

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

C.A. NO. ⁴⁶46/89

Date of Decision : 11.12.1992

Shri Azmat Ullah Khan ... Applicant

Vs.

Union of India & Anr. ... Respondents

CORAM

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

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant ... Shri E.K. Joseph, Counsel

For the Respondents ... None

JUDGMENT

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

The applicant's date of birth has been entered as in the year 1923 in his Service Book and he filed a Civil Suit No.416/80 before Sub Judge First Class, Delhi for a declaration that his actual date of birth is 30.1.1926. That Civil Suit stood transferred to this Tribunal and registered as TA 28/86 and it was dismissed by a Single Bench by the order dt. 3.7.1987. However, subsequently on a Review Petition, this decision of dismissal was set aside and the arguments were reheard and a fresh judgment was delivered on 20.5.1988. The TA was allowed and a

L

direction was issued to the respondents, Post Master General, Delhi Circle to consider the claim of the applicant for correction of his recorded date of birth afresh after considering the evidence which the applicant may lead to. It was further directed that if a conclusion is drawn in favour of the applicant, the alteration of the date of birth shall be made in the service record and the consequential benefits shall be granted to the applicant. The respondents in pursuance of this direction given by the aforesaid judgment considered the representation of the applicant on the basis of the evidence filed by the applicant, ^{and} the representation of the applicant for the change of his recorded date of birth was dismissed. In the present application, the applicant has assailed the order dt.19.9.1988 passed by the Post Master General, Delhi Circle and prayed for quashing of this order, a declaration that the correct date of birth of the applicant is 30.1.1926 with the direction to the respondents to correct the date of birth of the applicant recorded in the service record from 1923 to 30.1.1926 and to retire the applicant on the basis of the same date, i.e., 30.1.1926 and to grant him due salary and allowances up to the date of retirement and further retirement

↓
e

applicant has not exhausted the departmental remedies available to him. It is further stated that during the course of the enquiry, the applicant failed to submit the original documents or the certified copies of the documents and he only furnished ^{the} photostat copy given by the Central Administrative Tribunal. The authority which prepared his Service Book at the time of his first appointment shows his date of birth as 1923 with educational qualification as Primary. The applicant on the basis of this document scored all benefits, namely getting employment in the P&T Department as a war service candidate and also counting the entire service for the purpose of fixation of pay and pension. The same very date of birth as recorded by the Administrative Officer, war department in the Service Book prepared by them as written on the first page of the Service Book, which was prepared by DAG, P&T Department, Delhi. This very document has been relied upon by the ^{respondents} and if he had any objection in the recorded date of birth, he should have pointed out very well at the time of signing the first page of the Service Book. The first page of the Service Book was reattested on several occasions, i.e., in 1953, 1958 and 1963. On 12.3.1963, the applicant signed the

↓

Service Book personally and he did not make any representation at that time. For the first time, the applicant represented for the change of date of birth in the year 1974. The applicant has not adduced any reason as to why the school leaving certificate could not be produced by him at the time of joining either the war department or at the time of his joining the office of DAS, P&T Department, Delhi in 1949. It is further stated that an elaborate enquiry has been made on the direction of the judgment given by the Central Administrative Tribunal on 20.5.1988 and after examination of the documents furnished by the applicant, a speaking order has been passed rejecting the representation of the applicant. The applicant has since retired from service on the basis of his recorded date of birth. Thus according to the respondents, the applicant has no case.

3. We have heard the learned counsel for the parties at length and have gone through the record of the case. Most of the points raised in this application have already been covered by the judgement dt. 20.5.1988. Regarding the delay in moving an application for correction of date of birth, the Tribunal in its judgement dt. 20.5.1988 condoned the same by directing the respondents to consider the case

↓

of the applicant afresh on the basis of the documents
upon
relied by the applicant. Now the scope of scrutiny
is whether the respondents have correctly drawn the
on
conclusion the basis of the documents filed by the applicant.

The documents produced before the departmental authorities
consist of (i) copy of admission register-relevant page
showing the date of birth of the applicant as 30.1.1926,
(ii) copy of the school leaving certificate showing the
date of birth as 30.1.1926 and (iii) copy of the enquiry
report which was conducted by the Branch Post Master
through the Superintendent of Post Offices. The
photostat copy of the admission register filed by the
applicant does not bear any signature to authenticate the
same. Though this is an old record and has been proved
by a clerk of the institution in the Civil Suit filed
by the applicant, but in the absence of any signature to
authenticate the same, the same was not considered as a
one.

reliable. The photocopy of the school leaving certificate
filed by the applicant before the respondents goes to show
the date of birth as 30.1.1926 and the applicant is shown
to have left the school on 6.4.1938. He entered the
institution in October, 1932 and left the same after

le

having passed the 5th class. This is counter signed by the Basic Shiksha Adhikari, Faizabad and attested by the Head Master of the school Primary Pathshala, Benipur District Faizabad. This certificate was obtained by the applicant in May, 1978 and earlier to this the applicant obtained a certificate from the Head Master of the same school on 26.7.1974 and in this, it is written that he has passed class 4 examination from Primary Pathshala, Benipur. Thus the school leaving certificate filed by the applicant and the certificate given by the Head Master of the school differ on the class which the applicant has passed from the said school. Now taking into account all these documents, the inference drawn, though on ^{an} other reasoning by the respondents, cannot be said to be infirm or not based on proper analysis of the evidence. The Tribunal cannot sit as an Appellate Authority over the decision of the administration in certain administrative matters. In the recent decision of Executive Engineer Bhadrak (R&B) Division, Oriss & Ors. Vs. Ranga Dhar Malik, reported in Judgement Today 1992(5) SC p-364, the Hon'ble Supreme Court has held that the date

↓
le

of birth given at the time of entering into service and recorded in the service record and which has been duly attested under the signature of the employee has to be given due weight. The learned counsel for the applicant, however, referred to a number of *authorities. The authorities cited by the applicant's counsel is on the point of a right available to an employee for moving for correction of date of birth during the course of his service period. None of these authorities covered the main issue involved in this case, i.e., where the conclusion and inference has been drawn by the authorities on the basis of the evidence furnished before the authorities concerned and the conclusion drawn by them can be interfered with on the basis of re-appreciation of evidence by the Tribunal or Court. Basically it has been seen that the extract of the admission register

-
- *
1. 1976(1) SLR 402
2. ATR 1987(1) CAT 103 (Charles Wilson Vs. UOI & Anr.)
3. ATR 1987(1) CAT 414 (Hira Lal Vs. UOI)
4. ATR 1987(2) 506 (R.R.Yadav Vs. UOI & Ors.)
5. ATR 1986(2) 568 (Kagam Mat Sharma Vs. UOI)
6. 1981 (1) SLJ 415 (Pramath Nath Chaudhary Vs. State of West Bengal)
7. 1982(3) SLR 796 (S.S.Sandhu Vs. UOI)

de

does not bear any signature to authenticate the same and that there is a difference between the certificate issued by the Head Master of the school and the school leaving certificate filed by the applicant regarding class in which the applicant has studied and passed at the time of leaving the school.

The authorities, therefore, do not help the applicant at all. The case of the applicant is covered by

the authority of the Hon'ble Supreme Court, cited above. The impugned order, therefore, does not call for any interference in the circumstances of the case.

4. In view of the above facts, the present application is totally devoid of merit and is dismissed leaving the parties to bear their own costs.

(J.P. SHARMA)
MEMBER (J)

11.12.92

(P.C. JAIN)
MEMBER (A)

AKS