

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.881 of 2001

New Delhi, this 19th day of June, 2001

HON'BLE SHRI M.P.SINGH, MEMBER(A)

Lakhan Singh
S/o Shri Pyare Lal
Working as Guard at Tughlakabad
Railway Station, Northern Railway
New Delhi

.. Applicant

(By Shri H.P.Chakravorti, Advocate)

versus

Union of India, through

1. The Chairman
Railway Board
Principal Secretary to Govt. of India
Ministry of Railways
Rail Bhavan
New Delhi-110001
2. The General Manager
Northern Railway
New Delhi
3. The Divisional Railway Manager
Northern Railway
New Delhi

.. Respondents

(By Shri V.S.R.Krishna, Advocate)

ORDER(oral)

Hon'ble Shri M.P.Singh, M(A)

Applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985, challenging the order dated 23.11.2000 (Annexure A-1).

2. Brief facts of the case as stated by the applicant are that he had joined the Northern Railway as Khalasi on 21.2.1964. He was promoted as Shuntman on 23.4.1972 and subsequently as Shunting Jamadar in the year 1995. He was placed on the panel of Guard in the grade of Rs.1200-2040(RS). According to him, his date of birth was duly recorded in the service book/service register as



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1.1.1944. He had submitted the school leaving certificates to the respondents which was duly verified by the Unit Incharge, indicating his date of birth as 1.1.1944. It is also stated by him that he had submitted a copy of the letter dated 26.9.1997 and a copy of the medical report dated 16.9.1999 in support of his claim. By order dated 23.11.2000 he was informed that he would retire on superannuation on 30.6.2001. Aggrieved by this, he has filed this OA seeking a direction to quash the order dated 23.11.2000 (Annexure A-1) and ^{that} he ^{may} be allowed to continue in service till 31.1.2004 with all service benefits.

3. The respondents have not filed reply.

4. Heard both the learned counsel for the rival contesting parties and perused the record.

5. During the course of the arguments, the learned counsel for the applicant drew my attention to Annexures A-2,3,4&5 and submitted that on the basis of these documents, the applicant is entitled to continue in service upto 31.12.2003. On the other hand, the learned counsel for the respondents produced the original record and submitted that the year of birth of the applicant as recorded in the service book is 1941. He has also produced a copy of the seniority list issued in the years 1988 and 1997 wherein his year of birth has been shown as 1941. In the seniority list issued in 1997, representations were invited from the persons concerned

[Signature]

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in case any new fact had come to their notice contrary to the one mentioned in the seniority list. The learned counsel for the respondents also produced a copy of the application submitted by the applicant for the post of Assistant Guard in which the applicant himself has mentioned his date of birth as 1.1.1941. He also drew my attention to a judgement of the Supreme Court in Union of India Vs Harnam Singh (1993) 2 SCC 163 in which it has been held as under:

"In the facts and circumstances of the case, we are not satisfied that the Tribunal was justified in issuing the direction in the manner in which it has been done. The application of correction of date of birth, entered in the service-book in 1956, for the first time made in September 1991, was hopelessly belated and did not merit any consideration. As already noticed, it had not been made even within the period of five years from the date of coming into force of Note 5 to FR 56(m) in 1979. The Tribunal, therefore, fell in error in issuing the direction to correct his date of birth and the impugned order of the Tribunal cannot be sustained."

6. In the present case also, the applicant has entered the government service in the year 1964 and has submitted his application for correction of date of birth in the year 1998, after 34 years. Keeping in view the above decision of the Hon'ble Supreme Court and also the fact that the applicant himself has mentioned his date of birth as 1.1.1941 while submitting his application for the post of Assistant Guard, the OA does not merit any consideration and the same is liable to be dismissed. I do so accordingly. No order as to costs.

M.P. Singh
(M.P. Singh)
Member(A)
Vacation Bench

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