

Sarjoo Prasad

Vs

General Manager and Another

Civil Appeal No. 377 of 1981

(D.A. Desai, A.D. Koshal, A.P. Sen JJ)

27.01.1981

JUDGMENT

DESAI, J. –

1. Heard counsel for the parties. The short point in this appeal is whether it was open to the respondent to change or alter the birth-date of the appellant, being July 25, 1927, once accepted by the respondent in 1951, without giving an opportunity to him to sustain the same. It is admitted that the alteration in the accepted birth-date of appellant has been made without giving an opportunity of hearing to the appellant. Appellant claimed that his date of birth is July 25, 1927, and this birth-date is entered in his High School Certificate and this birth-date was accepted by the respondent in 1951. In *State of Orissa v. Dr. (Miss) Binapani Dei* (AIR 1967 SC 1269 : (1967) 2 LLJ 266 : 15 FLR 209), this Court held that the date of birth without notice and without giving opportunity to the appellant cannot be altered to the disadvantage and prejudice of an employee because an administrative order which involves civil consequences must be made in conformity with the rules of natural justice which at its lowest minimum requires notice and opportunity to the person affected thereby. That admittedly having not been done, on this short ground, we allow this appeal and set aside the order retiring the appellant from service as well as the order correcting the birth-date.

2. The appellant under the orders of this Court continues to be in service and will continue to be in service. It will however be open to the respondent if it so desires and considers it necessary to hold the enquiry about the correct birth-date afresh after giving notice and opportunity of hearing and producing evidence in either side in this case.

3. The appeal is allowed to the extent indicated herein with costs. The cost is quantified at Rs. 1000 to be paid by the respondent to the appellant.

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