

CASE NO.:
Appeal (civil) 2376-2377 of 2008

PETITIONER:
DEORAJ TIWARI

RESPONDENT:
COMMITTEE OF MANAGEMENT SARVODAYA SHIKSHA S.I. COL. & ORS

DATE OF JUDGMENT: 28/03/2008

BENCH:
ALTAMAS KABIR & AFTAB ALAM

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NOS. 2376-2377 OF 2008
(Arising out of SLP(C) No. 26491-26492/04)

Leave granted.

The appellant was appointed as Chowkidar on 1st August, 1965, in Sarvodaya Shiksha Sadan Inter College, Bheerpur, Allahabad. The appellant has questioned the Judgment and Order of the Division Bench of the High Court dated 19th August, 2004, whereby the Judgment and order of the learned Single Judge was modified to the extent that the relief which had been granted to the appellant by the learned Single Judge was curtailed and he was made entitled to his monetary benefits on retirement till 30th June, 1985, and not till 31st January, 1993, as had been granted by the learned Single Judge.

The controversy before the learned Single Judge was with regard to the correction made by the Principal

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of the College of the appellant's date of birth in his service records. At the time of initial entry into service, the appellant's date of birth was recorded as 1st January, 1933, but subsequently it came to light that the appellant had studied in Primary School, Khain, Karchana, Allahabad. In the school records his date of birth was shown as 12th June, 1925. On the basis of the above, the Principal of the college issued a notice to the appellant to show cause as to why his date of birth should not be corrected in the college records in view of the School Certificate. A letter was also sent to the appellant to file a medical certificate of the Chief Medical Officer, Allahabad, regarding his age. Thereafter, after giving the appellant a hearing, the Principal of the College corrected the date of birth of the appellant in his service records from 1st June, 1933 to 12.6.1925 and issued a letter to him on 20th August, 1987, retiring him from service. The said order was challenged in appeal before the Committee of Management of the institution which dismissed the same.

As has been recorded by the Division Bench of the High Court in the impugned Judgment, no further steps were taken by the appellant to challenge the said correction made by the Principal of the College before the District Inspector of Schools or before any court

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or authority. Consequently, the said correction became final and binding on the appellant. Thereafter, by an order dated 9.4.1986, the Joint Director of Education, Allahabad, fixed the appellant's pension treating the date of retirement as 30.6.1985.

The appellant challenged the above Order before the learned Single Judge of

the High Court in writ jurisdiction. The learned Single Judge ultimately held that the correction had been illegally effected and should not be given effect to, and directed that the appellant was to be treated in service upto 31.1.1993.

The Division Bench has set aside the said finding on the ground that the learned Single Judge could not have reopened the matter which had been finally decided and against which no further steps had been taken by the appellant. The reasoning of the Division Bench Judge appears to be sound.

Having heard learned counsel for the respective parties, we are unable to differ with the judgment impugned in this appeal and we accordingly, dismiss the Appeal. But there will be no order as to costs.

The Authorities are directed to disburse to the appellant all the dues in terms of the Order of the

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Division Bench of the High Court, if not already disbursed, within two months from the date of communication of this Order.