

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
AT DEHRADUN**

Present: Hon'ble Mr. Ram Singh  
----- Vice Chairman (J)

Hon'ble Mr. D.K.Kotia  
-----Vice Chairman (A)

**CLAIM PETITION NO. 54/DB/2017**

Paltu Ram S/o Sh. Nakali Singh, R/o Vill. Puranpur P.O. Grah Meerpur,  
District Haridwar (Uttarakhand).

.....Petitioner

**VERSUS**

1. Executive Engineer, Jal Vigyan, Sodh Khand-I, Bahadrabad (Irrigation Research Institute Roorkee) District Haridwar (Uttarakhand)
2. Executive Engineer, Jal Vigyan Khand, Bahadrabad, District Haridwar (Uttarakhand).
3. State of Uttarakhand through its Irrigation Secretary, Secretariat, Subhash Road, Dehradun.

.....Respondents

Present: Sri B.S.Rawat, Ld. Counsel  
for the petitioner  
Sri V.P.Devrani, Ld. A.P.O.  
for the respondents

**JUDGMENT**

**DATED: JUNE 01, 2018**

**HON'BLE MR. RAM SINGH, VICE CHAIRMAN (J)**

1. The petitioner has filed this claim petition for the following reliefs:-

*“(1) Order dated 9.3.17 of respondent no. (1) has to be quashed by which the services of petitioner*

*has been superannuated and the services of petitioner has to be reinstated w.e.f. 31.3.17.*

*(2) That the salary of petitioner has to be paid w.e.f. 31.3.17 till the date of reinstatement of petitioner.*

*(3) That the petition cost be also paid to the petitioner.”*

2. The petitioner, who was working with the Irrigation Department on the post of Chawkidar/Beldar, was retired vide order dated 9.3.2017 on attaining of his age of superannuation of 60 years. He has challenged the order of retirement on the ground that in some other records i.e. “वेतन, आय एवं सेवा प्रमाण-पत्र” prepared by the respondent department, his date of birth was shown as 5.8.1968, hence, according to that, his retirement was due on 31.8.2028 whereas, on the basis of his date of birth, recorded in his service book as 01.4.1957, he was ordered to retire on 31.3.2017. The petitioner has contended that he is an illiterate person and consequently has no certificate of his date of birth. The medical certificate was obtained from the Chief Medical officer, Haridwar in August 2008, in which his age was shown as 40 years. According to him, he has been retired before the due date of his retirement, hence, this claim petition has been filed for the abovementioned relief.

3. The petition was opposed by the respondent department with the contention that in the year 1975, the petitioner was employed as daily-wager in the Irrigation Department and later on, on the basis of his retrenchment, he filed a petition before the labour court, in which he himself had written that he was employed with the department as daily wager in the year 1975 and in civil Writ Petition no. 2055 /MS/2001, filed before the Hon’ble High Court, the petitioner in his affidavit also admitted that he was serving with the department since 1975 as Beldar/Dailywager. The appeal filed by the department

was opposed by him with such admission. Later on, the petitioner was regularized vide order dated 7.11.2015 in the department on the post of Beldar. According to the respondent, petitioner was asked to file the proof of his date of birth in his service record, which he never filed rather he has submitted an affidavit about his employment in the government department since 1975. Assuming his minimum age of 18 years at the time of his first employment in 1975, the department vide order dated 3.12.2015, fixed his date of birth as 01.4.1957, and on the basis of that order, his above date of birth was recorded in his service book. He has accepted this date of birth during his whole service period till retirement. Not only this, before his retirement, he himself moved an application stating that he is going to retire on 31.3.2017 so his dues be paid to him. Now the petitioner, by taking the benefit of some irrelevant, vague and false documents, has filed this petition, which has no merit and deserves to be dismissed.

4. We have heard both the parties and perused the record.

5. The copy of the petition filed by the petitioner before the labour court has been filed in the petition as Annexure: R-2 in which, the petitioner himself has written that in the establishment of respondent, he was employed on the post of Beldar in 1975 and his services were terminated on 08.05.1985 without assigning any reason. Hence, prayer was made in the labour court to continue his service. An affidavit was also filed by the petitioner alongwith that petition, in which he himself has mentioned that he was employed as Beldar in the department in 1975. His petition No. 319/1999 was allowed by the labour court, Dehradun vide its judgment dated 4.2.2000 and the award was passed in his favour and the department was ordered to take him in the service back. In this judgment, it was specifically mentioned that the petitioner was employed in the department as Beldar in 1975. The department filed writ petition No.255(M/S) of 2001, challenging the award passed by the labour court, in which, the

reply was submitted by the petitioner through an affidavit, copy of which has been filed by the respondent. In para-4 of such affidavit, the petitioner himself has specifically stated that he was working in the department since 1975 to May 1985, but he was removed from service in 1985 without any reason. Hence, in litigation before the labour court and Hon'ble High Court, the petitioner specifically pleaded that he was employed as Beldar in the government department since 1975.

6. Learned A.P.O. on behalf of the respondents has stated that to do any job in any government department, a person must be major i.e. who has atleast attained the age of 18 years. The petitioner, who has come up with this petition, is alleging that his date of birth is 5.8.1968, but it cannot be believed because, if this was the actual date of his birth, then he could never be allowed to join government service as Beldwar in 1975 because he held to be a minor at that time. If this date i.e. 5.8.1968 is assumed his date of birth then in 1975, he was a child of 7 years of age. His specific plea before the labour court and Hon'ble High Court that he was working in the department since 1975, cannot be thrown away now and the contention of the respondents is perfect that at the start of the financial year 1975-76, his first employment, he must be of a minimum age of 18 years. It has been contended that when the petitioner was taken back in the service as Beldar/Chowkidar, he was asked by the department to file a valid proof of his date of birth. The proof of date of birth can be either the certificate of high school or in case of illiterate person, copy of any parivar register, in which the date of birth is entered. Petitioner never filed any proof in the department about his date of birth.

7. Learned counsel for the petitioner has argued that he was asked by the department to file his health certificate and certificate about his age, for which he appeared before the Chief Medical Officer and accordingly, Certificate (Annexure: A-5) issued by the Chief Medical Officer, Haridwar dated 28.08.2008 was filed by the petitioner with the

department, in which his age was mentioned as 40 years. In this certificate (Annexure: A-5/1), the Chief Medical Officer has mentioned that the petitioner was physically examined and he did not discover any disease and constitutional weakness or bodily infirmity in him so as to disqualify him for employment in the government. In another certificate (Annexure: A5/2) issued by the C.M.S., Roorkee in 2010, it was specifically mentioned that according to his statement (petitioner's statement) he is of 42 years of age.

8. This court finds that this is not a valid certificate about the date of birth because doctor mentioned approximate age according to the statement of the petitioner himself. Annexure: A5/1 issued by the Chief Medical Officer in 2008 has mentioned that on the basis of his medical examination, his estimated age is about 40 years. How this conclusion was drawn by the Chief Medical Officer, has not been specified and in view of the fact that the petitioner was working with the department since 1975, this certificate issued by the Chief Medical Officer, has no value in this respect and this cannot be said to be a valid certificate of date of birth. In this certificate, no exact date of birth was written and only estimated age is mentioned. Even otherwise, only on the basis of radiological examination, it can only be ascertained whether a person is minor or major and after becoming major, the exact date of birth of a person, cannot be fixed in this manner and considering the fact that the petitioner was continuing in the government job since 1975, this opinion of the Chief Medical Officer has no value and this certificate issued by him cannot be said to be the exact proof of date of birth.

9. Furthermore, the department from time to time was asking for a certificate about his date of birth, but petitioner never filed any one and submitted that he is an illiterate person, having no such certificate. Under these circumstances, having the proof of his continuing job in the government since 1975, the department passed a

detailed order on 3.12.2015 fixing his date of birth as 01.04.1957, for the reasons that at the time of his first employment i.e. 01.04.1975, he must at least be of minimum age of 18 years. In the absence of any other valid record, to the contrary, his date of birth was rightly fixed as 01.04.1975. Copy of the same was furnished to the petitioner and on the basis of this order, his date of birth i.e. 01.04.1957 was entered in his service record, which was also endorsed by him. Not only this, after fixing his date of birth in the year 2015, till the date of his retirement i.e. in the year 2017, during his period of service, petitioner never raised any objection about his date of birth and about such entry in his service book (Annexure: R-1) in which his date of birth is recorded as 01.4.1957.

10. On 31.3.2017, the petitioner himself moved an application (Annexure: R-4) to the department with the following words:

“सेवा में,

अनुसन्धान अधिकारी,  
जल विज्ञान शोध इकाई-1  
सि० अनु० संस्थान बहादुराबाद।

विषय:- सेवानिवृत्ति के सम्बन्ध में।

सन्दर्भ:- आपका पत्रांक सं० 906/ज-1 तदिनांक 9-3-2017

महोदय,

निवेदन है कि प्रार्थी आपके उपरोक्त पत्र के अनुपालन में दिनांक 31.03.2017 को अपराहन्ह में सेवा निवृत्त हो रहा है जो आपको सूचनार्थ प्रेषित है।

अतः आपसे निवेदन है कि प्रार्थी को ग्रेजुएटी, नगदीकरण, बिमाराशि आदि देयकों का भुगतान कराने की कृपा करें। आपकी अति कृपा होगी।

प्रार्थी

ह०

(पल्टूराम)

चौकीदार।”

Hence, the petitioner himself admitted that after completing the age of superannuation, he will be retiring on 31.3.2017 and he asked for his dues. Till that period, he never raised any objection about his date of birth as recorded in his service record. The respondents have argued that after getting all the dues, he has raised an objection on the basis of “वेतन, आय एवं सेवा प्रमाण-पत्र”, prepared in July, 2011 in which, his date of birth was casually written 5.8.1968. Petitioner has now raised this objection that he was wrongly retired and he should be allowed to continue in service till 2028.

11. The court finds that during service period and even after 2011, he was asked to submit a valid proof of his exact date of birth and after showing his inability to do so, then on the basis of other circumstances and his admission of continuing in government job since 1975, his date of birth was finalized in 2015. Hence, such “वेतन, आय एवं सेवा प्रमाण-पत्र” certificate, has no relevance about the proof of his date of birth. The service book is the relevant record for this purpose and in his service book, his date of birth was rightly written as 01.4.1957.

12. Even otherwise, this date appears to be appropriate and correct, and it cannot be believed that date of birth of the petitioner might be 05.08.1968 because if this will be considered as his date of birth then he could never be permitted to enter into government job in 1975, merely at the age of 7 years. On the plea of his entry in the government job in 1975, he has obtained the fruits of the litigation filed before the labour court and the Hon’ble High Court but now wants to change his stand. This court is of the view that the statement of petitioner now alleging his date of birth as 1968, is totally false and untrustworthy. The Health Certificate of an employee as per rules, while entering in government job, is taken only for the purpose that the employee is having a good health and will be able to do his duty and he is not suffering from such severe disease or inability so as to disable him for government job.

13. The petitioner cannot be allowed to take the benefit of his government job since 1975 at the one hand, and to take the benefit of his wrong date of birth just to continue in government job. The claim petition has no merit and deserves to be dismissed.

**ORDER**

The claim petition is hereby dismissed. No order as to costs.

**(D.K.KOTIA)**  
VICE CHAIRMAN (A)

**(RAM SINGH)**  
VICE CHAIRMAN (J)

*DATE: JUNE 01, 2018*  
*DEHRADUN*

KNP