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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

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R.A.No. 7/94
in
O.A.No. 605/93.

Dated: 13.1.1994.

HON'BLE SHRI B.S. HEGDE, MEMBER (JUDICIAL)

Union of India
Represented by
Shri Umesh Kumar,
Under Secretary,
Department of Company Affairs,
5th Floor, 'A' Wing,
Shastri Bhawan,
New Delhi-110 001.

... Applicant

Shri Har Prashad,
J.T.A.,
O/o Registrar of Companies,
Delhi & Haryana,
Paryavaran Bhawan,
C.G.O. Complex (2nd Floor),
Lodi Road,
New Delhi-110 003.

... Respondent

Hon'ble Shri B.S. Hegde, Member (Judicial):

ORDER (BY CIRCULATION)

This Review Application has been filed by the
applicant seeking review of the judgment dated 19.7.93
in O.A. No. 605/93.

2. The Original Application was disposed of in the
light of the judgment of the Division Bench of the Tribunal
in O.A. No. 2294/91 vide dated 13.12.1991. In that
judgment it was observed as under :-

(ffm)

" In case, the rules/instructions/precedents
permitted at that time intake of a person
as Peon in Government service even at an age
below 18, the date of birth of the applicant
should be changed from 1.7.1936 to 1.7.1939."

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3. Since the Respondents have not complied with the directions of the Tribunal, the applicant has filed this O.A. No. 605/93 seeking direction to quash the impugned order dated 28.7.92 and also give direction to the respondents to change the date of birth from 1936 to 1939 based on the matriculation certificate.

4. I have seen the review application and I am satisfied that the review application can be disposed of by circulation under rule 17(iii) of the CAT (Procedure) Rules, 1987 and I proceed to do so.

5. In this connection, it is relevant to narrate the various factors that had been taken into consideration by the Division Bench in O.A. No. 2294/91. The Tribunal turned down the plea of the respondents that the request of the applicant to change the date of birth was barred by time. Further, "at the time of his initial recruitment it was observed that the applicant was a 9th class pass student and he had given a copy of the certificate of school in support of his having passed the 9th class examination and his date of birth had been shown as 1.7.1939. While working in the Respondent's Office, he passed the High School Examination and he produced a certificate to that effect where too

(Signature)
his date of birth was shown as 1.7.1939. Please do the needful.

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this certificate, his educational qualification was changed in the service book but the date of birth remained unchanged."

6. The respondents, in their reply, categorically stated that the initial documents produced by the applicant at the time of his initial recruitment in 1956 was not available in his personal record, thereby the applicant's date of birth was entered as 1.7.36 in the service book and the applicant himself had signed this page in token of his having seen the entries. Ultimately, the Tribunal quashed the Respondent's orders dated 31.2.91 and 18.9.91 regarding his request for change of date of birth and directed the respondents to carry out the change of date of birth from 1936 to 1939.

7. The main ground of the Respondents in filing this review application is that the present case is covered by the decision of the Supreme Court in the case of Union of India v. Harnam Singh /AIR 1993 SC 1367. In that decision the Apex Court has observed that " A Government servant, after entry into service acquires the right to continue in service till the age of retirement, as fixed by the State in exercise of its powers regulating conditions of

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~~services, unless the services are dispensed with on other~~
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grounds contained in the relevant service rules etc.

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The date of birth entered in the service records of a civil servant is thus of utmost importance for the reasons that the right to continue in service stands decided by its entry in the service record. A Government servant who has declared his age at the initial stage of the employment is not precluded from making a request later on for correcting his age, it is open to a civil servant to claim correction of his date of birth, if he is in possession of irrefutable proof relating to his date of birth as different from the one earlier recorded and even if there is no period of limitation prescribed for seeking correction of date of birth, the Government servant must do so without any unreasonable delay It is nonetheless competent for the Government to fix a time limit in the service rules after which no application for correction of date of birth of a Government servant can be entertained. *

8. Keeping in view of the aforesaid observation of the Apex Court, in the present it is not the case of the respondents that the applicant had given a different date of birth at the time of his initial appointment and later

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the earlier judgment, the respondents had conceded that

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the personal record of the applicant was not traceable, and the documents furnished by the applicant from the competent authorities/schools had not been refuted. The only ground on which the respondents rejected the request of the applicant is that the date of birth entered in the service book is 1936 and any subsequent request for the change of date of birth cannot be entertained.

9. Since there was a specific direction by the Tribunal after considering the rival contentions and pleadings of the parties, it is not open to the respondents to take up the plea of limitation/bringing the concept of the Apex Court's decision cited above. In the instant case, though the decision was delivered on 19.7.93, the same was received by the respondents on 4.8.93. Normally, the review application should be filed within one month from the receipt of the copy of the judgment which, in this case, expires on 3.9.93. However, the respondents have filed this R.A. on 28.9.93. The respondents have filed the application for condonation of delay, M.A. No. 57/94 stating that on the receipt of the judgment, they had forwarded the judgment to the Ministry of Law and DP&ET for their opinion in the matter. Therefore, the delay in filing this petition.

10. The law is well settled, that the scope of the review application is very limited and the R.A. is maintainable

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only if there is an error apparent on the face of the record
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or some new evidence has come to notice which was not available even after exercise of due diligence or any other sufficient reason. Review Application cannot be utilised for rearguing the case traversing the same ground again.

11. A perusal of the Review Application makes it clear that none of the ingredients referred to above, have been made out to warrant a review of the aforesaid judgment especially when the D.A. was disposed of in the light of the earlier judgment of the Division Bench on the very same matter. Even as per Apex Court's judgment cited above, if the applicant is in possession of irrefutable proof relating to his date of birth then he can seek for change of date of birth. It is not the case of the Respondents that the date of birth entered in the matriculation certificate is not a irrefutable proof.

12. In the circumstances, I am of the opinion, that neither an error on the face of the record has been pointed out nor any new facts have been brought to my notice calling the review of the judgment. Further, keeping in view of the provisions of the O. 47 Rule 1 read with section 115 of the CPC, the grounds raised in the review application are more germane for an appeal against the judgment referred to above, and not

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for review of the judgment. The review application is, therefore, dismissed.

B.S. Hegde
(B.S. Hegde) 13/1/94.
Member (J)