

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.2588/97

New Delhi: this the 7th day of August, 1998.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Har Prasad S/o Shri Ghanshyam,
R/o House No.71 D Begum Bagh Ward No.1,
Aligarh,

at present House No.28/33A Kasturba Nagar,
Shahdara, Delhi - 032

..... applicant.

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(By Advocate: Shri Prabhu Kant)

Versus

Union of India through
Sr. Personnel Officer,
Northern Railway, DRM Office,
New Delhi.

2. APO Northern Railway,
DRM Office,
New Delhi.

3. Dy. CME(DSI) Northern Railway,
Shakur Basti,
New Delhi

..... Respondents.

(By Advocate: Mrs. B. Sunita Rao)

JUDGMENT

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

Applicant prays for a direction restraining respondents from retiring him on 31.12.97 and from any date before 2004 A.D.

2. His case is that his school leaving certificate shows his date of birth as 20.12.46 (Annexure-A1) and that on attaining 16 years of age he was medically examined on 27.12.62 by A.M.O., Northern Railway, Central Hospital for appointment and on the basis of his School Leaving Certificate was granted fitness certificate (Annexure-A2) in which his date of birth is also shown as 20.12.46. Applicant contends that he had produced his school leaving certificate before APO, Northern Railway

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(R-2) who on the basis of the same as well as the medical certificate had recorded the applicant's date of birth on 20.12.46 in his appointment letter, but despite that respondents were taking his date of retirement to be 31.12.97.

3. Respondents in their reply however contend that applicant's date of birth is actually 20.12.39 and hence he has been correctly retired on superannuation on 31.12.97 upon attaining 58 years of age. Attention is invited to the photocopy of the front page of his service book (Annexure-A1) showing his date of first appointment as 2.1.61 and his date of birth as 20.12.39. Applicant's LTI is on the top left hand corner of the page. Photocopy of applicant's leave account statement has also been filed (Annexure-A2) as well as photocopies of the seniority list (Annexure-A3) and retirement list (Annexure-A4) showing applicant's date of birth to be 20.12.39.

4. I have heard applicant's counsel Shri P. Kant and respondents' counsel Smt. B. Sunita Rao.

5. Shri Kant has alleged that the document at Annexure-A1 was manufactured by respondents after the OA was filed and in this connection points to the signature of the attesting Officer which is dated 10.11.97. However, no satisfactory explanation is forthcoming from him as to why applicant did not protest when the seniority list (Annexure-A2) was published showing applicant's date of birth thereon

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to be 20.12.39, beyond averring that a copy of the same was not shown to applicant. In this connection I also notice that applicant in this OA has contended that he came to know of his impending retirement only upon seeing his name on a blackboard maintained in office of R-3 showing the names of those who were to retire by the end of 1997. No mention has been made in the OA of the retirement list dated 6.11.96 which was ordered to be placed on the notice board and in which applicant's name features as due to retire on 31.12.97. In the rejoinder a plea has been taken that this list was never pasted on the notice board of the HOD where applicant was posted.

6. In para A of their reply, respondents have stated that applicant's date of appointment is 2.1.61. There is no specific denial to this in rejoinder. This is also the date of applicant's appointment as shown in the seniority list and the retirement list. Under the circumstance, if applicant's date of birth was indeed 20.12.46 as claimed by him he would have secured the aforesaid appointment at the age of 14 years and 12 days. Even if applicant's date of appointment is taken to be ^{as asserted by him,} 27/28.12.62 that would still make him 16 years and ⁷ days on the date of his appointment. No rule or instruction has been shown to me by applicant's counsel permitting boys of that age to be recruited in Govt. service, and the above position cuts at the root of applicant's case.

7. In this connection, I note that a prayer for interim orders staying applicant's retirement w.e.f. 31.12.97 was rejected by the Tribunal on 5.2.97. Upon applicant approaching the Delhi High

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Court an interim stay order was granted, which was subsequently vacated by order dated 5.2.98, and applicant stands retired from that date.

8. In view of para 6 above the DA is dismissed. No costs.

Antchgi
(S. R. ADIGE)
VICE CHAIRMAN (A).

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