

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.1418/98

New Delhi this the (26) Day of December, 1998.

Hon'ble Mr. R.K. Ahooja, Member (A)

Shri T.N. Tiwari,
S/o Shri Uday Bhan Tiwari,
Resident of K-101 Sewa Nagar,
New Delhi-110 003.

Employed as Peon in
the Ministry of Environment and Forests,
Govt. of India,
Paryavaran Bhawan,
CGO Complex,
Lodi Road,
New Delhi-110 003.

Applicant

(By Advocate: Shri B.B. Rawal)

-Versus-

1. Union of India,
Through the Secretary,
Ministry of Environment and Forests,
Govt. of India,
Paryavaran Bhawan,
CGO Complex,
Lodi Road,
New Delhi-110,003.
2. The Secretary,
Department of Personnel and Training,
Government of India,
North Block, New Delhi-110 001. Respondents

(By Advocate: Shri R.V. Sinha)

ORDER

Hon'ble Shri R.K. Ahooja, Member (A)

The applicant joined service as Chowkidar at Dhandakaranya Project, Jagdalpur, Madhya Pradesh on 8.4.1960. He was transferred to New Delhi, and after being declared surplus was redeployed with the Ministry of Environment and Forest w.e.f. 1.5.1987. In February 1997 he came to learn that as per entries made in his service book, he was to retire in 1998 as his date of birth had been wrongly shown as 1.10.1938 instead of 1939. He made a representation for setting right the

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mistake. On being asked to state the basis of his representation, he produced his School Leaving Certificate which showed his date of birth as 1.8.1939. However, instead of giving the proper consideration to his representing, he alleges that the respondents conveyed the impugned memorandum dated 3.3.1998 that his request for change in date of birth had been considered in consultation with the Department of Personnel & Training but could not be acceded to.

2. The respondents in the reply submit that the date of birth as 1.8.1938 was recorded in his service book nearly 37 years ago and was duly attested as correct by the applicant. The entries in the Service Book have been re-attested twice by the authorities of the Dhandakaranya Project on 5.5.1973. The applicant has signed the service book on six different occasions but never pointed out the mistake, if any. They also point out that his CGHS Card which was filled in by himself also shows 1.8.1938 as his date of birth.

3. I have heard the counsel on both sides. Shri B.B. Raval has argued at some considerable length with reference to Devnagri numerals in the School Leaving Certificate of the applicant to prove his point that Devnagari numerical '9' was read as '8' and the date of birth of the applicant was recorded as 1938 by a non-Hindi knowing Clerk. He submitted that the applicant had no means of knowing the wrong entries in the Service Book and as he came to know of it only in 1997, he could not seek rectification earlier. It was also argued that

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the applicant had studied upto Class VII and did not know English. Besides the attestation in Service Book was only in regard to increment and not related to the particulars of date of birth.

4. The learned counsel for the respondents Shri R.V. Sinha, argued that the rules do not permit a change in the date of birth at the fag end of one's career. He also pointed out that the applicant was seeking a change of date even though he was calling it as a modification or rectification.

5. Having considered the matter carefully, I find that the applicant has no case. The applicant cannot plead ignorance of the entires in the Service Record since his ignorance of English language cannot extend to ignorance of English numericals. Copy of his Service Book submitted by the respondents clearly shows the date of birth as '1.8.1938'. A person who has studied upto Class VII cannot claim that he did not know what it meant. Further, the CGHS Card of 1992 also shows the date of birth of the applicant as "1.8.1939". Hence, the claim of the applicant that he first came to know of the wrong entry in 1997 cannot be accepted. I also do not agree with the argument advanced by Shri B.B. Raval that the prayer is for modification and not for change of date of birth. The net affect in either case and with either terminology would be the same in that there would be a change of date of birth. As rightly pointed out by Shri R.V. Sinha, the law is now well settled that such a

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change cannot be allowed so late and when the Government employee is coming close to the normal date of superannuation.

O.A. is accordingly dismissed.

RK
(R.K. Anooja)
Member (A)

Mittal