

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 2157/95

(11)

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

New Delhi, this 30th day of December, 1996

Shri Manohar Lal
s/o Shri Himat Ram
r/o House No. 88/5,
Baba Kharak Singh Marg
NEW DELHI - 1.

... Applicant

(By Shri Hari Shanker, Advocate)

Vs.

Union of India through:

1. The General Secretary
I.R.C.A./HQ/NOLS
Accounts Building
ORM's Office
Northern Railway
Chelmsford Road
NEW DELHI.

2. The General Manager
Northern Railway
Baroda House
NEW DELHI.

3. The Secretary
Railway Board
Rail Bhawan
NEW DELHI.

... Respondents

(By Shri P.S. Mahendru, Advocate)

ORDER

The applicant had joined the office of the Respondent No.1 on 8.2.1951 as a Khalasi on the basis of an application dated 2.1.1951. He states that this application was written by a clerk in the office of Respondent No.1 and the applicant admittedly, without paying attention, put a signature thereto. In the main body of that application, his age was however written as 22 years as on 2.1.1951 without reference to the actual date of birth which was recorded, in the admission form of his School at Rewari (Haryana), as 04.05.1933. When he came to know of this mistake i.e. his date of birth was wrongly been entered as 25.2.1929 instead of the correct date of birth 04.05.1933, he submitted a representation on 22.3.1956 as

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per Annexure A8. However, his request was rejected vide Annexure A9. Further representations made by the applicant were also rejected. The Railway Board issued a letter dated 23.11.1972 (Annexure A10, at page 56) giving fresh opportunity for correction of date of birth and in response to the same the applicant also made an appeal for correction of his date of birth on 9.7.1973. Thereafter, he was asked to submit the original school certificate which he did but the same was returned with a remark on 16.10.1973 (A-13) that the alteration of date of birth could not be agreed to as he was not otherwise entitled to appointment as he would have been underage. The applicant kept on making representations directly as well as through the Trade Union but did not succeed even though he submitted, vide Annexure A18, a list of underage appointments made at about the same time he was appointed. The Railway Board also rejected his appeal on 05.02.1985. A detailed representation was made to the President, IRCA i.e. General Manager, Northern Railway also in this regard. Thereafter, the applicant filed a suit in a Civil Court at Tis Hazari, which ultimately was allowed to be withdrawn for filing an application before this Tribunal. The applicant now seeks a direction to the respondents to correct his date of birth, and states that on the basis of the corrected date of birth he should be deemed to have retired in 1991 and not in 1987 and be paid the arrears as if he was in service upto the corrected date of superannuation and to refix his pension on the basis of the additional increments earned by him.

2. The respondents controvert the claim. They also take a preliminary objection that the claim made by the applicant is barred by limitation.

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3. I have heard the rival contentions and perused the pleadings on record. The learned counsel for the applicant argued that the representation for correction of date of birth had been made within five years of the date of entry into service. The request had been rejected on the ground that there was no provision in Railway Rules for correction of date of birth. There were also no rules specifying the minimum age at which persons could be taken into service and in any case the applicant had submitted particulars of many others who had been taken into service despite being underage. If the relaxation in minimum age had been given in respect of others the same could have been given to the applicant also. In ignoring this aspect the case of the applicant had not been properly considered by the respondents.

4. Having carefully considered the contentions and arguments on behalf of the applicant, I find little substance in the case of the applicant. It is admitted by the applicant himself that this age was mentioned as 22 years in his application for appointment. This was a voluntary statement made by the applicant. He cannot take the plea now that since the body of the application had been written by somebody else and since he was so anxious to complete the formalities, he did not pay attention to the age mentioned therein and signed the application in a routine manner as a matter of formality. The applicant was a literate person and since he signed and submitted the application, it is immaterial as to who had written the main body of the application. Further more, he would have been underage for employment if his date of birth had been taken to be what he claims as entered in his school records. Whether other persons who were also underage were being employed or not is immaterial since the case of the applicant was not

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considered on the basis that he was also underage but on the basis that he had being 22 crossed minimum age.

5. In view of the above position finding no merit in the case of the applicant, the DA is dismissed. There shall be no order as to costs.

R.K. Ahuja —
(R.K. AHOOJA)
MEMBER(A)

/rao/