

Allahabad High Court

Dharam Pal Singh vs Union Of India And Others on 23 July, 2010

Court No. - 38

Case :- WRIT - A No. - 42134 of 2010

Petitioner :- Dharam Pal Singh

Respondent :- Union Of India And Others

Petitioner Counsel :- S. K. Dubey

Respondent Counsel :- A. S. G. I., Pankaj Kumar Shukla

Hon'ble Shishir Kumar, J.

The discharge certificate of the Army Authority, in which the date of birth of the petitioner has been mentioned, is being kept on record.

Heard learned counsel for the petitioner, Sri Syed Irfan Ali, learned counsel appearing for the respondent No. 1, Sri S.D. Singh, learned counsel for the other respondents and learned Standing Counsel.

The dispute raised by the petitioner in the present writ petition is that after discharge from the Army, the petitioner has joined the service of the respondents. The date of birth according to the certificate issued by the Army Authority was entered in the service record of the petitioner. It appears that the petitioner has passed the high school in 1978 and he has given his date of birth as 10.07.1953. On the basis of the records submitted by the petitioner at the time of entrance in service, the date of birth was recorded as 15.07.1950. A notice was given to the petitioner to retire on 31.07.2010. Now the petitioner raised the dispute on the basis of certificate of high school that his date of birth is 1953 and he will be retired in 2013.

Sri S.D. Singh, learned counsel appearing for the respondents has produced the records, which was issued by the Army authorities, mentioning therein that date of birth which was recorded in the service book of the Army authority clearly shows the date of birth as 15.07.1950. This document was given by the petitioner at the time of entering in service and thereafter on that basis an entry to that effect was made in the service record and this fact was in the knowledge of the petitioner. Further submission has been made that if the contention of the petitioner is accepted to be true treating the date of birth as 1953, then he was not eligible to join the Army service at the age of 15 years as admittedly on that date he was minor.

I have considered the submission and perused the record produced by Sri S.D. Singh, which clearly shows that the petitioner's date of birth is 15.07.1950 and at that time the age of engagement was 18 years. If he has passed high school examination and subsequent to that he has mentioned another date of birth, that cannot be taken into consideration by the respondents or any authority.

It is settled law that the date of birth recorded in the service record at the time of entrance in service or as mentioned in the high school certificate are taken into consideration as final. If at the time of entrance in service an employee concerned has passed the high school examination, the

same will be final, otherwise the date of birth recorded in service record at the time of entrance will always prevail and it can not be changed. It is also to be noted that petitioner was fully aware regarding aforesaid fact, but he has not raised dispute at any point of time and he raised the dispute when a notice of retirement was given to him. In my opinion, it is not a fit case while exercising power under Article 226 of the Constitution of India.

The writ petition is dismissed accordingly.

No order as to costs.

Order Date :- 23.7.2010 Sazia