

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1577 of 1996

New Delhi, this the 18th day of March, 1998

Hon'ble Mr. N. Sahu, Member (Admnv)

Shri Suraj Prakash, S/o late Bikhu Ram,
R/o 68/4, Kabul Lines, Delhi Cantt-10,
working as Electrician (SK) under GE
(East) Delhi Cantt-10.

- APPLICANT

(By Advocate Shri A.K.Behra)

Versus

1. Union of India through its Secretary,
Ministry of Defence, South Block, New
Delhi.
2. Local Audit Officer(A), Delhi Cantt
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3. Garrison Engineer (East), Delhi Cantt
-10.
4. Record Office Headquarters Engineers
Branch Western Command Chandimandir -RESPONDENTS

(By Advocate Shri K.R.Sachdeva)

O R D E R

By Mr. N. Sahu, Member (Admnv) -

The reliefs claimed in this Original
Application are as under -

- (a) To set aside and quash the impugned
order, dated 14 May 96 and 1st page of
the Service Book (Part-I)
- (b) Direct the respondents to prepare fresh
Service Book (1st page) and attest the
entries after publication of casualties
in Part-II order.
- (c) Direct the respondents to correctly
enter the name, date of birth,
educational qualification etc.
consequently.
- (d) pass any other order/s as may be deemed
just and proper in the facts of the
case; and
- (e) Award costs.

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2. It is necessary to spell out the earlier background in this case. The applicant has filed a case before this Tribunal in O.A.2338 of 1992 which was dismissed on 3.8.1993. In that Original Application he wanted correction of his date of birth as 25.7.1939 based on the school leaving certificate issued on 12.10.1957 by the Head Master of Junior High School, Rajapur, Distt. Unnao (U.P.). The respondents found that the school leaving certificate bears the name of student as "Surya Prashad" whereas the applicant entered the department with the name of Suraj Prakash. The department issued a charge-sheet on 10.6.1994 (Annexure-B) on the ground that the applicant did not disclose this certificate at the time of entry into the department on 8.9.1990. His educational qualification was recorded as 'Nil' in the service book. The certificate dated 12.10.1957 was produced for the first time in 1992 in the Court. The department is aggrieved that the applicant had wrongly and unjustifiably accused the respondents for not maintaining his correct date of birth. They even doubt that the certificate could be bogus. They state that the individual certified his date of birth as correct while checking the service book during 1971 and 1977.

3. In this Original Application the applicant claims that the mandatory procedure as per statutory rules under Supplementary Rule 199 has not been followed. The procedure is that an extract of the front page of the service book containing basic

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details, namely, applicant's name, father's name, educational qualification, date of birth, permanent home address, medical fitness, and source of employment are to be exhibited in a published declaration known as Part-II Order. His grievance is that this Part-II Order has been published in some other cases but not in the case of the applicant. His next ground is that the respondents have wrongly alleged that the applicant did not produce the School Leaving Certificate at the time of his appointment. According to him when he was promoted as Wireman in 1971 they verified this very certificate. The other ground given was that the scope of the Department of Personnel & Training's notification dated 30.11.1979 prescribing conditions for correction of date of birth is not applicable in his case. It was only during disciplinary proceedings that he came to know that the service book was not properly constructed and he has reasons to believe that the service book was not correctly maintained or not audited.

4. After notice, the respondents state that this Original Application is hit by res judicata and is liable for dismissal as the grounds raised in this Original Application are identical to those grounds already adjudicated upon in O.A. 2338/92 decided on 3.8.1993. The learned counsel made an important point that even the date of birth recorded on the front page of the service book at the time of entry was the date furnished by the applicant himself. There was no justification for seeking an

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alteration at the fag end of his service career.

Under the instructions of the DOPT dated 30.11.1979 the applicant should have applied for change in the date of birth within five years. The date of birth 8.9.1936 was attested by the medical authority on the basis of the statement of the applicant at the time of his initial appointment as Mazdoor on 8.9.1960.

5. The learned counsel for the applicant sought to revive the O.A. on the important ground that what he challenges now is not the date of birth recorded but the improper maintenance of the service book and the irregularity caused in not publishing Part-II Order as was done in other cases. For this purpose he relies on the following decision - 1996(5)SCC 550. He draws my attention to the observations of the Hon'ble Supreme Court at page 552 of the report. The next case relied by him is ATR 1987(1)CAT 414. It is not as an afterthought that the applicant has filed this O.A. but because of the injustice meted out to him as revealed from inspection of the records in the course of the disciplinary proceedings. He asserts that in spite of furnishing the educational certificate his date of birth has been wrongly entered as 8.9.1936 in the place of 25.7.1939. He states that the applicant declared his name as Suraj Prakash but the department noted his name as Suraj Prashad. He states that the applicant was charge-sheeted under Rule 14 of the CCS(CCA)Rules, 1965 but none of the charges could be proved. At page 10 para 5.7 of the

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rejoinder the applicant states that "the respondents have published the casualties in Daily Order Part-II in an incomplete manner way back in 1960 i.e. at the time of applicant's regularisation of service from Casual Mazdoor to Regular Mazdoor vide DO Part-II No.12-B/8 dated 12 Sep 60 and DO Part II No.16 dated 29 Mar 71 when the applicant was appointed to higher post of Wireman. It is a matter of record that on 22.2.71 the respondents have verified the School Certificate before placing the applicant to his higher appointment as Wireman."

6. I have carefully considered the submissions. I am of the considered view that this O.A. is liable to be dismissed primarily on the ground of res judicata.

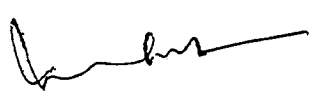
7. Certain undisputed facts have come on record. First of all the applicant never declared his name as Surya Prasad. He himself signed the first page of the service book as Suraj Prakash. Secondly, he signed and verified the service book three times. His signature on the first page is available as Suraj Prakash and not Surya Prashad. Unless the applicant himself declared a certain date of birth the respondents would not have noted an imaginary date of birth. The applicant signed not only at the time of entry but it was attested on 10.4.1971 and reattested on 23.5.1978 and again attested on 13.6.1987. He never objected to this date of birth. This Tribunal had examined all these aspects in the earlier O.A. and dismissed the same.

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I, therefore, hold that all the aspects having been decided and adjudicated upon, revival of this O.A. on the same facts is barred by the principle of res judicata.

8. With regard to the claim that Part-II Order was not published, I hold that this claim is unnecessary and irrelevant. The publication of certain facts which are only furnished by the applicant himself does not aid to any substantive right for the applicant. Assuming without admitting that there was no publication of the first page of the applicant's service book, in what way did the applicant stand to loose? I have verified the service book myself and noted that on three occasions he signed the service book. In none of these occasions he had contested the facts stated therein. All the facts mentioned in page 1 are facts given by him alone. Columns in page 1 are - applicant's name, permanent home address, father's name, nationality, date of birth, educational qualification, height, marks of identification. These are facts which are given by the applicant himself. Publication of the same would not have been any revelation to him. I do not think that after the applicant himself had retired there is any merit in this claim. Non-publication of Part-II Order in any way cannot be made a grievance. Why did not the applicant insist on the publication during 36 years of his service? I am satisfied that



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the applicant is trying to revive this claim of alleged wrong entry of date of birth by the back door.

9. In the result, the application is dismissed. No costs.

Kanambhar Sahu
(N. Sahu)
Member (Admnv) 18/3/98

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