

Bhupindra Nath Chatterjee

Vs

The State of Bihar and Others

Civil Appeal 2077 of 1968

(H.R. Khanna, A.C. Gupta, Jaswant Singh JJ)

14.12.1976

JUDGMENT

KHANNA, J. –

1. This appeal on certificate is against the judgment of the Patna High Court whereby the High Court dismissed the petition under Articles 226 and 227 of the Constitution of India filed by the appellant for the issuance of a writ in the nature of mandamus, directing the State of Bihar to hold that the appellant was entitled to the benefit of notification no. FI/5021/62-452F dated January 11, 1963. By that notification, the Government of Bihar had extended the age of superannuation from 55 to 58, and had further directed that the benefit of extension would be granted to those government officers who were due to retire after January 14, 1963.
2. The case of the appellant is that when he entered the police service in the State of Bihar his date of birth was recorded in the service book as January 1908. When no exact date of birth is mentioned, the date of birth, it was stated, should be considered to be the 16th day of the month. As such, according to the appellant, he should be held to have been born on the 16th of January, 1908, and as such, entitled to the benefit of the notification mentioned above.
3. In opposition to the petition, an affidavit was filed on behalf of the State of Bihar wherein it was pointed out that in a number of government records the date of birth of the appellant was mentioned as the first of January, 1908. It was also pointed out that the appellant had been accepting the first of January, 1908 as his correct date of birth. In view of that the appellant, it was stated, was not entitled to the benefit of the extended age for superannuation.
4. The High Court, while dismissing the petition, observed that the question as to what was the exact date of birth of the appellant was a disputed question of fact. The High Court further referred to the official records wherein the date of birth of the appellant had been mentioned to be first of January, 1908. In the circumstances, the High Court came to the conclusion that the appellant was not entitled to the benefit of the notification in question.
5. We have heard Mr. Nag on behalf of the appellant and Mr. Goburdhun on behalf of the respondent-State. Nothing has been brought to our notice as might induce us to interfere with the judgment of the High Court. As already mentioned, the date of birth of the appellant has been specified in the official records to be first of January, 1908. The service book of the appellant, which was prepared by the Accountant-General mentions that date. The same date was mentioned in the civil list. In one of the applications filed by the appellant, he himself stated that he would be attaining the age of 55 on January 1, 1963. The appellant thus admitted that the date of birth, as

entered in official records was correct. The High Court in the circumstances was, in our opinion, fully justified in rejecting the claim of the appellant that he was born not on January 1, 1908 but on January 16, 1908. The appeal fails and is dismissed, but in the circumstances without costs.

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