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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1537 / 1989.  
~~P.A. No.~~

DATE OF DECISION January 29, 1990.

Rama Kant Vashist Applicant (s)

Ms. Ummil Khanna with Shri Advocate for the Applicant (s)

U.K. Sharma

Delhi Police & Anr. Versus

Respondent (s)

Shri G.C. Lalwani

Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. P.C. Jain, Member (A).

~~The Hon'ble Mr.~~

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 ? *No.*
4. To be circulated to all Benches of the Tribunal ? *No.*

JUDGEMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985, wherein the applicant who was holding the post of Inspector in Delhi Police, has prayed that the date of his superannuation on the basis of his Matriculation Certificate should be 20.4.1990 and the respondents be directed to rectify the date of birth in his official records as 20.4.1932 in place of 6.12.1931.

2. The facts of the case, in brief, are as under: -

The applicant was enlisted in Delhi Police as Constable on 7.12.1950. At the time of his appointment, he did not furnish any educational qualification certificate or any document as a proof of his date of birth. On the basis of medical fitness certificate issued by the Asstt. Civil Surgeon at the time he was medically examined wherein his age was mentioned as 19 years, his age was calculated and recorded in his service record as 6.12.1931. The applicant did not produce his Matriculation Certificate, although he stated to

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have passed the Matriculation Examination from Hindu High School, Rewari in the year 1949. According to the applicant, at the time he joined the Police Department, he was not in possession of his Matriculation Certificate to verify the actual date of birth. He was directed to produce the Matriculation Certificate vide communication dated 26.5.1959 given to him by the Superintendent of Police, Central District, Delhi. According to the applicant, he sent an attested true copy of the Matriculation Certificate with his note dated 3.6.59 through SHO Hauz Qazi, Delhi. Through a communication dated 19.10.88 from the Deputy Commissioner of Police, Crime & Railways, Delhi to the Special Commissioner of Police, Special Investigation Team, New Delhi, the applicant came to know that he was to retire on superannuation w.e.f. 31.12.89 (A.N.) and thereupon he submitted a representation dated 20.12.1988 (Annexure D to the application) requesting for correction of his date of birth as 20.4.1932 on the basis of his Matriculation Certificate. Vide Memorandum dated 24th January, 1989 (Annexure E to the application), he was informed as follows: -

"The case of change in the recorded date of birth has already been examined and decided that the date of birth as recorded 6.12.1931 should be taken as final vide PHQ's Memo No. 17320/21/CR-III dated 11.5.73, appended at page 53 of Character Roll".

The applicant sent another request to the Commissioner of Police, Police Headquarters, New Delhi for personal hearing in connection with date of birth in service record, but he was informed vide letter dated 16.3.89 (Annexure 'G' to the application) that the decision already taken will stand and that he had not given any cogent reason as to why he could not produce the Matriculation Certificate at the time of enlistment in Delhi Police.

3. I have gone through the pleadings of the case and have heard the learned counsel for the parties.

*(Signature)*

4. The applicant's case is that he was not in possession of his Matriculation Certificate at the time of his enlistment in Delhi Police as Constable, but later on demand from the office of Deputy Inspector General of Police, Delhi, he furnished an attested true copy of his Matriculation Certificate on 3.6.59 and thus remained under the impression that his date of birth had been corrected in official records on the basis of the Matriculation Certificate. It was pleaded that the applicant did not receive the Memorandum dated 11.5.73 as mentioned in Memorandum dated 24.1.1989, referred to above, and it was only through communication dated 24.1.1989 that he came to know that it had been decided on 11.5.73 that his date of birth as originally recorded in his service record, i.e., 6.12.1931 was taken as final. It was further pleaded that the applicant's identity card of the year 1982 as also the one issued to him while he was working as Inspector of Police showed his date of birth as 20.4.1932.

5. The respondents' plea is that the applicant produced an attested copy of his Matriculation Certificate after about 8½ years of his entry in Delhi Police and he had not given any cogent reason as to why he could not produce the Matriculation Certificate at the time of enlistment in Delhi Police. The applicant submitted a representation to the Inspector General of Police, Delhi in the year 1973 and after due consideration he was informed vide PHQ's memo dated 11.5.73 that no change in the recorded age was possible at that stage. As regards the date of birth shown on the Identity Card, the respondents have stated that the date of birth shown as 20.4.32 had been written by the applicant himself at the time of preparation of his Identity Card, as the same was not verified by any authority. Further, the respondents have stated that the applicant, in accordance with the provision of note 5 below FR-56, neither requested for

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change of the date of birth within five years of his entry into Government service, nor did he establish that a genuine bonafide mistake had occurred. It was also stated at the bar that the name given in the Matriculation Certificate is 'Rama Kant Sharma' whereas in his service records, his name is given as 'Rama Kant'.

6. The applicant has not filed any rejoinder in this case. He had not even filed a copy of his Matriculation Certificate with the O.A. He was, however, allowed to file the same on his M.P. No.2799/1989.

7. The learned counsel for the applicant, at the time of oral submissions, argued that the provisions of F.R. 56 (Note 5) substituted by notification No.19017/7/79/Estt-A, dated 30.11.79 published as S.O. 3997 in the Government of India Gazette, which lays down that request for correction of date of birth be made within 5 years of entering into service is not applicable to the applicant's case as he had entered into service prior to 15.12.79 and he was entitled to claim correction of date of birth without any limitation. He cited the cases of Shri Hira Lal Vs. Union of India (O.A. 321/86 - A.T.R. 1987 (1) C.A.T. 414) and Shaukat Ali Vs. Indian Airlines (1989 - Rajdhani Law Reporter - Note 147).

8. The aforesaid contentions of the applicant have not been countered by the respondents. In the case of Shaukat Ali Vs. Indian Airlines (supra), the Delhi High Court held that if retirement age is based on the medical report and just before retirement, employee claims different correct age on the basis of School Certificate whose genuineness is not doubted, then reliance on Certificate should not be rejected on the ground of delay. In the case of Shri Hira Lal Vs. Union of India (supra), it was held that the five years period of limitation prescribed for the first time under

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S.O. 3997 cannot apply to those Government servants who were in service by that date for more than five years. No cogent reason has been advanced by the respondents for refusal to consider the date of birth as recorded in the Matriculation Certificate. Copy of the Matriculation Certificate furnished by the applicant is, however, yet to be verified. It may be noted here that the applicant joined the service as 'Rama Kant'. On 20.4.74, he signed his service roll as 'Rama Kant Vashist'. Copy of the Certificate dated 29.11.1958 issued by the Punjab University in connection with his degree of Bachelor of Arts, as produced by the applicant, shows the name as 'Rama Kant Vashist'. The same is the position in the certificate dated 7.7.62 issued by the Institute of Post-Graduate (Evening) Studies, University of Delhi, Delhi for his having passed the M.A. Hindi Examination from the University of Delhi. On the other hand, copy of the Matriculation Certificate furnished by him, shows the name as 'Rama Kant Sharma'. Copy of the Vernacular Final and Middle School Examination furnished by him shows the name as 'Rama Kant'. The applicant has filed his O.A. in the name of 'Rama Kant Vashist' Alias 'Rama Kant Sharma'. This alias does not appear anywhere in his service records. It cannot, therefore, be said with certainty that the Matriculation Certificate furnished by him pertains to him or to somebody else, and verification of the genuineness of the Matriculation Certificate with reference to the applicant appears necessary.

9. When the applicant sought the permission of the court through his M.P. 2799/89 to bring a copy of the School Certificate on record, the learned counsel for the respondents did not object to it on the condition that the respondents reserve the right to make submissions on the merits / genuineness of the certificates.

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10. In view of the above, the application is partly allowed in terms of the following directions: -

- (1) The applicant shall make available to the respondents within 10 days of this order his Matriculation Certificate in original for verification by the respondents.
- (2) The respondents shall verify the genuineness of the Certificate and whether it pertains to the applicant or not within a period of four weeks from the date of receipt of the Certificate in original by them.
- (3) If the respondents find that the Matriculation Certificate is genuine and it pertains to the applicant, they will correct in the service record the applicant's date of birth as 20.4.1932 in place of 6.12.1931.
- (4) If the respondents' inquiry results in a positive finding on (3) above, the applicant shall be taken back in service immediately and he will be retired on superannuation on reaching the age of 58 years as per the corrected date of birth. In that case, he will be deemed to have continued in service from 1.1.1990 till his retirement on superannuation as above and he will be entitled to pay and allowances for the period he remains out of service after 31.12.1989 subject to the condition that he has not taken up any other employment during this period. If the applicant is taken back in service, or is deemed to have continued in service, in terms of the above directions, his pensionary benefits will be revised accordingly.

11. There shall be no order as to costs.

29/1/1993  
(P.C. JAIN)  
Member (A)