

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

DATED FRIDAY THE TWENTIETH DAY OF JANUARY , ONE  
THOUSAND NINE HUNDRED EIGHTY NINE

PRESENT

Hon'ble Shri S.P. Mukerji - Vice Chairman

ORIGINAL APPLICATION No.622/1988

O.S. Bajpai

.. Applicant

Versus

1. Union of India, through  
the Secretary, Ministry  
of Finance, Government of  
India, North Block, New Delhi.

2. Central Board of Direct Taxes,  
through its Secretary,  
Ministry of Finance,  
North Block, New Delhi.

.. Respondents

Shri Madan Lokur

.. Counsel for the applicant

Shri M.L. Verma

.. Counsel for the respondents

O R D E R

Hon'ble Shri S.P. Mukerji, Vice Chairman

The applicant who has been working as Assistant Commissioner, Income-Tax has moved this application dated 15th March, 1988 under Section 19 of the Administrative Tribunals Act praying that the recorded Date of Birth should be corrected from 11.7.35 to 22.4.38. The applicant joined the Department of Income-Tax in 1959 and his Date of Birth was recorded as 11.7.35. He claims that the correct Date of Birth is 22.4.1938. According to him sometime in 1985 he could get the documentary evidence about his correct Date of Birth and he made a representation on 23.5.85 for correction of his Date of Birth from 11.7.35 to 22-4-38. Thereafter

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he filed a Civil Suit which was rejected on 3.8.87 for lack of jurisdiction. He has argued that the plea taken by the Respondents that he came up for correction more than five years after his recruitment is not applicable in his case as he had no knowledge and evidence within that period. He concedes that his Date of Birth had been wrongly recorded in his High School Certificate.


2. The respondents have opposed this application on the plea of 'res judicata' as the Suit filed by him was dismissed by the Sub Judge on 3.8.87. They have also indicated that the application is barred by limitation as his representation on 23.5.85 was rejected on 22.1.86 whereas this application has been filed on 15.3.88. They have also indicated that the correction is barred by Rule 79 of the General Financial Rules and Note 5(a) of S.R.56. They have rejected the affidavit filed by the applicant's mother who is aged 70, stating that if the applicant's mother was aware that his Date of Birth was 22.4.38 there is no reason why 11.7.35 had been entered in his service record.

3. I have heard the arguments of the learned counsel for both the parties and have gone through the documents carefully. The recorded Date of Birth is corroborated by the entry in the Primary School, where

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the  
the applicant had studied and by Matriculation  
Certificate. The only proof that the applicant  
has come up ~~with~~ 26 years after joining the service  
and continuously accepting the recorded Date of Birth,  
is the attested copy of the Birth Register. I am  
not prepared to accept this as a conclusive proof  
of the Date of Birth of the applicant so conclusive  
as to reject the entries made in the School Leaving  
Certificates, Matriculation Certificate and the  
service record. It has been held by this Tribunal  
in M. Asokan alias Manuswamy Vs. General Manager and  
Others, ATR 1986(2) CAT 142 that a Birth Register entry  
is not of much evidentiary value <sup>and</sup> its entry denotes  
its ~~factum~~ <sup>factum</sup> of birth but not of Date of birth. In  
Ghasite Bal Vs. Union of India and another, (1988) 6  
ATC 224 the Tribunal held that when date of birth  
was recorded on an employee's own declaration and  
accepted by him, he is estopped from challenging it.  
The General Financial Rules 79 also confers an element  
of inviolability to the Date of Birth recorded in  
the Service Book. This is more applicable where the  
same has been allowed to go unchallenged by the applicant  
himself for more than two decades as in this case.

4. In the circumstances I see no merit in the  
application and reject the same. There will be no order  
as to costs.

  
(S.P. MUKERJI)  
Vice Chairman  
20.1.1989

Sn.