

13

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION No.325/2016

Date of Decision: 02.01.2020

***CORAM: R. VIJAYKUMAR, MEMBER (A)***  
***R.N. SINGH, MEMBER (J)***

Naval Kishore Chotelal Sherma

Age 58 years

Retired as MCM of EL W, Bhusawal,  
 residing at 1120/4, POH Colony, 40 Block,  
 Bhusawal, Dist. Jalgaon – 425 201.

... *Applicant*

*(By Advocate Shri Vicky Nagrani)*

*Versus*

1. The Union of India through the  
 General Manager, Central Railway,  
 CSTM, Mumbai – 400 001.
2. Chief Personnel Officer,  
 Head Quarters Office' Personnel Branch,  
 CSTM Mumbai – 400 001.
3. Chief Works Manager,  
 (EL W), POH,  
 Bhusawal – 425 201. ... *Respondents*

*(By Advocate Shri R.R. Shetty)*

*ORDER (ORAL)*

*Per : Shri R. Vijaykumar, Member (A)*

This Original Application has been filed on 07.03.2016 under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

*"8(a) This Hon'ble Tribunal may graciously be pleased to call for the records of the case from the respondents and after examining the same quash and set aside the*

*impugned order dated 17.07.2015.*

*(b) This Hon'ble Tribunal may further be pleased to direct the respondent to alter the date of birth of the applicant as 27.07.1956 with all consequential benefits.*

*(c) This Hon'ble Tribunal may further be pleased to direct the respondents to continue the applicant in service upto 30.07.2016 with all consequential benefits.*

*(d) Costs of the application be provided for.*

*(e) Any other and further order as this Hon'ble Tribunal deems fit in the nature and circumstances of the case be passed."*

2. The applicant commenced casual service with the respondents on 13.12.1979 and the respondents regularised him thereafter at which period, an attestation form was obtained from him after filling up all details under his signature wherein he has mentioned all details and which was executed on 17.02.1980. The applicant claims that he submitted a letter dated 17.11.1980 within one year of joining service with the respondents requesting change of his Date of Birth to 27.07.1956. The receipt of this letter is denied by the respondents by stating that such a letter is not available in his personal file record and further, they referred to his attestation form dated 17.02.1980 in which he has mentioned his Date of Birth as 27.07.1955. Reference to the said letter produced along with OA shows

that the applicant has not enclosed any evidence of proof of submission and receipt by the respondents to this letter and the letter further does not suggest that any essential certificate was enclosed in support of the request for change in Date of Birth. The applicant has obtained a duplicate School Leaving certificate only on 11.02.2014 stating his Date of Birth as 27.07.1956 and thereafter, made a representation on 30.06.2015 to which the respondents have replied that at the time of appointment in 1979, the applicant had in his possession, the school leaving certificate dated 30.04.1966 and since he was literate, his request for alteration was time-barred as beyond 3 years and cannot be accepted. Prior to this application, the applicant claims that he had submitted a representation on 31.03.2008, although the respondents denied such receipt and state that they had only received his representations from 31.03.2010 which were not accompanied by school leaving certificate and he was asked to submit his school leaving certificate to consider such

an application and later, it was advised on 14.02.2013, that any change of date of birth could only be accepted within three years of appointment.

3. During arguments, learned counsel presses his arguments that the applicant had filed his first application for change of Date of Birth in 1980 within one year of his joining service and thereafter in 2008 when he renewed such request but the applicant's such contention has been disputed by the respondents. So far as the applicant's further representation of the year 2010 is concerned, it is the admitted case that the same has been considered by the respondents and his request been refused by the respondents vide letter dated 14.02.2013.

4. Learned counsel for the applicant also refers and places reliance upon the Hon'ble Apex Court in the case of Union of India Vs. Harnam Singh, Civil Appeal No.502/1993 decided on 19.02.1993 wherein it has been ruled as under:-

*“....His inaction for all this period of about thirty five years from the date of joining service, therefore precludes him from showing that the entry of his date of birth in service record was not correct.”*

5. Learned counsel for the respondents

was also heard on the issue and on the facts of the matter and the citations referred by the learned counsel for the applicant.

6. Pleadings have been carefully examined and learned counsels for the applicant and respondents have been heard on the subject.

7. At the outset, it is quite apparent that at the time of the alleged application for amendment of Date of Birth made in 1980, the applicant has no proof of such submission and it has also been denied by the respondents. Further, there is no mention or evidence in the said letter that he had attached a copy of the school leaving certificate alongwith this letter nor did he attach such certificate in any of the subsequent alleged letter of 2008 or the letters actually received by the respondents of 2010 and 2013 to which they have replied. Finally, he had obtained a duplicate copy in 2014 and filed a complete application that could have been considered legally by the respondents only in the year 2015. In the face of such evidence and in view of the binding nature of the judgment of the

Hon'ble Apex Court in Harnam Singh (supra), the request of the application for amendment of Date of Birth is hopelessly time-barred and is held accordingly to be devoid of merits. It has also been noted that repeated representations will not extend the period of limitation as ruled by the Hon'ble Apex Court in the case of S.S. Rathore Vs. State of Madhya Pradesh, 1990 AIR 10 = 1989 SCR Supplementary (1) 43 and this would apply in the case of the applicant in the year of 1980 onwards, even if such an application had actually been made and remained unattended by respondents.

8. In the aforesaid facts and circumstances of the case, the Original Application is dismissed without any order as to costs.

(R.N. Singh)  
Member (J)

(R. Vijaykumar)  
Member (A)

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30/01/2020  
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