

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 904 of 1989
T.A. No.

DATE OF DECISION 18.12.1989

S.K. Vij _____ Applicant (s)

Shri S.L. Dutta _____ Advocate for the Applicant (s)

Versus
Union of India _____ Respondent (s)

Shri P.H. Ramchandani, Senior _____ Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice-Chairman.

The Hon'ble Mr.

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. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

This is an application filed by Shri S.K. Vij of the Indian Railway Service of Engineers under Section 19 of the Administrative Tribunals Act, 1985, against non-correction of his date of birth. The applicant joined the Railways as a result of a competitive examination conducted by the U.P.S.C. in 1970. His date of birth as recorded during his school as well as in the School Leaving Certificate is 12.9.1948 and the same date is mentioned in his official records. The date of birth was mentioned to school authorities by his father, but it was not supported by any document. According to the applicant, the birth of the applicant had taken place on 12.3.1949 and not on 12.9.1948 as recorded in his school certificate and service records and thus there is a difference of six months between the two dates. The applicant was serving away from Delhi, but knowing that his date of birth was not recorded correctly, on his posting in Delhi he started finding out his correct date of birth. He found from the records of the Registrar of Birth and Death, Civil Lines Zone, Municipal Corporation of Delhi, that he was born at St. Stephen's Hospital, Delhi, on 12.3.1949 and a certificate to this effect was issued under Section 17 of the Registration of Birth

and Deaths Act, 1969. The applicant then approached the Principal of the School for rectification of the position. But the Central Board of Secondary Education replied that the rules of the Board did not permit any change in the date of birth after the application for examination of a candidate was received in the Board Office. The applicant then applied to the Railway Board for change of the date of birth on the basis of the authentic documentary evidence but the Board replied that this was not covered under the Rules. The case of the applicant is that he has not taken any advantage of the wrong date of birth and that it was a genuine mistake by his father. The documents produced establish beyond doubt the correct date of birth. His case had been rejected because of five year rule prescribed under F.R. 56. He said that this Tribunal has already held in ATR 1987 (1) CAT - 414 - Hira Lal Vs. Union of India - that such a limit for the purpose of alteration in the date of birth would not be sustainable in law.

2. The respondents in their reply have stated that since the applicant had himself given his date of birth, he is estopped from asking for a change and that it will be against the public policy to allow the applicant to change his date of birth at this stage. According to Railway Rules, prior to 3.12.1971 a literate Railway employee would declare his date of birth in his own hand at the time of entering into service and the same would not be changed later except where there has been a clerical error. With the issue of Railway Board's letter dated 7.5.85 (Annex. R-1), the Rules were amended to specify that the date of declaration should be in the form of matriculation certificate or Municipal birth certificate. The rules were also amended to specify reasonable period envisaged in the rule as period of probation or three years of service whichever is earlier. As the applicant had given his date of birth as 12.9.48 on the basis of the date of birth indicated in the School Leaving Certificate, the same has been entered in the official records and cannot be changed. The applicant was born in Delhi and if he knew his correct date of birth, he should have got his School records changed earlier.

3. I have gone through the pleadings and the arguments on both sides. It has been held by this Tribunal that a person can not be

changed birth at any time. It has also been held in Hira Lal Vs. Union of India - A.T.R. 1987(1) C.A.T. 414 - and Sikenderbeg S. Mirza Vs. Union of India & Others - A.T.R. 1987 (2) C.A.T. 212 (Short Note) - that a person can get his date of birth changed at any time, the basis being that truth must be found out by making enquiries and if the date of birth has really been recorded erroneously, it must be corrected at any stage. There are, however, judgments that where both the sides have accepted a particular date of birth as mentioned in the record of service for a very long period, the same cannot be changed at the fag end of the service. In the present case, the applicant has still about 20 years of service and it cannot be said that he has come at the time of his retirement for change in the date of birth. It is, therefore, directed that respondents may correct the date of birth of the applicant from 12.9.1948 to 12.3.1949 after fully satisfying themselves about the correctness of the entries at the St. Stephen's Hospital Delhi. Such an enquiry should, however, be completed within a period of three months from the date of receipt of the orders and necessary corrections made accordingly. There will be no question of limitation if the respondents come to the conclusion that the records of the Hospital or of the Delhi Municipal Corporation rightly indicate the date of birth of the applicant, the same has to be corrected in the Railway records. The application is disposed of accordingly. There will be no orders as to cost.

B.C. Mathur
18/12/89
(B.C. Mathur)
Vice-Chairman