

Narad Pathak Vs State of Jharkhand and Others

Court: Jharkhand High Court

Date of Decision: Oct. 12, 2006

Citation: (2007) 1 JCR 470

Hon'ble Judges: M. Karpagavinayagam, C.J; Amareshwar Sahay, J

Bench: Division Bench

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

1. Seeking rectification of the date of birth, the Writ Petition is filed by the appellant, who is working as a Constable. Learned Single Judge

dismissed the Writ Petition mainly on the ground that the requisition for correction of the date of birth was made only 9-10 months prior to the date

of his retirement. This is the subject-matter under challenge in the appeal.

2. Heard the counsel for the appellant and the counsel for the respondents.

3. On the face of it, we are not able to appreciate the conduct of the Department, which has not cared to pass any order on the

application/requisition filed by the appellant for rectification of his date of birth on 17.10.2001. According to the appellant, his correct date of birth

is 5.1.1948. However, in the service register, his date of birth has been mentioned as 12.6.1947. It is strenuously contended by the counsel for the

appellant that on 12.6.1967, he joined the post of constable and at the time of joining, he produced the University Certificate regarding his

educational qualification, which contains the correct date of birth, namely, 5.1.1948. Despite that, the authorities have wrongly recorded his date

of birth as 12.6.1947 in the service register. According to the appellant, came to know about the recording of his incorrect date of birth only in the

year 2001 and immediately thereafter he filed an application before the authority concerned seeking for rectification of his date of birth. Admittedly,

neither any enquiry has been conducted, nor any order has been passed over the same. Ultimately, the appellant has to knock the door of this

Court in the year 2006 after having waited for about five long years. The learned Single Judge, as indicated above, passed on order mainly on the

ground that this application has been filed on the verge of his retirement. This, in our view, is not a correct view because the Writ

Petitioner/appellant has made application/requisition seeking rectification of his date of birth as early as in the year 2001.

4. Supreme Court in the case of State of U.P. and Another Vs. Shiv Narain Upadhyaya, held that the applicant shall approach the authority

concerned for rectification of the date of birth within a reasonable time from the date of retirement. In this case, admittedly, the appellant has given

requisition seeking rectification of his date of birth on 17.10.2001. It is not disputed that this application has been given by the appellant and the

same was entertained by the authorities. Admittedly, no enquiry has been conducted and no order has been passed on the application given by the

appellant. As a matter of fact, reading of the application/requisition dated 17.10.2001 would indicate that the appellant's correct date of birth is

5.1.1948 and the same has been mentioned in the University Certificate, which was produced before the authority concerned at the time of joining

on 12.6.1967. Though it is stated by the counsel for the respondents that the requisition for rectification of the date of birth must have been filed ten

years prior to the date of his retirement, but no document ""has been filed either before this Court or before the learned Single Judge, showing that

such a rule has been there and that notification has been issued to that effect.

5. Under these circumstances, we are of the view that the requisition/request for rectification of the date of birth has been made in time and the

Department concerned did not enquire into the same in time and pass any order on the same after conducting proper enquiry. Therefore, in our

view, the order passed by the learned Single Judge is liable to be set aside and the matter is remitted to the Department to conduct enquiry with

reference to the requisition/request made by the appellant on 17.10.2001 and consider the University Certificate which has been produced by him

at the time of joining of service, in which the date of birth has been mentioned as 5.1.1948. If they are satisfied that the University Certificate, a

copy of which is at Annexure 1 to this memo of appeal, is the same certificate which has been produced at the time of joining of service, the

Department is directed to consider the same and make rectification in accordance with the certificate.

6. With this observation, this appeal is allowed.