

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7775 OF 2014

JAMMU AND KASHMIR STATE
BOARD OF SCHOOL EDUCATION

APPELLANT

VERSUS

DR. KRISHAN LAL GUPTA & ANR.

RESPONDENTS

ORDER

1. The appellant-Jammu and Kashmir State Board of School Education¹ is aggrieved by the judgment dated 29th December, 2009 passed by the High Court of Jammu and Kashmir at Jammu in an appeal² filed by the Board holding *inter alia* that the respondent No.1 was entitled to a declaration that his actual date of birth is 22nd March, 1953 and not 10th April, 1949.

2. At the outset, it is stated by Mr. Gaurav Pachnanda, learned Senior counsel appearing for respondent No.1 that the respondent No.1 had superannuated 13 years ago and therefore, nothing further survives in the present appeal.

3. The aforesaid submission is however, disputed by learned counsel for the appellant who submits that in the instant case, there was no reason for the High Court to have returned such a finding inasmuch as the question of the change of date of birth, name and parentage etc. of a candidate is strictly governed by the Regulations issued under the Jammu and Kashmir Board of School Education Act, 1975³. There is a

1 Hereinafter referred to as 'the Board'

2 CSA No. 30/2003

3 Hereinafter referred to as the '1975 Act'

prescribed procedure for correction in the date of birth, name and parentage etc. of a candidate having passed an examination of the Board in the records of the Board and the said correction ought to be made within a period of one year from the date of issue/despatch of diploma qualification and certificate. It is submitted that in the instant case, respondent No.1 instituted a suit for declaration in the year 2000, praying *inter alia* for correction of his date of birth in his Matriculation Certificate by the appellant-Board recorded as long back as on 20th June, 1966.

4. We are inclined to agree with the submission made by learned counsel for the appellant-Board. The specious plea taken by the respondent No.1 that he gained knowledge regarding his actual date of birth only in the year 1998 when he showed his horoscope to an astrologer who stated that his correct date of birth was 22nd March, 1953 and based on the said cause of action, he instituted a civil suit in the year 2000, i.e. within a period of three years reckoned from 1998, is taken note of only to be rejected outright. There is no doubt about the fact that the suit instituted by the respondent No.1 in the year 2000 was hopelessly barred by limitation. Respondent No.1 was issued a matriculation certificate on 20th June, 1966 and any action that he proposed to take for any correction in the entry in his school record, could have been taken within one year from the date of issuance of the certificate. Reliance placed by the respondent No.1 on the Circular issued by the local municipal authority cannot be the basis for seeking correction in his matriculation certificate. The matriculation form was filled up by the respondent No.1 clearly knowing the consequences thereof.

5. Respondent No.1 was employed as an Assistant Professor in a Medical College at Jammu in the year 1975 and his service records also reflected his correct date of birth, i.e.

10th April, 1949. It is impermissible for the respondent No.1 to have woken up to claim a change of his actual date of birth after 34 years, in the year 2000 that too on a frivolous ground that the astrologer who he had approached in the year 1998, had checked his horoscope and stated that his actual date of birth was not 10th April, 1949 but 22nd March, 1953.

6. In view of the aforesaid discussion, we are of the opinion that the concurrent findings returned by the trial Court, the First Appellate Court and the High Court are not sustainable and are quashed and set aside.

7. However, having regard to the long passage of time and the fact that the respondent No.1 had superannuated on 31st March, 2011, it is directed that no recovery shall be made of the salaries paid to him for the block of four years, on the basis of a change in his date of birth from 10th April, 1949 to 22nd March, 1953. However, the pension payable to the respondent No.1 shall be re-computed by the respondent No.2 and intimated within four weeks from today. The re-computed pension shall be paid to the respondent No.1 w.e.f. 01st April, 2024. Further, no recovery of the pension already released shall be made from the respondent No.1.

8. The appeal is allowed and disposed of.

.....J.
(HIMA KOHLI)

.....J.
(AHSANUDDIN AMANULLAH)

NEW DELHI
13th MARCH, 2024

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G SCIVIL APPEAL NO. 7775/2014

JAMMU AND KASHMIR STATE BOARD OF SCHOOL EDUCATION APPELLANT

VERSUS

DR. KRISHAN LAL GUPTA & ANR.

RESPONDENTS

Date : 13-03-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MR. JUSTICE AHSANUDDIN AMANULLAH

For Appellant(s) Mr. Siddharth Thakur, Adv.
Dr. Sushil Balwada, AOR
Mr. Bishwendra N. Singh, Adv.
Mr. Mustafa Sajad, Adv.
Mr. Srilok Nath Rath, Adv.
Ms. Reena Rao, Adv.
Mr. Sandeep, Adv.
Mr. Kashyap Kumar Dwivedi, Adv.

For Respondent(s) Mr. Gaurav Pachnanda, Sr. Adv.
Mr. Sahil Tagotra, AOR
Ms. Nikita Jaitly, Adv.

Mr. G.M. Kawoosa, Adv.
Ms. Palak Mittal, Adv.
Mr. Pashupathi Nath Razdan, AOR

UPON hearing the counsel the court made the following
O R D E R

The appeal is allowed and disposed of in terms of the signed
order.

(Geeta Ahuja)
Assistant Registrar-cum-PS

(Signed Order is placed on the file)

(Nand Kishor)
Court Master (NSH)