

C.A.No. 2546 OF 1998

.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

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ITEM NO. 110 COURT NO. 7 SECTION XI

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO. 2546/1998

L.I.C. of India, Bombay & Anr. .. Appellant (s)

Vs.

Diwakar Dutt Bhatt .. Respondent(s)

DATE : 25.9.2001 : This/These matter (s) was/were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S. RAJENDRA BABU
HON'BLE MR. JUSTICE DORAISWAMY RAJU

For Appellant (s) : Mr. S. Rajappa, Adv.

For Respondent (s) : Mr. Vijay Bahuguna, Sr. Adv.
Mr. S.S. Nehra, Adv.
Mr. Rajesh, Adv.

UPON hearing counsel the Court made the following

O R D E R

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The appeal is allowed in terms of the signed order.

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Charanjit

[ Om Prakash ]
Court Master

[ Signed order is placed on the file ]

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2546/1998@@  
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L.I.C. of India, Bombay Anr. .. Appellants

Vs.

Diwakar Dutt Bhatt .. Respondent

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The appellants are aggrieved by an order made by the High Court by which they were directed to correct the date of birth of the respondent from 1.2.1938 to 26.10.1941 and to give consequential benefits to him although he had retired w.e.f. from 31.1.1996.

The case putforth by the respondent is that there was some mistake in the primary School Certificate issued to him and the Board of High School & Intermediate Examination came to the conclusion that the mistake in mentioning the date of birth was clerical one and ordered to correct the same from 1.2.1938 to 26.10.1941. That order was made pursuant to an order made by the High Court in a writ petition on 21.12.1995. However, the respondent approached the High Court by another writ Petition for certain reliefs against the appellants in Writ Petition No. 15925/1996 after he had retired from  
2/-

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service. The High Court directed that his representation could be considered in terms of Rule 7(2) of the Life Insurance Corporation (Verification of Dates of Birth of Employees) Instructions, 1970.

This Court in the case of State of Assam & Anr. Vs. Daksha Prasad Deka and Ors. 1970 (3) SCC 624 has held that the date of retirement should be determined on the basis of service record and not on what an employee claims to be his date of birth unless the service record is first corrected consistently with the appropriate procedure before he retires from service. In this case, that dictum obviously has not been followed or could not have been followed for various reasons.

On a second Writ Petition being filed before the High Court, the directions to which we have adverted to earlier, have been issued. The High Court though stated that normally such relief should not be granted when a claim is made at the fag end of the career but the circumstance that the respondent, having agitated for the correction of his date of birth before the School Board  
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and thereafter in a Writ Petition before the High Court weighed very much with the High Court.

In this case the respondent had approached the High Court by filing earlier writ petition after he retired from service but as held by this Court in Daksha Prasad Deka's case (supra) the principle to be adopted is that service record should be got corrected before one retires from service. In that view of the matter, we think, the High Court was not justified in interfering with the action taken by the appellants. The order made by the High Court is, therefore, set aside and the writ petition filed by the respondent is dismissed. The appeal is allowed accordingly.

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[ S. RAJENDRA BABU ]@@  
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[ DORAISWAMY RAJU ]@@  
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New Delhi, @@  
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September 25, 2001 @@  
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