

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

(2)

O.A. No. 2460/95
T.A. No.

199

DATE OF DECISION 1-7-96

<u>Smt. Bhagwati</u>	Petitioner
<u>Shri A.K. Bhardwaj</u>	Advocate for the Petitioner(s)
Versus	
<u>U.O.I. & Others</u>	Respondent
<u>Shri. J. Banerjee proxy counsel for Shri Madhav Panikar</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

☐ The Hon'ble Mr. _____

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? ☒

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

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O.A.NO.2460/95

New Delhi, this the 1st day of July, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Smt. Bhagwati,
widow of late Shri Faqir Chand,
r/o 6/8, Khichripur,
Delhi.

.... Applicant

By Advocate Shri A.K. Bhardwaj

Vs.

1. Union of India
through
the Comptroller & Auditor General of India,
Mathura Road,
New Delhi.
2. The Deputy Director (Admn.)
Office of the Director of Commercial Audit,
New Delhi. Respondents

By Advocate: Shri J. Banerjee proxy counsel for
Shri Madhav Panikar

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

This is the second round of limitation filed by the applicant seeking correction of her date of birth in the service records maintained by the respondents. In this application she has impugned the memorandum dated 5/6.7.95 passed by the respondents, in which they have stated that in compliance with the decision of the Tribunal in O.A. No. 1279/94 dated 8.2.95, they had conducted a detailed enquiry and found that no

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corrections are required in the service book regarding her date of birth which has been entered as 1.7.1934.

2. The brief facts of the case are that, during the life time of the applicant's husband who was working with the respondents, she was employed as Sweeper in the office of the Medical Superintendent, Hospital for Mental Diseases, Shahdara where her date of birth was recorded as 20.7.1950. This was done on the basis of an affidavit sworn ^{by her} before the Executive Magistrate, Delhi. In the previous O.A. (O.A.No. 1279/94) filed by her the Tribunal had directed respondent No.2 i.e. the Deputy Director (Admn.) to cause a detailed enquiry to be made to ascertain the applicant's date of birth in the background of ^{the} certificate dated 1.8.94 issued by the Institute of Human Behaviour & Allied Sciences (IHBAS), Shahdara in which her date of birth was shown as 20.7.1950. A further direction was given that in the event respondent No.2 found that the applicant's date of birth is in fact 20.7.50 and not 1.7.34, they should make necessary corrections in the applicant's service book maintained in the office of Respondent No.2.

3. Shri A.K. Bhardwaj, learned counsel for the applicant has submitted that the enquiry conducted by the respondents on the basis of which they did not correct her date of birth cannot be accepted, as the enquiry has not been made as

19. directed by the Tribunal " in the background of a certificate

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dated 1.8.94 issued by the IHBAS^U. He submits that the impugned memorandum dated 5/6.7.95 is whimsical and mala fide inasmuch as Respondent No.2 has issued the same without holding a proper enquiry to ascertain the correct date of birth of the applicant and declined to correct the service-^{the} book in accordance with / certificate issued by the IHBAS. The learned counsel further submits that since the IHBAS is also a Govt. organisation, there was no reason to reject the applicant's claim for entering her correct date of birth as 20.7.50 which has been recorded by that Institute, apart from the fact that the same is based on the declaration she had given before the Executive Magistrate (Annexure 5). He has also stated that the applicant, being an illiterate person, has also been unnecessarily threatened with departmental action for not disclosing the fact that she was already in the service of the IHBAS at the time of accepting the appointment on compassionate grounds in the office of the respondents after the demise of her husband on 11.7.84. He has, therefore, prayed that the impugned memorandum dated 5/6.7.95 may be quashed and the respondents may be directed to correct the date of birth in the service book as 20.7.50.

4. The respondents have filed a reply in which they have stated that in compliance of the Tribunal's order dated 8.2.95, a detailed enquiry was undertaken to ascertain the

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correct date of birth of the applicant and they have enclosed a copy of the enquiry report. They have referred to an affidavit submitted by the applicant on 14.3.85 showing her date of birth to be 1.7.34. Further they have also submitted that at the time of her appointment on compassionate grounds, they had also got her age certified and attested by the Medical Officer-in-charge, CGHS Dispensary. They have also stated that in the proforma regarding employment of dependents of Govt. servant dying while in service, the applicant had shown her date of birth as 1.7.34 and in support of that she had produced an affidavit. Another relevant document which the respondents have relied upon is the nomination of DCRG dated 12.4.72 signed by her husband, Faqir Chand while in service with Respondent No.1 in which he has nominated his wife, Smt. Bhagwati, whose age is stated to be 38 years. If so, the date of birth of the applicant would be 1934 and not 1950. After joining the service with the respondents in May, 1985, the applicant had made representations dated 18.11.92 and 20.9.93 for alteration of her date of birth. In view of these facts, the respondents have stated that after fully considering the documentary evidence available with them and after calling for necessary records from the IHBAS, they took a decision that no corrections to her date of birth are necessary in the service-book maintained by them. They had,

accordingly, informed her by the memorandum dated 5/6.7.95.

The learned counsel has also submitted that the C.P. No.219/95 in O.A. 1279/94 for non compliance of the Tribunal's order had been rejected by order dated 14.11.95.

carefully¹³

both¹³

5. I have/considered the arguments of the learned counsel and perused the record.

6. The impugned memorandum dated 5/6.7.95 has been issued after a detailed enquiry has been conducted by the respondents in compliance with the Tribunal's order dated 8.2.95. Shri A.K. Bhardwaj, learned counsel for the applicant stressed on the fact that this enquiry should have been held only in the background of the date of birth i.e. 20.7.50 as entered in the records of the IHBAS and if they found that this is the record entered in that Institute, the respondents ought to follow the same and correct the servicebook accordingly. This reasoning is erroneous. The Tribunal by the order dated 8.2.95 had directed respondent No.2 to hold a detailed enquiry to ascertain the applicant's date of birth, which included the certificate dated 1.8.94 issued by the IHBAS showing her date of birth as 20.7.50 but that did not mean that the respondents were precluded from looking at other relevant documents submitted by the applicant or her husband which are available with them. If this is not so, no purpose would have been served by holding a detailed enquiry. In the affidavit/ ^{the applicant} gave to the

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respondents at the time of her appointment on compassionate grounds in 1985 she declared that her date of birth is 1.7.34. She has also given a statement that her age is 50 years which has also been duly certified by the Medical Officer-in-charge, CGHS dispensary in 1985 which also shows that her date of birth cannot be 1950. Apart from this, another clinching evidence is the nomination form for DCRG signed by Her husband, Shri Faqir Chand given on 12.4.72, in which he has stated that his wife Smt. Bhagwati is 38 years old which would again mean that her date of birth cannot be 1950 but some time in 1934. The document on the basis of which the Institute IHBAS has recorded her date of birth is based on her own affidavit and apparently nothing else. Therefore, considering the relevant documents together which are available with the respondents, it can, in no way be held that the respondents have acted either in an arbitrary or illegal manner or against the directions issued by this Tribunal dated 8.2.95. The respondents on the other hand have correctly come to the conclusion that the date of birth entered in the service book maintained by them needs no correction and the impugned memorandum dated 5/6.7.95 cannot be faulted. This application, therefore warrants no interference.

7. In the result ⁹ we find no merit in this application. Accordingly the D.A. is dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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