

COLLECTOR OF MADRAS AND ANR.

A

v.

K. RAJAMANICKAM

JANUARY 13, 1995

[K. RAMASWAMY AND S. C. SEN, JJ.]

B

Service Law—Correction of Date of Birth—Horoscope evidence or oral evidence cannot be relied on at belated stage—Entry on the basis of School Register of Transfer Certificate valid.

C

Practice and Procedure—Relief—Employee reinstated in office after superannuation under order of Tribunal and threat of contempt proceedings—Tribunal's order suspended by this Court—Interim work and payment for seven months—Amounts paid not to be recovered—Retirement benefit to be computed from the actual date of superannuation.

D

Respondent entered into service in 1958 showing his date of birth as 15.01.35. He made an application for correction of his date of birth on 17.04.86 contending the same to be 12.01.36. On the basis of the original entry in the record, the respondent attained superannuation on 31.01.93. By order dated 23.11.93, the tribunal upheld 12.01.36 as the date of birth of the respondent and allowed him to continue till 31.01.94. Under threat of contempt proceedings and subject to the present appeal, the appellant reinstated the respondent on 07.02.94. The respondent continued in service till 19.09.94 when this Court suspended the order of the Tribunal.

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Allowing the appeal, this Court

HELD 1. Horoscope evidence and oral evidence could not be believed at this belated stage. The school register was available when the respondent entered into service which was recorded on the basis of the entries in the SSLC register. [244-E-F]

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2. The respondent continued in office for seven months till this Court suspended the Tribunal's order. The appellant will not recover any amount paid to the respondent during this period. However, the retirement benefits

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A should be computed as if he had retired on 31.01.93. [244-H, 245-A]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 820 of 1995.

B From the Judgment and Order dated 23.11.93 of the Tamil Nadu Administrative Tribunal, Madras in O.A. No. 447 of 1993.

A. Mariarputham for Arputham, Aruna & Co. for the Appellants.

S. Srinivasan for the Respondent.

C The following Order of Court was delivered :

Leave granted.

D Admittedly, the respondent entered into service in 1958 showing his date of birth as 15.1.1935. He claims to have made an application for correction of the date of birth on 17.4.1986 which was ultimately rejected in the proceedings of the Collector dated 25.1.93. Thereafter the respondent filed the petition on 27.1.93 before the Tribunal. He attained superannuation as per the original entry in the records on 31.1.93. The Tribunal, by its order dated 23.11.93, while holding that his correct date of birth is 12.1.36, directed the appellant to continue the respondent in service for a period of one year. That order is now under challenge. It is beyond comprehension to believe at the belated stage the horoscope evidence or oral statements. The school register was available when he entered into service which was recorded on the basis of the entries in the SSLC register. **E** Volumes could be spelt out of the authenticity of the present alleged entries in the school register or TC. **F**

The meat of the matter is that the respondent had attained superannuation on 31.1.94 even on his own date of birth as contended for. As a fact, he was superannuated on 31.1.93. By virtue of the orders of the Tribunal when contempt proceedings were threatened against the officers of the appellant, subject to their filing the appeal they reinstated the respondent into service on 7.2.94 and he remained in office till the order was passed by this court on 19.9.94 suspending the order of the Tribunal. **G** Therefore, for seven months the respondent had continued in office. For **H**

the period for which he had continued, there shall be a direction not to recover any amount paid to him during that period. In other words, his retirement benefits should be computed as if he had retired on 31.1.93 only. A

The appeal is accordingly allowed. No costs.

A.G.

Appeal allowed. B