

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

Petition(s) for Special Leave to Appeal (Civil) No.16567/2000

(From the judgement and order dated 15/12/1999 in SA 562/96
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF UTTRANCHAL & ORS.

Petitioner (s)

VERSUS

PITAMBER DUTT SEMWAL

Respondent (s)

(With prayer for interim relief)

Date : 10/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.N. KIRPAL
HON'BLE MR. JUSTICE N. SANTOSH HEGDE

For Petitioner (s)

Ms. Rachana Srivastava, Adv.

For Respondent (s)

Mr. Ramesh Chandra Pandey, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.....J

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Special leave granted.
The appeal is allowed.

.SP1

Kalyani. (S.L. GOYAL)@@
AA
COURT MASTER @@
A AA

(Signed Order is placed on the file.)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2001@@
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(Arising out of S.L.P.(C) No. 16567 of 2000)

.....L.....I.....T.....T.....T.....T.....T.....T.....J

State of Uttranchal & Ors. Appellants

Versus

Pitamber Dutt Semwal Respondent

O R D E R@@
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Special leave granted.

In the instant case, the respondent was employed as a Class-IV employee by the Collector, Uttar Kashi in the year 1964. In the service book which was prepared, the date of birth recorded was 10th April, 1936.

On 30th January, 1996 notice was given to him to the effect that he will complete 60 years of age on 30th April, 1996 and he would superannuate on that date. It is only thereafter that a representation was made by the respondent to the effect that his date of birth had been wrongly mentioned in the service book and as per the certificate issued by the school his date of birth was 6th July, 1942.

Having been unsuccessful before the Collector the respondent filed a writ petition which was dismissed. Later, an appeal filed against the said decision was allowed. Hence this appeal.

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Rule 2 of the U.P. Recruitment Service (Determination of the Date of Birth) Rules, 1974 reads as follows:-

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"2. Determination of correct@@
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date of birth or age:- The date of birth@@
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of a Govt. servant as recorded in the certificate of his having passed High School or equivalent examination at the time of his entry into the Govt. service or where a Government servant has not passed any such examination as aforesaid or has passed any such examination after joining the service the date of birth of the age recorded in his service book at

the time of his entry into the Government service shall be deemed to be his correct date of birth of age as the case may be for all purposes in relation to his service including eligibility for promotion, superannuation, premature retirement or retirement benefits and no application or representation shall be entertained for correction of such date or age in any circumstances whatsoever."

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These rules, the validity of which have not been challenged, clearly stipulate that no application or representation shall be entertained for correcting any date or age record and the entry made in the service book shall be deemed to be the correct date of birth. Be that as it may, even de hors the said rule, we are of@@
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the opinion that the plea of the respondent that the date of birth was wrongly recorded was highly belated. He

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joined service in 1964, the service book was prepared in 1965 and according to the appellant he has signed the said service book at least on three occasions. In any case, the plea of the wrong recording of the age in the service book has been taken nearly thirty years after the service book was prepared. In our opinion, the Division Bench was in error in ignoring the provisions of the said Rule 2 and even otherwise, in the facts of this case, there was no occasion for the High Court to have interfered with the decision of the appellant.

We, accordingly, allow this appeal and set aside the order of the Division Bench of the High Court.

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.....J
(B.N. KIRPAL)

.....J
(N. SANTOSH HEGDE)

New Delhi,
August 10, 2001.