

Central Administrative Tribunal, Principal Bench

Original Application No.1480 of 2000

New Delhi, this the 5th day of February, 2001

Hon'ble Mr.Kuldip Singh, Member (J)

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Shri Rajendra Prasad, 57 yrs.  
S/o Shri Visheswar Dutt  
r/o A-169, Moti Bagh  
New Delhi

- Applicant

(By Advocate - Shri N.C.Chaturvedi)

Versus

1.Union of India, through  
The Secretary  
Ministry of Defence  
New Delhi

2.Chief of the Air Staff  
Air Headquarters  
Vayu Bhawan  
New Delhi-11

3.Air Officer Commanding  
Air Force Central Accounts Office  
Subroto Park  
New Delhi-10

- Respondents

(By Advocate: Mrs.Pratima K.Gupta)

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member(J)

Applicant is aggrieved of an order of the respondents dated 24.3.2000 (Annexure A-1), whereby his request for alteration in his date of birth was rejected.

2. Facts of the case are that applicant was appointed with the respondents on 23.6.62. It is stated that at the time of appointment, his date of birth had been wrongly recorded as 1.2.41 instead of 29.6.42. It is further stated that applicant had submitted his Junior High School Certificate wherein his date of birth had been recorded as 29.6.42. Applicant claims that his date of birth had been

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wrongly recorded and the same should be allowed to be corrected.

3. Respondents are contesting the OA. They have submitted that applicant had not given any documentary evidence regarding his date of birth at the time of entering into service and, therefore, under the medical opinion under Article 51 of CSR, his date of birth had been recorded as 1.2.41. Respondents have submitted that applicant had given a representation for change of date of birth only on 6.1.2000 alongwith Junior High School Certificate and School Leaving Certificate, when he was due to retire on 31.1.2001. They have further submitted that in the absence of any documentary proof at the time of appointment, due procedure was followed and applicant's date of birth had been recorded with the medical opinion under Article 51 of CSR. It is stated that applicant cannot claim any alteration in his date of birth.

4. I have heard learned counsel for the parties and gone through the records.

5. Learned counsel for the applicant submitted that at the time of entering into service, the applicant was not aware that he could not have been subjected to medical opinion when he was already having documentary evidence regarding his date of

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birth. However, there is no proof on record to show that the Junior High School Certificate was submitted by the applicant at the time of entering into Government service. For this purpose, learned counsel for the applicant relied upon Annexure A-8 with the rejoinder wherein it is mentioned that applicant's educational qualification is 8th pass. He submitted that since at the time of confirmation, the respondents were well aware that applicant was having educational qualification of 8th pass, so he should not have been subjected to medical opinion.

6. Learned counsel for the respondents submitted that educational qualification certificate was not available with the respondents and, therefore, the applicant was subjected to medical opinion. Had this certificate been made available to the respondents at appropriate time, then the applicant would not have been subjected to medical opinion. Learned counsel for the respondents further submitted that when the confirmation order was issued in which educational qualification of the applicant was mentioned as 8th class pass, at the same time his date of birth had been recorded as 1.2.41 and if applicant had any grievance in that regard, he could have raised an objection at that time. Since the applicant did not raise any objection at the relevant time, so at the fag end of his career, he cannot be allowed to

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take up this issue at this belated stage. In support of her contention, learned counsel for the respondents referred to a judgement reported in (2000) 8 SCC 696, G.M., Bharat Coking Coal Ltd. vs. Shib Kumar Dushad, wherein it was held as under:

"Determination of date of birth - Whether certificates produced by the employee showing his date of birth different from that entered in his service record acceptable - It is a disputed question of fact - High Court in exercise of its jurisdiction under Art. 226 should not undertake an enquiry into such question"

7. On the contrary, learned counsel for the applicant has referred to a judgement reported in 1997 SCC (L&S) 719, Commissioner of Police Bombay & ors. vs. Bhagwan V. Lahane wherein it was held that "correction in date of birth could be allowed if it was proved that the recorded date of birth was due to negligence of some other person or if it was an obvious clerical error."

8. In my opinion, judgement relied upon by applicant's counsel is not applicable in the present case because it is not proved on record that the date of birth of the applicant had been wrongly recorded due to negligence of some other person or due to some clerical error. Since the applicant had not produced any documentary evidence regarding his date of birth, therefore, the department had followed the due procedure and recorded his date of birth as per the



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medical opinion. Applicant had also willingly subjected himself for the medical opinion for ascertaining his date of birth and it was accordingly recorded as 1.2.41. Thereafter when the confirmation order was issued, at that time also, the date of birth of the applicant was mentioned as 1.2.41 and the applicant did not raise any objection. Moreover, in view of the fact that applicant has already retired on superannuation, at this stage no direction can be issued for correction in the date of birth of the applicant.

9. In the result, the OA fails and is accordingly dismissed. No costs.

  
( Kuldip Singh )  
Member(J)

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