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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. No. 1901/89.

Date of decision 29.10.91

Lal Chand Tuli

.....Applicant.

Vs.

1. Commissioner of Police,
Delhi Police, Police Hqrs.
M.S.O. Building, New Delhi.

2. Union of India, through Secretary,
Ministry of Home Affairs,
Govt. of India, New Delhi.

.....Respondents.

For the Applicant - Mr. B.S. Charya, Advocate.

For the Respondents - Mrs. Avnish Ahlawat, Advocate.

B.S. SEKHON:

Applicant whose date of birth in the service record stands recorded as 15.9 1931 has preferred the instant Application under Section 19 of the Administrative Tribunals Act, 1985 seeking to get his date of birth declared as 10.4.1932 and also restraining Respondents not to retire him before 30.4.1990. During the pendency of the Application, Applicant has been retired on the basis that his correct date of birth is 15.9.1931.

2. The factual drop to this Application lies within a short compass. Applicant was appointed as Constable on 15.9.1950. He is stated to have passed Matriculation from Panjab University in 1949 from Govt. Refugee High School, Kurukshetra. After having been interviewed by the Superintendent of Police, Applicant was subjected to medical examination on 15.9.1950 and was allowed to join duty after he was declared medically fit. According to the Applicant he was not carrying Matriculate

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Certificate on 15.9.1950 and submitted the same after a period of about two months. Copy of the duplicate Matriculation Certificate is Annexure P/6. Photo copy of the Identity Card is Annexure P/7. In both of these documents, Applicant's date of birth is 10.4.1932. Prior to filing the Application, Applicant submitted representations Annexures P/2 and P/4. Annexure P/2 was rejected vide order Annexure P/3 and Annexure P/4 was rejected vide Annexure P/5.

3. Respondents have resisted the Application inter alia on the grounds that the date of birth was recorded as given by the Applicant, who had not produced any certificate subsequent to his recruitment. Applicant is stated to have kept mum upto March, 1989 notwithstanding the orders Annexure P/1 which were issued on 22.5.88. Applicant's representation is stated to have been rejected after he was given personal hearing by the Commissioner of Police. It is further pleaded that the Applicant never challenged the seniority list issued as far back as 11.12.84. He had not moved any application during his entire service for change in the date of birth till March, 1989. The entry in the service record is stated to have been made on the statement of the Applicant and the authority of the medical certificate produced at the time of his enlistment in the Police. In regard to the identity card, it has been pleaded that the same appears to have been got prepared by the Applicant from the concerned Clerk by mis-stating the fact.

4. I have heard the arguments addressed

by the learned counsel for the parties and have also perused the pleadings and the documents on record with due care and attention.

5. A perusal of Annexure P/3 goes to show that the representation of the Applicant regarding change of recorded date of birth had been considered by the Commissioner of Police and rejected. The representation rejected by the aforesaid order was not a detailed representation. Applicant, however, submitted a detailed representation dated 20.7.89 (Annexure P/4). The aforesaid representation was also considered and rejected. The rejection order was made by the Commissioner of Police after Applicant had been heard by him. The operative para of Annexure P/5 reads thus:-

"The representation of SI Lal Chand No. D-1697(now Inspector) regarding change of his recorded date of birth has been considered once again and he was also heard by Commissioner of Police, Delhi and rejected. He may be informed accordingly."

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The aforesaid order cannot be deemed to be a speaking order. All that it says is that the representation of the Applicant regarding change of recorded date of birth has been considered once again and that he was also heard by the Commissioner of Police and that the same has been rejected. This order does not deal with the grounds raised by the petitioner in his representation Annexure P/4. In a case like the present, where the Applicant has produced Matriculation Certificate (though duplicate) and has also relied upon other evidences including the identity card/^{it is}but meet and proper/^{that} the representation should be disposed of by a speaking order. During

the course of arguments, the learned counsel for the Respondents submitted that Applicant had been granted a personal hearing by the Commissioner of Police in conformity with the principles of natural justice and no reasons were required to be recorded while rejecting the representation adding that the Commissioner of Police had also perused the records referred to in para 3 of Annexure P/4. It is indeed commendable that the Commissioner of Police had granted a personal hearing to the Applicant. Granting of personal hearing, however, is no substitute for passing of a reasoned order.

6. In the circumstances, the appropriate order to be made and which I hereby make is that Respondent No. 1 shall pass a speaking order in accordance with law in respect of the representation dated 20.7.89 (Annexure P/4) within a period of three months from the date of receipt of copy of this order. In case the Applicant feels aggrieved by the order which may be passed by Respondent No. 1 in this behalf, Applicant will be free to file a fresh Application if he feels so advised.

7. Application stands disposed of with the above directions. No costs.

B. S. Sekhon
(B.S. SEKHON)
VICE CHAIRMAN

29-10-91