

(45)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A. No. 2041/98

New Delhi, this the 3rd day of December, 1998

HON'BLE MR. N. SAHU, MEMBER(A)

Jarnail Singh Virk,
ACIO-II(WT), Intelligence Bureau Headquarters,
New Delhi.
R/o J-255,
Sarojini Nagar, New Delhi.
Now working as Inspector of Intelligence,
Bureau Headquarters,
New Delhi.Applicant

(By Advocates: Sh. R.K. Talwar and Sh. Y.P. Dhingra)

Versus

1. Union of India through
Secretary,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi.
2. Director,
Intelligence Bureau,
Ministry of Home Affairs,
Government of India,
North Block,
New Delhi.
3. Deputy Director,
Subsidiary Intelligence Bureau (MHA),
Government of India,
Chandigarh.Respondents

(By Advocate: None)

O R D E R

HON'BLE MR. N. SAHU, MEMBER(A)

This O.A. came up for hearing at the admission stage. The applicant requested for change of date of birth to respondent no.3 on 25.4.95. His date of birth was recorded in the service register as 20.5.48. He relied on the date of birth according to the birth register of Jalandhar District. The entry in this register is stated to be 23.9.51. By the impugned order dated 13.1.98, his request was finally rejected. After hearing the ld. counsel for applicant, I do not

find any merit in this O.A. for the following reasons:-

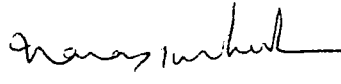
(i) The applicant joined the Department as a Constable in September, 1970. He preferred the claim of change of date of birth on 13.1.95 i.e. one quarter century after he joined the service. In the case of Union of India vs. Harnam Singh - 1993 (24) ATC 92, it has been laid down that those already in service prior to 1979 for a period of more than five years are obliged to seek alteration in the date of birth within a maximum period of five years from the date of coming into force of amended note 5 in 1979. This note 5 to FR-56 came into effect on 30.11.79. The applicant should have filed his claim before 30.11.84. Irrespective of merits, his belated filing deprives him of any consideration on account of laches.

(ii) The matriculation certificate is more reliable for date of birth than the extract of birth register. In the case of O.S. Bajpai v. Union of India [(1989) 9 ATC 540], it was held that if there is conflict between date of birth recorded in the Matriculation certificate and the birth register, one entered in the Matriculation certificate must prevail. It was also held by this Tribunal in M. Asokan alias Munuswamy v. General Manager [ATR (1986) 2 CAT 142], that a birth register entry is not of much evidentiary value and its entry denotes the factum of birth but not date of birth. In the case of N.A. Khan vs. Union of India and ors., the C.A.T. Jabalpur Bench in O.A. 411/91 - 127 Swamy's Case-Law Digest, 1993, the Jabalpur Bench held that "Matriculation certificate has a high degree

of evidentiary value having been issued by a statutory body. During the subsistence of matriculation certificate, the entry in the birth register cannot be made to outweigh it. The proper course for the applicant was to secure a change in his date of birth by the statutory body which issued the matriculation certificate. The applicant did not do so for reasons best known to him." Between the two, matriculation certificate and birth extract, the Jabalpur Bench gave greater weight to the matriculation certificate. Thus on this ground also, the applicant's claim fails.

(iii) The eligibility age for entry into service was a minimum of 20 years as per the Recruitment Rules for the post of Constable in force at that time. The applicant applied for service. He would not have been eligible for entry into service with the date of birth he seeks to substitute. Having gained the benefit of employment on the date of birth as per matriculation certificate, he cannot be heard at this stage to change the same.

2. Thus on all three grounds, the applicant's case fails. It is therefore dismissed at the admission stage. No costs.


(N. Sahu)
Member(A)

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