

A SH. VIJAY SINGH, SECRETARY HOME AND ANR.
v.
MITTANLAL HINDOLIYA

NOVEMBER 1, 1996

B [K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

Service Law :

C *Date of birth—Correction of—Application by employee—Tribunal directing employer to consider representation of the employee—Representation rejected—Held, representation was duly considered and rejected—Tribunal's order not deliberately disobeyed—Tribunal ought not have issued further directions to consider the case afresh.*

D CIVIL APPELLATE JURISDICTION : Civil Appeal No. 14920 of 1996.

From the Judgment and Order dated 1.9.95 of the Madhya Pradesh Administrative Tribunal, Indore in M.A.NO.99 of 1994.

E Prashant Kumar and S.K. Agnihotri for the Appellants.

Dr. I.B. Gaur for the Respondents.

The following Order of the Court was delivered :

F Delay condoned

Leave granted.

G This appeal by special leave arises from the order in the contempt proceedings dated August 1, 1995 made by the Madhya Pradesh Administrative Tribunal at Indore in Miscellaneous Application No. 99 of 1994.

H The admitted position is that the respondent was appointed as a Sub-Inspector in the Police Department on January 1, 1960 and his date of birth in the High School Certificate was August 5, 1934. In 1992, he filed

an application in the Tribunal for correction of his date of birth contending that his date of birth was July 16, 1938. The Tribunal by order dated February 25, 1994 disposed of the application with a direction to consider the representation of the respondent. The representation was considered and rejected by proceedings dated May 23, 1994. Consequently, the respondent filed a contempt application contending that the appellants have wilfully and deliberately disobeyed the orders of the Tribunal and sought for initiation of the proceedings against the appellants under Section 12 of the Contempt of Courts Act. In the impugned order, the Tribunal has held that the respondent has not deliberately disobeyed the orders of the court as direction was to consider the case afresh on the finding that the Director General of Police had not applied his mind to the issue and, therefore, the impugned order came to be issued. The question is: whether the Tribunal was right in its giving directions? It is seen that the Assistant Inspector General of Police who is the Administrative officer assists the Administrator, namely, the Director General of Police. He had put up the note on it and after consideration of it the Director General of Police had made a note 'inform the respondent'. Obviously, after consideration of the case he did not agree with the claim of the respondent and accepted the report submitted by his subordinate, viz. Assistant Inspector General of Police. Thus, it would be a case where due consideration was given to the respondent's representation as per the directions given by the Tribunal. The Tribunal having held that the respondent has not deliberately disobeyed the order, there is no power to issue further directions:

The appeal is accordingly allowed. The directions are set aside, No costs.

G.N.

Appeal allowed.