated 6.9.2014 passed by respondent no. 3;

II. To issue a writ, order or direction in the nature of mandamus directing and commanding the Respondents to pay the rest amount of G.P.F. Rs. 30,000/- Amount of Group Insurance, Gratuity amount and implement the VIth Pay Commission in the pay scale and service book of petitioner from the due date and pay all the said remaining amount and pension accordingly alongwith interest applicable, within some specific period to be fixed by this Hon'ble Court;"

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5. Learned counsel for the petitioner has submitted that the ground taken by the respondents is wholly unreasonable and without giving any opportunity to the petitioner. Subsequently, the petitioner has also obtained the service record from the concerned, under Right To Information Act and the same is annexed with the writ petition. It is further submitted that stand taken in the impugned order is infact contrary to record. Record clearly discloses that date of birth of the petitioner is recorded as 01.01.1947 and the date of retirement is recorded as 31.12.2004 and no alterations were made in the service record. It is further submitted that the reasons mentioned in the impugned order is not only in violation of principles of natural justice but also contrary to record. Hence, the impugned order is liable to be set aside and direction may also be made to the respondents to release the gratuity, G.P.F. and all other retirement benefits to the petitioner.

6. Learned Standing Counsel appearing on behalf of State has mainly stressed submission based on the averments made in Para No. 18 that according to the assertions made therein, the petitioner was appointed as Class 4 employee and accordingly he joined on 01.07.1974. Subsequently, he made an application on 09.04.1975 stating that his date of birth was 01.01.1945 and infact the institution sent a seniority list. In the said list, his date of birth was shown as 01.01.1945. So if the date of birth 01.01.1945 is taken into consideration, the petitioner had to retire in 2004. Accordingly, the petitioner has got the excess payment of Rs. 1,67,792. Hence, the impugned order was passed based on the said entries.

7. Reply to the said contention, learned counsel for the petitioner has relied on the service book, which was obtained in Right To Information Act application and also the service book filed by the respondents along with counter. Even the service book filed by the respondents alongwith counter also shows the date of birth recorded as 01.01.1947.

8. Considering the submissions of counsel for the petitioner and also perusal of both the records filed along with writ petition as well as the service register filed along with counter, the date of birth of petitioner was shown as 01.01.1947 and no corrections were made in the entries of the service book and once the corrections were not made in the service book, the date of retirement should be based on the service book. It is a settled principle of law, both the employee as well as employer are estopped to make any corrections in the service register after a reasonable period. When such being the legal position and without having any alterations in the service book, the respondent ought not to reject the claim of the petitioner of gratuity and other retirement benefits as the service book reflects the date of birth of the petitioner as 01.01.1947.

9. In the said circumstances, this Court is of the opinion that impugned order is contrary to record and same is liable to be set aside. Accordingly, impugned order dated 06.09.2014 passed by the Respondent No. 3 is quashed.

10. It is needless to mentioned that the respondents are directed to take appropriate action for release of gratuity and other retirement benefits of the petitioner within a period of two months from the date of receipt of this order and so far as the interest is concerned, the authorities are at

liberty to pay interest as per the rules.

Order Date :- 1.5.2025 VS (Donadi Ramesh,J.)