

10

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.1634/2001

New Delhi, this day the 4th March, 2002

HON'BLE MR. S.A.T. RIZVI, MEMBER (A)

R.N. Goel,
Asth. Provident Fund Commissioner (Retd),
Son of Sh. Rati Ram Goel,
R/O T-35A, Khirki Extn.
Malviya Nagar
New Delhi

... Applicant

(By Advocate : Shri Shyam Babu)

Versus

1. Union of India through
Secretary,
Ministry of Labour,
Shram Shakti Bhavan
New Delhi
2. Central Provident Fund Commissioner,
Employee Provident Fund Organisation,
Bhavishya Nidhi Bhavan,
14, Bhikaji Cama Place
New Delhi
3. Regional Provident Fund Commissioner,
Bhavishya Nidhi Bhavan,
Sector 15, Faridabad,
Haryana

... Respondents

(By Advocate : Shri S.C. Chopra)

O R D E R (ORAL)

The dispute about the date of birth of the applicant came up before this Tribunal in OA No. 172/2000 which was decided by orders passed on 19.1.2001 (Annexure-J). Having regard to the rule position and the facts and circumstances of the case, the aforesaid OA was disposed of by an order which reads as under: *insofar as the same is relevant in this case. d*

"16. In the background of the detailed discussions contained in the preceding paragraphs, and having regard to the fact noted in paragraphs 5 and 7 above that the

d

(2)

matter regarding change in the date of birth of the applicant has admittedly not been considered at all by the Govt. department as required in Note 6 below FR 56, I have no desire, despite the several failings of the Respondents outlined in paragraphs 6 to 13 above, to annul the impugned letter dated 22.12.1999 and the office memo dated 5.3.1987 attached therewith. Since the basic requirement of obtaining the approval of the government department has not so far been met, I would like to dispose of this OA by directing the Respondents to place the various representations filed by the applicant before the competent authority to enable the said authority to consider the matter properly and carefully before passing a competent order in regard to the change in the date of the applicant's birth. I would expect the respondents and the competent authority to consider equally carefully the observations contained in this order arising from the various Court decisions before a formal order is passed. I order accordingly. It is clarified that the Respondents will initiate action in the matter forthwith and decide it as expeditiously as possible and, in any event, within a period of three months from the date of receipt of a copy of this order."

2. In compliance of the aforesaid order, the respondents have passed orders on 23.4.2001 maintaining that the applicant's date of birth was 1.4.1940 and not 8.12.1940. The relevant portion of the aforesaid order provides as follows:-

"AND WHEREAS, the Central Government has carefully examined the entries about date of birth of Shri Goel recorded in his Service Book, it is observed that initially on the basis of requisite documents, date of birth of Shri Goel was clearly recorded as 1.4.1940. However, subsequently the entries about his date of birth were changed as 8.12.1940. The signature of the authority changing the date of his birth appears to be forged because the same neither bears a legible and correct date nor name and authority of the correcting officer. As there was tampering in the record, a Notice was issued to Shri Goel asking him to show cause as to why his date of birth should not be taken as 1.4.1940. In reply to the Show Cause Notice, Shri Goel submitted that "Office may decide as per Rules. I do not

(3)


have any objection". Accordingly, the competent authority rectified the tampering in the Service Book by clearly indicating his date of birth as 1.4.1940. The contention of Shri Goel that his date of birth was altered in 1966 with approval of the competent authority is baseless. In fact, Shri Goel never made any request for alteration of his date of birth in 1966. It appears undue leniency has been shown to Shri Goel in condoning the forgery/tampering made in the Service Book. The points/arguments made by Shri Goel in his representation are just an after-thought and therefore, untenable."

3. The learned counsel appearing for the applicant submits that the aforesaid order passed by the respondent-authority is flawed on more than one count. It is clear from the portion of the respondent-authority's order reproduced above that the applicant has been held responsible for forgery/tampering made in the Service Book insofar as the date of his birth is concerned. As against the aforesaid view expressed by the respondent-authority, this Tribunal had clearly held in its order dated 19.1.2001 that the applicant could not be blamed in any way insofar as the change in the date of his birth was concerned and further that there were no irregularities on the part of the applicant in the said case (paragraph 6 of the Tribunal's order). The aforesaid order passed by this Tribunal has not been taken in appeal and has, therefore, become final. In view of this, it was not open to the respondent-authority to record a finding contrary to the finding arrived at by this Tribunal, to which a reference has ^{& just} been made above. For this reason alone, the impugned order dated 23.4.2001 stands vitiated and deserves to be quashed and set aside. 2

(4)

4. Keeping in view the position outlined in the previous paragraph, I do not consider it necessary to go into the ~~some~~ of the other issues raised on behalf of the applicant. The impugned order dated 23.4.2001 stands vitiated and is quashed and set aside. The respondents are directed to treat the date of the applicant's birth as 8.12.1940 and to pay to him pay/allowances etc as also the retiral benefits on the basis that the applicant retired on reaching the age of superannuation on 31.12.2000. The respondents are also directed to pay interest on the aforesaid amount found due at the rate of 10% per annum from the due date upto the date of actual payment. I direct accordingly. The aforesaid directions be complied with in a maximum of three months from the date of receipt of a copy of this order.

5. The present O.A. is allowed in the aforesaid terms. *No costs.*


(S.A.T. RIZVI)
MEMBER (A)

/pkr/