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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1316/89                      198  
T.A. No.

DATE OF DECISION 30.3.1990.

Shri Krishan Chand                      Applicant (s)  
Shri B. S. Mainee                      Advocate for the Applicant (s)  
Versus  
Union of India & Ors.                      Respondent (s)  
Shri O.N. Moolri                      Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Mo*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(delivered by Hon'ble Shri P.K. Kartha, V.C.)

The applicant, who is working as Chief Draftsman in the Construction Office of the Northern Railway, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that respondent No.1 be directed to alter his date of birth from 29.3.1932 to 27.3.1933.

2. The case of the applicant in brief is that he was appointed as a Tracer in the Northern Railway in 1954. He was promoted as Draftsman in 1956, as Senior Draftsman in 1959, as Head Draftsman in 1973, and as Chief Draftsman in 1981. *o*

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recorded *or*

3. The date of birth of the applicant <sup>recorded</sup> in the service record is 29.3.1932, which is on the basis of the matriculation certificate. He contends that this is not the correct date of birth as he was born on 13.12.1989 (Bikrami) which is equivalent to 27.3.1933 (A.D.). When he was admitted by his father in the primary school in Class I of the Middle School located at Amargarh in the then Patiala State in which he studied, his father gave his date of birth as 27.3.1933. After having passed the primary school, he was admitted in Class V of the same school on 28.8.1988 (Bikrami) and his date of birth was recorded as 13.12.1989 (Bikrami). According to him, the schools run by the Government of Patiala State, used to write the date, month and year in Bikrami and as such, his date of birth was recorded as 13.12.1989 (Bikrami). <sup>or</sup> The date of admission to the school was recorded as 28.8.1988 (Bikrami) and the date of leaving the school, as Phagun 2002 (Bikrami).

4. The applicant has obtained the School Leaving Certificate from the Middle School at Amargarh which has now become a Senior Secondary School. He has produced a copy of the same at Annexure A-4, p.15 of the paper-book). He has contended that he passed his middle school examination in Phagun 2002 (Bikrami), equivalent to March, 1946. He has produced a copy of the Middle School Certificate issued by the Education Department of the Patiala State at Annexure A-5, page 16 of the paperbook. In the said certificate, his date of birth has been given as 27.3.1933 and that he passed the Middle School Examination in 2003 (Bikrami), i.e., in 1947.

*or*

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5. According to the applicant, all the dates recorded in the School Leaving Certificate are based on Bikrami year, month and date and the date, month and year in A.D. have not been mentioned. In the Matriculation certificate issued by the East Punjab University on 1.3.1949, the applicant's date of birth is shown as 29.3.1932 (vide Annexure A-3, p.14 of the paper-book). The applicant has contended that the High School made a mistake in converting the dates in Bikrami calendar into A.D. calendar. This came to be recorded in the Matriculation certificate as the High School in which he studied conveyed the date of 29.3.1932 to the University as his date of birth.

6. The applicant has contended that the above mistake did not come to his notice, who had all along been under the impression that his actual date of birth was 29.3.1932 which was given on the Matriculation certificate, and the same date had been entered in the service records. In 1988, while checking the old papers, he came across the Middle School Examination Certificate. Immediately thereafter, he made a representation to the respondents on 21.7.1988.

7. Respondent No.1, in terms of his letter dated 1.9.1988, advised him to get the date of birth altered on the Matriculation certificate by the Punjab University, Chandigarh before his case could be considered for alteration in the date of his birth (vide Annexure A-1, p.12 of the paper-book). Thereafter, he submitted an application to the Punjab University, Chandigarh, on 21.2.1989 for alteration of his date of birth (vide Annexure A-9, p.20 of the paper-book). This was also conveyed to the

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respondents on 21.2.1989 (vide Annexure A-10, p.21 of the paper-book).

8. The Registrar of the Punjab University has written to the applicant on 24.2.1989 that his application for correction in date of birth cannot be entertained as it was time barred. They have informed him that the Syndicate of the said University at its meeting held on 17.1.1987 had decided as follows:-

"The application for correction in the applicant's date of birth shall be accompanied by a fee of Rs.100/- which shall not be refunded for any reason whatsoever. The applicant shall also submit all the documents including affidavits in proof of the change along with his application.

Such application shall be made up to December 31, 1987. No application for correction in date of birth shall be entertained thereafter."

9. The last date fixed by the Syndicate for receipt of such applications was December 31, 1987, which was given wide publicity in leading English, Hindi and Punjabi daily newspapers. Pursuant to the said decision, only applications received upto 31.12.1987, were entertained by them (vide Annexure A-2, p.13 of the paper-book).

10. The applicant has impleaded the General Manager, Northern Railway, as the first respondent and the Registrar, Punjab University, Chandigarh, as the second respondent. The respondents have pointed out in their counter-affidavit that the main case is against respondent No.2, namely, the Registrar, Punjab University, Chandigarh. The date of birth is recorded as per the University certificate and till such time an appropriate Court of Law declares the true and correct date of birth of the applicant, the same cannot be corrected. This is a matter of evidence which can be decided only by a Trial Court and not by this Tribunal. They have further pointed out that he himself

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produced the Matriculation Certificate where his date of birth is recorded as 29.3.1932. He is an educated person. He had himself filled up the form and had given ~~as~~ 29.3.1932 as his date of birth.

11. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The application was filed in the Tribunal on 7th June, 1989 when he had already <sup>a</sup>crossed 57 years of age. He is due to retire on attaining the age of superannuation of 58 years on 31st March, 1990.

12. The learned counsel for the applicant heavily relied on the decision of this Tribunal in Hira Lal Vs. Union of India, A.T.R. 1987 (1) C.A.T. 414 in support of his contention that the respondents should conduct an inquiry by deputing a person to the University to ascertain the truth of the matter.

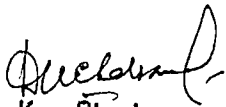
13. In our opinion, Hira Lal's case will not be of any assistance to the applicant, as in that case, the applicant had taken steps to get the entry in the service records corrected more than four years before his date of retirement.


14. It is true that when a question arises whether the entry of the date of birth in the service record is correct or not, that has to be enquired into. In the present case, the onus <sup>is</sup> on the applicant to prove that the date of birth entered in the service record calls for correction in view of the unimpeachable record or evidence produced by him. The applicant has not done so. His version that he had all along been under the impression that his correct date of birth was 29.3.1932 and that in 1988 while checking the old papers, he came across the Middle School Examination Certificate wherein

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the date of birth is recorded as 27.3.1933, is not very convincing. The applicant who holds a responsible position in the Government, cannot contend on the eve of his retirement that there is some error in his service record which he would have had occasion to peruse during his more than three decades of service with the Government. The Punjab University have <sup>regretted a</sup> ~~proceeded~~ their inability to look into the matter as the request has been made belatedly. We do not see any reason or justification as to why the respondents should intercede on his behalf and request the University to look into the matter in violation of their rules and procedures.

15. In the conspectus of the facts and circumstances of the case, we see no merit in the present application and the same is dismissed. There will be no order as to costs.

  
(D. K. Chakravorty)  
Administrative Member  
30/3/90

  
30/3/90  
(P. K. Kartha)  
Vice-Chairman (Judl.)