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SLP(C)No. 5174 OF 2003

ITEM No.20

Court No. 3

SECTION XI

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.5174/2003

(From the judgement and order dated 11/10/2002 in CMWP 7686/91
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P. & ANR.

Petitioner (s)

VERSUS

SHIV NARAIN UPADHYAY

Respondent (s)

(With appln. For permission to place addl. documents on record, exemption from filing O.T. and with prayer for interim relief)

Date : 07/04/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.B. SHAH
HON'BLE MR. JUSTICE ARUN KUMAR

For Petitioner (s) Mr. Subodh Markandeya, Sr. Adv.
Mr. Ashok K. Srivastava, Adv.

For Respondent (s)

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

Permission to place additional documents on record is granted.

Exemption from filing official translation is allowed.

In the impugned order the High Court has noted as under:

"From the above facts, it is apparent that in spite of repeated opportunity being afforded to the standing counsel, he has failed to produce the service record of the petitioner in which it is alleged by the respondents that the date of birth of the petitioner is 1931. The contention of the petitioner remains un rebutted that his date of birth in his service record is 1939 which is also apparent from the school leaving certificate appended as Annexure-1 to the petition. It is not denied by the standing counsel that the service book is in the possession of the employer i.e., the State. In these circumstances, the court has no other option but to take the averments made in the writ petition to be correct."

As against this the learned counsel for the petitioner has submitted that on 19th September along with an affidavit the service book was produced before the Court. Copy of the affidavit is filed along with the petition as Annexure-P6. From the said affidavit, it appears that the birth date of the respondent is September, 1931. In view, issue notice.

KALYANI (JANKI BHATIA)

COURT MASTER