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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 1902/89

Date of decision: 19.9.1991.

Shri S.C. Kain

Applicant

vs

Union of India & Ors

Respondents

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HON'BLE MR. JUSTICE AMITAV BANERJI, CHAIRMAN.

For the applicant

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Shri P.K. Subramaniam,
counsel.

For the respondents

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Mrs. Raj Kumari Chopra,
counsel.

J U D G E M E N T

The matter pertains to the alteration of the date of birth recorded in the service book from 1.5.1933 to 1.5.1934. The applicant had agreed to the hearing of this O.A. by a Single Member Bench and accordingly I have heard this case sitting singly.

Shri P.K. Subramaniam, counsel appeared for the applicant and Mrs Raj Kumari Chopra, counsel for the respondents. I have heard both of them.

The relevant facts in brief are the following:
According to the applicant his date of birth is 1.5.1934. He had studied in the Ramjas High School from 1948 to 51. He had a School Leaving Certificate which shows his date of birth as 1.5.1934 but the Matriculation Certificate filed by him shows his date of birth as 1.5.1933. The applicant's case further is that while changing his house from Delhi to another place in April, 1985 he was able to trace a School Leaving Certificate which shows his date of birth as 1.5.1934. He had submitted the representation to respondent No. 3 who had rejected his claim for alteration of his date of birth

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by an order dated 28th August, 1985. He was however informed only on 17th February, 1989. The representation made by him was not duly considered, no reasons were given and is, therefore, liable to be set aside. He was a permanent employee of the Central Government in the Department of Posts. He was on deputation to the Army Postal Service and he held the rank of Lt. Col. in the Army Postal Service. In the P & T Department, he is a Member of the Indian Postal Service Gp. 'A'.

Learned counsel for the respondents, Mrs. Raj Kumari Chopra urged that the applicant joined service in 1953 and made his first representation for change of date of birth in 1985 i.e. after 32 years of service. While he entered service he had filed the Matriculation Certificate which recorded his date of birth as 1.5.1933. Learned counsel submitted that the date of birth could not ^{be} corrected at the far end of the service of the applicant. She also stated that the applicant had signed the Service Book in which the recorded date of birth is 1.5.1933. It is true that the Service Book was prepared in 1960 but the applicant was aware of the date of birth recorded in his Service Book. She stated that the ingenuity of the petitioner cannot prevail over the documentary evidence. In

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support of this she referred the case of Shri Ganpat Rai vs Union of India (1986(2) AI SLJ (CAT) 223. She ~~also~~ also referred to the case of State of Assam vs Daksha Prasad Deka and others (AIR 1971 SC 173) in which reference was made to FR 56(a). It was laid down in that case that the service record has to be seen and if it is consistent with proper procedure, there will be no change in the date of birth. She also referred to the case of Government of Andhra Pradesh & Anr vs. M. Hayagreeva Sarma (1990(1)Scale 746.))

In the rejoinder, the learned counsel for the applicant stated that a mistake was committed in putting the correct date in the High School Certificate and that is why the mistake had crept in. The date of birth recorded in his School Leaving Certificate was correct and should be relied upon. He also stated that after coming to know of the wrong date of birth recorded in 1985 he had also represented to the Punjab University for correction of their record but there was no response to his representation and consequently he had to move the O.A.

Having heard learned counsel for the parties and perused the material on the record, I find the following undisputed facts -

- (i) The applicant joined service in the Post Office on 1.7.1953. He was just 20 years and 2 months according to the recorded age in the Service Book when he joined. The above entry was made on the basis of the date recorded in the Matriculation Certificate.
- (b)

- (ii) The recorded age continues even now and there has been no change either in the same or in the High School Certificate.
- (iii) The first representation for amendment was made in 1985 and he was to retire on 30th April, 1991.
- (iv) He made his first representation only five years prior to his date of retirement.

The Division Bench sitting at Hyderabad in the case of M.M. Cherian vs Union of India (1990(1)(CAT) held:

"Alternation of date of birth cannot be allowed where no request for change till fag end of service; he did not raise the issue; had signed the service book entries of date of birth; no clerical or other mistake"

We have a similar case here. The date recorded in the Matriculation Certificate has not been changed. It remains. In the Matriculation Certificate, the date of birth is 1.5.1933. So long as the date in the Matriculation Certificate which is the usual evidence of record of date of birth in government service is not changed or altered, there is no scope for change of the recorded date of birth and more so at the fag end of the career.

In the present case, the applicant had a School Leaving Certificate which recorded the date of birth as 1.4.1934 but that was not recorded in the Matriculation Certificate. The date written in the School Leaving Certificate cannot be compared with the authenticity of the date of birth recorded in the Matriculation Certificate.

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The matter was considered by the Assistant Director of the Army Postal Service and rejected vide order dated 20th August, 1985. Reference may be made to FR 56. Note 5 of FR 56 states that the date on which a Government servant attains the age of fifty-eight years or sixty years, as the case may be, shall be determined with reference to the date of birth declared by the Government servant at the time of appointment and accepted by the appropriate authority on production, as far as possible, of confirmatory documentary evidence such as High School or Higher Secondary or Secondary School Certificate or extracts from Birth Register. The date of birth so declared by the Government servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this note. Condition No. 1 is if -

- (a) a request in this regard is made within five years of his entry into Government service; and
- (b) it is clearly established that a genuine bona fide mistake has occurred;

In the present case, the request made by the applicant is certainly not made within five years of his entry into Government service but has been made within the last five years from his date of superannuation. The applicant has also not proved that genuine bonafide mistake had occurred in the case.


Apart from above, the significant fact to be borne in mind is that unless the High School Certificate was corrected, there was no question of correcting the date of birth

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in the Service Book. If the date recorded in the Matriculation Certificate is not shown to be erroneous by cogent evidence and circumstances, it cannot be altered.

In view of above, I see no reason to interfere in this case. The date of birth as recorded in the Service Book and supported by the Matriculation Certificate does not call for any alteration. This OA is accordingly dismissed. There will be no order as to costs.


(Amitav Banerji)
Chairman
19-9-1991