

5

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

DATE OF DECISION: 5.5.1989.

REGN. NO. CA 1373/88

Shri Jai Kishan

.... Applicant.

Vs.

Union of India

.... Respondents.

For the Applicant: Shri G.N. Oberoi, Counsel.

For the Respondents: Shri Inderjit Sharma, Counsel.

JUDGEMENT

(delivered by Hon'ble Shri Ajay Johri, Member).

By this application filed under Section 19 of the Administrative Tribunals Act, 1985 the applicant, who was working as a Electrical Wireman in the Coaching Supdt's office at New Delhi on the Northern Railway, has challenged an order dated 28.6.1988 rejecting his representation dated 3.5.1988 seeking change of his date of birth from 1.1.1931 to 1.1.1937.

2. The applicant's case is that his date of birth recorded at the time of joining the service in 1957 was 1.1.37. The same was shown as 1.1.37 in his leave record as well. However, at a later stage an alteration was made in the same and the date was shown as 1.1.31. This entry was made in a different ink. According to the applicant when he took a loan in 1983 his date was shown as 1.1.37 and he was paid loan on the basis of his retirement in 1995. Even in his transfer from the office of the Senior Foreman to the present office the date was shown as 1.1.37. The change came to the applicant's notice only in April 87. He immediately made representation but the request for change was rejected.

3. This application has been opposed by the respondents *by grounds of limitation*. According to them, the applicant according to his own showing had made his first representation in Sept. 1984

3/

and, thereafter, he had followed it up by a reminder only in April, 1987. Therefore, if he had made his first representation to the A.P.O in Sept. 1984, he should have moved the Tribunal within one year and six months from the date of his representation. While, as a matter of fact, he moved this application only on 22.7.88. The respondents have further denied the various averments made by the applicant and have said that in the case of Class IV employees the age limit at the time of appointment is not strictly observed and a person who is over 25 years of age can also be appointed provided he submits his application when he was within the prescribed age limit and according to the applicant when he was selected in June 56, he was within the age limit though he was appointed on 6.7.57. As far as the ^{by reference} application made by the applicant in regard to the leave account is concerned, the respondents stand is that these accounts are maintained at the place of work while the service records are maintained in the D.R.M.S. office and if there is any wrong entry in the leave record, it cannot over-ride the authenticity of the service record. It is also their case that even in the leave account the date of birth is recorded as 1.1.31, but it was later that by some one ^{was} changed to '7'. But when this came to the notice of the A.P.C, he changed it back to 1.1.31 and also made an endorsement on the correction. They have also said in the Service Record that the entry of date of birth/has been duly signed by the applicant in English in token of its acceptance and

3/

he has also put his thumb impression. In regard to the application for loan, the respondents stand is that they are not concerned with the date of birth which has been mentioned by the applicant in the loan form. They have also said that the Senior Electrical Foreman had no record regarding the date of birth of the applicant and he must have mentioned it at the instance of the applicant.

4. The applicant has filed a rejoinder and has re-iterated the stand he has taken in the application and also taken exception to the allegations made by the respondents in regard to the applicant's hand having been suspected in the changes made in the records.

5. I have heard the learned Counsel for the parties and have also perused the original service record of the applicant. In the service record in the leave account form placed at page 6 pertaining to the period 9.2.81 to 5.11.85 the date of birth of the applicant is shown as 1.1.31. In the leave account for the period 1973 to 1975, it is clearly visible that the entry of 1.1.31 has been changed to 1.1.37 and it was later on corrected by the orders of the A.F.O on 13.2.84 to 1.1.31. In yet another leave account for the period 1971 to 1973 the date of birth has been shown as 1.1.31. There is over writing in leave account forms for the periods 1962 to 1964, 1964 to 1965 and 1958 to 1961 where 1.1.31 has obviously /changed to 1.1.37 or 1.7.37. There are subsequent endorsements of the A.I.C. on the corrections made in the forms and the final entry is

35/

shown as 1.1.31.

6. There is also employee's record of service which is placed in his personal file, which shows that the applicant was appointed on 6.7.57 and his date of birth is 1.1.31. ^{recorded}

This has been signed by the employee and there is also a thumb impression. There is no over writing on this form.

There is also a document which gives the Bio-Data of the applicant, which is a part of the service book of the employee and this also shows his date of birth as 1.1.31.

7. The document on which reliance can be placed is the document Record of Service, which is available in the service record and which does not show that his date of birth was 1.1.37.

On the other hand there is a very clear entry on this document that the date of birth of the applicant is 1.1.31.

This has to be considered as authentic for the purposes of determination of the date of birth of the applicant.

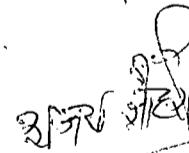
In any case even some of the leave record forms on which the applicant is relying in support of his contention that his date of birth was 1.1.37 show the date of birth 1.1.31 and on some of them there is a distinct over writing which has been corrected by the respondents when the same must have come to their notice.

8. The applicant has/not been able to provide any other document in support of his contention except his application in connection with the loan which he had taken from the Co-operative Society. The entry of the date of birth ^{also} ^{on the application made} has been by the applicant himself and this document cannot be used as a corroborative evidence in support of his plea of change of date of birth. The fact that the applicant had

9

signed his service card in English will go to indicate that the applicant must have studied in some school, but he has not taken help of the date of birth that might have been entered in the school register, where he has studied. As a matter of fact, the records maintained by the respondents specially the service records, where the applicant has signed and the entries are clearly legible have to be taken as reliable document. The date of birth recorded in service record and attested by an officer of the department and signed by the employee has to be taken as correct and request for change at the fag end of the career does not sustain. I also do ~~not~~ find force in the contention raised by the learned counsel for the respondents that if the applicant came to know of error in his recorded date of birth in 1984 and made his first representation in 1984, the cause of action arose in 1984 and his application made in 1988 will be barred in limitation.

9. On the above considerations, I do not find any merit in this application and dismiss it with costs on parties.


Ajay Johri

Member