

Central Administrative Tribunal, Principal Bench

O.A.No.315/97

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

New Delhi, this the 5th day of September, 1997

Shri Bhagwan Dass
s/o Chetram
FTDO
O/o Director General Foreign Trade
Ministry of Commerce
Udhyog Bhavan
New Delhi.

... Applicant

(By Shri H.K.Gangwani, Advocate)

Vs.

Union of India through

1. The Secretary
M/o Commerce
Udhyog Bhavan
New Delhi.

2. The Director General
O/o Director General of Foreign Trade
M/o Commerce, Udhyog Bhavan
New Delhi.

... Respondents

(By Shri Madhav Panikar, Advocate)

O R D E R (Oral)

The applicant, who joined Govt. service initially in August, 1961 as Class-IV employee, seeks a change in his date of birth from 8.5.1940, recorded at the time of his initial appointment, to 8.5.1942. He made a representation to that effect on 4.1.1996 before the respondents, who while passing the impugned order dated 8.11.1996, rejected the same on the ground that the appointing authority had accepted his date of birth as 8.5.1940 on the basis of the high school certificate submitted by him at the time of appointment to Govt. service. It has also been noted in the impugned order that the applicant had continuously seen his Service Book for nearly 20 years and had appended his signature to that effect. During that period he had neither made any representation for alteration of date of birth nor made any objection.

On

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2. I have heard the counsel on both sides. The learned counsel for the applicant has drawn my attention to Annexure-A2 which is a copy of the certificate of Junior High School Examination, 1957 issued by the District Educational Inspector, Meerut which shows that his date of birth is 8.5.1942. He submits that the applicant had changed his school because of his economic problems and at the time he went to the high school his date of birth had been recorded wrongly therein as 8.5.1940. Being anxious to get government employment, on his first appointment he had not paid attention to this mistake. It is now, while going through his Junior High School Examination, 1957 certificate that he had discovered that his date of birth had been wrongly entered in the High School certificate and in the 'Service Book'. The learned counsel submitted that the certificate, A2, was an unimpeachable document but the respondents had not even considered the same as an evidence while passing the impugned order. The learned counsel for the respondents on the other hand submits that the applicant had given the representation for change of date of birth at the fag end of the career in 1995. Since 1961 when he had initially joined in government service, his date of birth had been recorded as 8.5.1940. He relied on Supreme Court Judgement in Union of India Vs. Ram Suia Sharma, 1996(33) ATC 298 in which the Supreme Court has held as follows:

"The controversy raised in this appeal is no longer res-integra. In a series of judgments, this Court has held that a court or tribunal at the belated stage cannot entertain a claim for the correction of the date of birth duly entered in the service records. Admittedly, the respondent had joined the service on 16.12.1962. After 25 years, he woke up and claimed that his correct date of birth is 2.1.1939 and not 16.12.1934. That claim was accepted by the Tribunal and it directed the Government to consider the correction. The direction is per se illegal."

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The learned counsel also pointed out that a similar view has been expressed by the Hon'ble Supreme Court in Chief Medical Officer Vs. Khadeer Khadri, 1995(29) ATC 196.

3. I have carefully considered the arguments on both sides. There is no doubt that the applicant has applied for correction of date of birth after he had been appointed in government service for nearly 35 years. The ratio of the aforementioned judgments, cited by the learned counsel for the respondents therefore squarely apply to this case.

4. The Supreme Court has also held in State of Orissa & Others Vs. Shri Ramanath Patnaik, JT 1997(4) SC 660 that "when entry was made in the service record and when he was in service, he did not make any attempt to have the service record corrected. Therefore, any amount of evidence produced subsequently would be of no avail".

5. The learned counsel for the applicant submits that the respondents had to consider the representation but they have not done so as is evident from the impugned order, A1. I have gone through that order and find that it is a speaking and reasoned order giving the ground for the conclusion of the respondents for rejecting the representation, namely, that there is a documentary evidence that the applicant had endorsed the entries in the service book and there is no objection over the past 20 years and more.

6. In the light of the above discussion I find no merit whatsoever in the OA, which is accordingly dismissed. No costs.

R.K. Ahooja
(R.K. AHOOGA)
MEMBER (A)

/rao/