

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

N E W D E L H I

O.A.No.1344/89

DATE OF DECISION 26.4.91

SHRI TRILOK SINGH CHANDER ----- APPLICANT

VS.

UNION OF INDIA & ORS. ----- RESPONDENTS

C O R A M

SHRI B.N.JAYASIMHA, HON'BLE VICE-CHAIRMAN

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT -----SHRI B.S.MAINEE

FOR THE RESPONDENTS -----SHRI JOG SINGH

1. Whether Reporters of local papers may be allowed to see the Judgement? *ye*

2. To be referred to the Reporter or not? *ye*

J U D G E M E N T

(DELIVERED BY SHRI J.P.SHARMA, HON'BLE MEMBER (J))

The applicant Civil Gazetted Officer Administration
Air Force Central Accounts Office, New Delhi filed
this Application under Section 19 of the Administrative
Tribunals Act, 1985 aggrieved by the order dated 27th
April, 1989 by which the representation of the

applicant dated 27th March, 1989 was rejected by the Air Force Headquarter, New Delhi by the following order:-

"The request for change of date of birth in r/o Shri TS Chander, CGO(A) has been examined at this HQ. The existing instructions on the subject inter-alia stipulates that request for change of date of birth is to be made within five years of his/her entry into Govt. service. Since Shri TS Chander has applied for change of date of birth now, after 30 years his request for change of date of birth as per the above notification can not be entertained."

2. The applicant has claimed the relief:-

- (i) that this Hon'ble Tribunal may be pleased to direct the Respondents to alter the date of birth of the Applicant in his service records from 10-6-1933 to 22-11-36.
- (ii) that this Hon'ble Tribunal may be further pleased to direct the Respondents to allow the Applicant to serve upto the date of superannuation as per his correct date of birth as certified by the Chief Registrar, Births & Deaths, Punjab.

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(iii) that any other or further relief which this Hon'ble Tribunal may deem fit under the circumstances of this case, may kindly be awarded to the Applicant.

3. The Applicant was appointed as Lower Division Clerk in January, 1959 in the Air Force Headquarters, New Delhi and at the time of his appointment, his date of birth on the basis of Matriculation Certificate issued by the Punjab University was recorded as 10th June, 1933. (Annexure A-2). After his appointment the Applicant learnt from his deceased father that the date of birth in the service record is not correct as the actual date of birth is earlier to it that is 22-11-1936 instead of 10-6-1933. The Applicant moved for correction of his Matriculation Certificate to the Registrar of Punjab University on the basis of a Certificate obtained from Additional District Magistrate (Ann.A-11) Births & Deaths, Ludhiana/wherein the date of birth is 22-11-1936. However the Matriculation Certificate of the Punjab University (Annexure A-2) was not corrected by the University and was rejected as time barred vide memo dated 20-4-1989 (Annexure A-14). The Applicant on 27th March, 1989 (Annexure A-12) made representation for correction of date of birth in the

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service record as 11-2-1936 on the basis of birth certificate issued by the District Magistrate, Ludhiana in 1989. The Applicant stated that his request for correction of date of birth has not been accepted nor it was considered on merit as the impugned order goes to show that the request for change of date of birth is to be made within five years of his/her entry into the Government service. The only observation made in the said order is that application for correction of date of birth being made after 30 years so the request of change of date of birth is barred by the Government notification^{and}/cannot be entertained

4. The Respondents in their reply have referred to the notification dated 30th November, 1979 which stipulates that the competent authority may accept the date of birth declared by the Government servant at the time of appointment on production as far as possible of confirmative document. The date of birth should be accepted^{finally}/subject to any alteration except in the case where the request has been made within five years of his entry into Government service. It is stated that the request of the applicant has been turned down strictly in accordance with statutory provisions of the Rules .

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5. We have heard the learned counsel for the parties at length and gone through the record of the case. The impugned order reads as follows:-

"The request for change of date of birth in r/o Shri TS Chander, CGO(A) has been examined at this HQ. The existing instructions on the subject inter-alia stipulates that request for change of date of birth is to be made within five years of his/her entry into Govt. service. Since Shri TS Chander has applied for change of date of birth now, after 30 years his request for change of date of birth as per the above notification cannot be entertained."

6. The learned counsel for the applicant submitted that in Hiralal Vs. Union of India [ATR 1987(1) CAT 414] it was held that the notification relied upon by the respondents was not applicable to those employees who had entered service prior to December, 1979. Again, in Manak Chand Vs. State of Himachal Pradesh [1976(1) SLR 402] it was held that Rule 79(2) of General Financial Rules cannot stand in the way of an employee seeking correction of the date of birth entered in his service register at the time of his entry into service. Applying these decisions, we find that the impugned order cannot be sustained and the respondents ought to have considered the representation made by the applicant and the supporting documents furnished by the applicant and disposed of the same on merits. In the circumstances, we set aside the impugned order and direct the respondents to consider the representation dated 27.3.1989 on merits giving due consideration to the material furnished by the applicant in support of his claim for correcting his date of birth.

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This will be done within a period of three months from the date of receipt of this order.

7. The application is allowed with the above directions. There will be no order as to costs.

J.P. Sharma

(J.P.Sharma)
Member(J). *V. 4. 51*

B.N. Jayasimha

(B.N.Jayasimha)
Vice-Chairman.