

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA-1725/97

(11)

— New Delhi, this the 23rd day of January, 1998.

Hon'ble Dr. Jose P. Verghese, Vice Chairman(J)
Hon'ble Mr. N. Sahu, Member(A)

P. M. Kurian
S/o Chacko Methew
R/o 33-C, Pocket L,
Phase II, Shaikh Sarai,
New Delhi-17
Data Entry Operator,
Data Processing Centre,
National Sample Survey Organisation
Ministry of Planning
Govt. of India, Hans Bhawan,
Bahadur Shah Zafar Marg
New Delhi - 110 002

...Applicant

(By Advocate : Mr. R.G. James)

Versus

Union of India: through

1. The Secretary
Ministry of Planning & Programme
Implementation, Deptt. of
Statistics, Sardar Patel
Bhawan, Sansad Marg
New Delhi - 110 001

2. The Secretary,
Cabinet Secretariat
Govt. of India
New Delhi

3. The Joint Director
Ministry of Planning
Department of Statistics
National Sample Survey
Organisation
Data Processing Centre,
Govt. of India, Hans Bhawan,
Bahadur Shah Zafar Marg
New Delhi - 110 002

... Respondents

(By Advocate : Mr. K.R. Sachdeva)

ORDER (ORAL)

By Dr. Jose P. Verghese, VC(J) -

The controversy in this petition is whether
the date of birth of the petitioner is 1935 or 1943.
According to the petitioner, he continued in service

(P)

assuming his date of birth as 1943 and by an order dated 29.01.1997 the petitioner has been considered as retired w.e.f. 30.09.1996 and thereafter he was relieved from duty by an order dated 31.07.1996 assuming his date of birth as 1935. The matter came on several occasions for disposal and several opportunities have been given to the petitioner to clarify the position. Finally, when the matter came-up for hearing on 16.01.1998, counsel for the petitioner submitted that in the year 1979 a seniority list was issued which indicated the date of birth as 1935. According to him he had made a representation to correct the date of birth immediately thereafter and no reply given by the respondents. The subsequent seniority list also indicated date of birth as 1935 and on all occasions, the petitioner had given the representation but none of them were replied to and no order was passed on his representation.

2. The only question, therefore, to be considered today is that whether the date of birth of the petitioner which was shown on the official record as 1935 reflected in the seniority list for 1979, can be corrected now after the superannuation of the petitioner or not. We are of the considered opinion that the same cannot be corrected now at the fag end of the service even assuming that the petitioner's representations were pending since 1979.

3. Counsel for the petitioner submitted that the Hon'ble Supreme Court in M.K. Gupta Vs. Union of India - 1995(5) SLR 221 had stated that in case of pay-fixation since the same is in accordance with the

(12)

rules and the petitioner is to receive pay every month and in the absence of correct pay-fixation in accordance with the rules, such individual receives pay in accordance with the wrong fixation and the cause of ~~action~~ action in such cases is said to be recurring. The said decision was cited before us to indicate that the continued representations since 1979 as well is to be considered as a continuous cause of action. In view of the decision of the Hon'ble Supreme Court in Union of India Vs. S.S. Rathore - AIR 1994 SC 2444 wherein it was stated that the continuous representations does not extend the period of limitation, we are unable to accept the analogy given ^w by the Hon'ble Supreme Court in the cases of pay-fixation and the same cannot be applied to the cases where the cause of action is to be extended on the basis that the knowledge that his date of birth is 1935 continued to be a recurring cause of action even if the reply to the representation was never given by the respondents.

4. In the circumstances, we find no merits in the case. This OA is dismissed. No order as to costs.

Tharoor Srinivasan

(N. Sahu)
Member (A)

(Dr. Jose P. Verghese)
Vice Chairman (J)

/Kant/