

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 1919/1995

(2)

New Delhi this the 24th Day of October, 1995

Hon'ble Shri A.V. Haridasan, Vice Chairman (J)

Shri Manmohan Singh
R/o D-41 Rouse Avenue
New Delhi.

.. Applicant

(By Advocate : Shri Bisaria)

Vs

1. Union of India through Secretary,
Ministry of Information & Broadcasting,
New Delhi.
2. The Director General,
All India Radio,
Akashwani Bhawan,
Sansad Marg,
New Delhi. Respondents.

O R D E R (Oral)

Hon'ble Mr A.V. Haridasan, Vice Chairman (J)

The applicant joined service as Staff Artist (Tabla Player) on 1.1.60 at All India Radio, Jullundar. On the basis of an affidavit filed by the applicant's father on 18.2.1960 declaring that the applicant's date of birth was 15.12.1935, his date of birth was recorded in the official records as 15.12.1935. While the applicant was continuing in service, on 7.3.75, the applicant made a representation for alteration of his date of birth stating that his date of birth was really 1.7.1940, producing a certificate issued by the Head Master of his school where he had allegedly studied upto 3rd standard. This request of the applicant was rejected by order dated 14.11.75. He repeated his representation on 25.11.75 for which also he was given reply on 6.5.76 stating that even though the matter was reconsidered, it was found not feasible to accede to the request for change of date

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of birth. The applicant again made a representation on 23.11.76.

The request made in this representation for altering the date of birth was also turned down (Annexure-7). To the further representation made by the applicant he was informed by memo dated 28.6.85 (Annexure-8) that the decision conveyed to him on 5.2.77 and 18.9.78 regarding impossibility of acceding to his demand for altering his date of birth would stand. It appears that again in 1990 and 1991, he made two more representations without any success. Now that the respondents are taking steps to retire the applicant on superannuation on 14.12.95, he has filed this application praying for a direction to alter the applicant's date of birth as 1.7.1940 from 15.12.1935.

2. On a perusal of the application and after hearing the learned counsel of the applicant, I am of the considered view that the Tribunal cannot at this juncture admit this application primarily because the Tribunal does not have jurisdiction to entertain any grievance which arose prior to November 1982, and secondly for the reason that the claim has been barred by limitation. The grievance of the applicant in regard to refusal on the part of the respondents to agree to his request for change of his date of birth arose on 14th November 1975 when his representation in that behalf was rejected by the order of the Senior Administrative Officer (Annexure-5). Though he made repeated representations, his claim was rejected by order dated 6.5.76 and 5.2.77. Once the claim of the applicant was rejected on 14.11.75, he should have challenged the order before appropriate forum within a reasonable time thereafter. The grievance having arisen in the year 1975, I am of the considered view that the Tribunal does not have jurisdiction to intervene in the matter. Learned counsel of the applicant stated that the grievance of the applicant being of recurring and permanent nature, the Tribunal does have jurisdiction and the claim does not get barred until the date of superannuation of the applicant.

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I am not in a position to agree to this argument. The right of the applicant to continue in service upto 1.7.1998 would arise only if his date of birth had been recorded as 1.7.1940. Since his request for that was rejected on 14.11.75, the cause of action arose on that date and it cannot be said that it is a recurring one. As far as the respondents are concerned, the date of birth of the applicant was 15.12.1935 and this was decided once for all on 14.12.75. It cannot be said that thereafter the date on which the applicant would superannuate the cause of action continued. The claim of the applicant is also hopelessly barred by limitation. In 1975 when he was told by the respondents that it was not possible to accede to his request to have his date of birth altered, he should have understood that he would retire on superannuation on 14.12.95. If he had not been vigilant and had not taken recourse to appropriate legal proceedings to have his grievance redressed in time, then after his claim has become barred by limitation, he cannot bring an action in that behalf. Learned counsel argued that the action on the part of the respondents in preferring an unverified statement of an illiterate man rather than accept the certificate issued by the Head Master of the school is unreasonable and unjust. Granting for argument's sake that this is so, ^{the} ~~even~~ the vice ^{of} limitation and want of jurisdiction are staring at the applicant. The Hon'ble Supreme Court has in S.S.Rathore Vs. State of M.P. reported in AIR 1970 SC 10 held that repeated unsuccessful representations would not enlarge the period of limitation. Here though the applicant was given a negative reply, he went on making representations unsuccessfully. This would not keep his time barred claim alive.

3. On a careful consideration of the facts placed before the Tribunal, I am of the considered view that there is nothing in this application which needs admission and further deliberation. Therefore, the application is rejected under section 19 (3) of the Administrative Tribunals Act 1985.


(A.V. Haridasan)
Vice Chairman (J)

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