

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 51 of 1989 199  
T.A. No.

DATE OF DECISION 13.2.92

<u>Wazir Chand</u>	Petitioner
<u>Shri B.R. Sharma,</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India &amp; Ors.</u>	Respondent
<u>Shri O.N. Moolri</u>	Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J).

The Hon'ble Mr. I.P. Gupta, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgment of the Bench delivered by Hon'ble Shri Justice  
Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

This O.A. was filed by the applicant and was listed before a Single Member Bench. On 18.1.89, Vice-Chairman (A) dismissed it at the admission stage. Aggrieved by this, the applicant filed a review application No. 18/89 which was decided by the Hon'ble Vice-Chairman (A) on 17.3.89 by which he recalled his order of dismissal at the admission stage. By order of the Hon'ble Chairman, the matter was relisted for admission before a Division Bench in Court No. 2 on 29.3.89 and the O.A. was admitted for final hearing. According to the distribution orders issued by the then Hon'ble Chairman, the matter was listed before a Single Member Bench who heard him finally and gave out his judgment on 6.10.89 dismissing the O.A. The applicant challenged this order before the Supreme Court of India where the Single Member Bench order was set aside. The

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matter was sent back to this Tribunal for hearing by a Division Bench. The order of the Hon'ble Supreme Court in Civil Appeal No. 2381/91 deals only with the hearing of such cases either by a Single Member Bench or a Division Bench. This judgment of the Supreme Court was not passed on merits. Consequently, this O.A. was finally heard by us in Court No. 3.

2. The applicant, who was working as a semi-skilled Fitter in the Northern Railways, has filed this application under Section 19 of the Administrative Tribunals Act of 1985 challenging the correctness of his date of birth recorded in his service book and service record and has also prayed for quashing the letter of the respondents (Annex. A-5) dated 26.9.88 by which the representation of the applicant for alteration in the recorded date of birth was rejected by the respondents. The applicant entered service on 6.4.53 and before that he filed an affidavit sworn before a Magistrate that his date of birth was 27.3.1931. In that affidavit, the applicant also mentioned that his age was of about 22 years. In the said affidavit he also contended that he has read upto middle standard. The entry in the service record of the applicant indicates that his date of birth entered therein is shown to be 27.3.31. The said service record was also signed by the applicant.

3. For the first time, the applicant filed his representation before the Department on 20.2.88 contending therein that he is a displaced person from West Pakistan and came to India in 1947 during partition with no educational certificate showing his date of birth. He also contended in the representation that he has a Janampatri in which his date of birth is documented. In the said representation, he also mentioned that his actual date of birth was 4.4.33. That representation was rejected by the respondents on 3.3.88 on the ground that the applicant had given his date of birth as 27.3.31 and sworn an affidavit before a Judicial Magistrate 1st Class and he has also put in his signatures in the service record in acceptance of that entry. Subsequently, after receiving the rejection order of his first representation, dated 3.3.88, the applicant filed another representation on 13.7.88 alongwith which he enclosed a School Leaving Certificate showing his date of birth therein as 3.1.35, allegedly issued by the

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Head Master, Government High School, Muzaffarnagar (Pakistan) and on the strength of this certificate, the applicant prayed for the correction of his date of birth in the service record as 3.1.35 instead of 27.3.31. The second representation was rejected by the respondents on 26.9.88.

4. On perusal of the above noted facts and also the documents it becomes clear that:

(i) the applicant, for the first time, filed a representation before the respondents for correction of his date of birth after a long lapse of 35 years when he was to retire shortly;

(ii) at the first instance, the applicant gave out his date of birth as 4.4.33 and later the applicant changed his stand and gave out his date of birth as 3.1.35;

(iii) the entry in the service record of the applicant with regard to his date of birth was made on the basis of a duly sworn affidavit by the applicant before the judicial authority;

(iv) the service records were duly signed and authenticated by the applicant himself by putting his signatures therein.

5. The learned counsel for the applicant, Shri B.R. Sharma, contended that the respondents have not considered the School Certificate which he obtained from the Government High School, Muzaffarnagar (Pakistan) (Annex. A-3) dated 12.5.88 at the request of the applicant through the Indian Embassy, Islamabad (Pakistan). This certificate also contains a strange feature in which it is mentioned that the applicant joined as a student the school on 1.5.44 and was discharged on 8.1.45 and that he had studied in Class V for a period of 8 months. This certificate was issued on 10.10.45. Strangely, Annexure A-3 is neither an extract from school record nor is it a School Leaving Certificate. It merely purports to show that the entries made in the school record are contained therein. It is relevant to recall here that the applicant had earlier stated that he was middle pass, but the applicant failed to produce any record from any institution either in Pakistan or in India where he might have

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studied upto the middle standard. Obviously, in view of the situations enumerated hereinabove, we have serious doubts with regard to the credibility and authenticity of the entries contained in this certificate obtained from Pakistan after a long lapse of time. We do not think that the matter placed on record by the applicant is sufficient and strong enough to rebut the presumption that the entries made in the service record are correct. A heavy burden lies on the shoulders of the applicant to rebut the entries made in the service record on the basis of his old sworn affidavit before the competent authority and the entries signed and authenticated by the applicant himself. This heavy burden could not be discharged by the applicant in this O.A. The entries in a service record are presumed to be true and correct until the contrary is proved. In view of the inconsistent stand of the applicant, coupled with a delay of long 35 years in applying for the correction of his date of birth at the fag end of his career, we are clearly of the view that the applicant has completely failed to satisfy us that his service records contains a wrong date of birth.

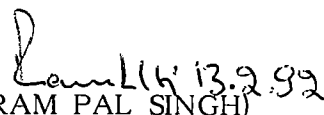
6. The applicant has cited a catena of case laws

1. Jiwan Kishore (1980 (2) S.L.R. 513
  2. Charles Wilson Vs. U.O.I and Anr. (1987 (3) SLR 155.
  3. Udai Ram vs. Northern Railway (1987 (3) SLR 217).
  4. Hira Lal vs. U.O.I. (A.T.R. 1987 (1) C.A.T. 414), etc.
- etc.

These judgments are based upon the facts of their cases and do not lay down any law which may be applicable to the case in hand. We have given our reasons hereinabove that the entries which remained unchallenged for long 35 years shall be presumed to be true unless contrary is proved that the entries made in the service record based on his own sworn affidavit and signed by him in the service were wrong.

7. In view of this matter, we are of the opinion that this O.A. has no merits and deserves to be dismissed. We direct that the parties shall bear their own costs.

  
(L.P. GUPTA)  
MEMBER (A)

  
(RAM PAL SINGH)  
VICE-CHAIRMAN (J)