

(2003) 08 AHC CK 0146

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 44493 of 1992

Committee of Management,
Ram Chandra Singh Khatri Kanya
Uchchattar Madhyamik
Vidyalaya Morcha and Others

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision: Aug. 19, 2003

Citation: (2004) 1 UPLBEC 41

Hon'ble Judges: R.B. Misra, J

Bench: Single Bench

Advocate: B.D. Mandhyan, for the Appellant; Ashok Kumar Singh, Rekha Singh and S.S. Sharma, for the Respondent

Final Decision: Allowed

Judgement

R.B. Misra, J.

Heard Sri B.D. Mandhyan learned Counsel for the petitioners and Sri Ashok Kumar Singh, Mrs. Rekha Singh and Sri S.S. Sharma, learned Standing Counsel.

2. In this petition, the petitioners have challenged the orders dated 30.10.92 and 21.11.92 (Annexure Nos. 13 and 14 to the writ petition) respectively.

3. It appears that the respondent No. 4 Smt. Shiv Devi was appointed as a Class IV employee in Ram Chandra Singh Khatri Kanya Uchchattar Madhyamik Vidyalaya, Amroha, District Moradabad on 18.8.1966 and it appears that 1.3.1940 was entered the date of birth of respondent No. 4 in the Service Book, however the correct date of birth 11.8.31 was subsequently mentioned in the returns of the College for the year 1967-68 and on wards After completing the service of 60 years the respondents No. 4 was retired on 31.8.91, however, the authorities have made some objection that when as earlier the year 1940 was entered into, then the subsequent date of birth 11.8.31 entered into the Service Book was not genuine and the retiring the

respondent No. 4 treating the date of birth as 11.8.31 is not legal.

4. According to Sri Mandhyan learned Counsel for the petitioners the correct date of birth has been mentioned after cutting in the Service Book and subsequent returns and records of the College which shows that the date of birth of respondent No. 4 was 11.8.31 and respondent No. 4 herself has no grievance at any stage claiming that her date of birth was 1.3.1940, Since, the respondent No. 4 has already been retired after completing 60 years of service, therefore, she may be given her post retiral benefits.

5. I have heard learned Counsel for the parties.

6. The beneficiary has not objected that her date of birth was 1.3.40 and it is fairly admitted on behalf of respondent No. 4 that her date of birth is 11.8.31 as claimed by the petitioners and from the records, therefore, the order dated 30.12.92, in respect of the claim of the respondent No. 4 is not legally justifiable and the order dated 21.11.92 is set-aside treating the date of birth of the respondent No. 4 as 11.8.31 she is entitled for all retiral benefits in accordance with law.

7. In view of the above observations, writ petition is allowed.