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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. No. O.A. 1094/88

Date of Decision: 22.7.88

Shri Mohd. Izhar

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Applicant

Vs.

Union of India & Others

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Respondents

CORAM:- Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member (A)

For the Applicant

Shri E.X. Joseph, Advocate

For the Respondents

Ms. Raj Kumari Chopra, Advocate.

ORAL

The applicant entered the service of President's Estate as Cleaner in the year 1952. According to the present entry in the service record his date of birth is 1.12.1929. He claims that that is not correct and that his correct date of birth is 12.12.1934 and according to his correct date of birth he will attain the age of superannuation in December 1992. As per the present entry he would retire on attaining the age of superannuation on 30.11.1987. His service was, however, extended and he was retired from service on 26.3.88. The present claim for correction of date of birth is based on an entry in the school register. According to the applicant he joined 1st class in the school in the President's Estate studied upto 2nd class. Even according to his own statement the entry of 1.12.1929 remained unchanged till 1982. Though he claims that he made a representation to correct his date

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of birth in the service records, the respondents deny that any such representation was made. Although the applicant in his subsequent representation on 4.5.87 stated that he made a representation in February 1982 but he has not even filed a copy of such representation. The respondents vehemently deny that any such representation was made. In the absence of any record to show that any representation was made in February 1982 and in the absence of copy of such representation being filed, we cannot hold that any such representation^{was} made in 1982.

2. Be that as it may, the first representation was made in 1986 to correct the date of birth in which he claimed xxxx the correct date of birth to be 1.12.1932. The applicant now claims that his correct date of birth is 12.12.1934 and not 1.12.1932 as claimed by him earlier. At that time he did not file any school record to claim that he was born on 12.12.1934. However, in the later representation filed on 12.3.87 he claimed that his date of birth as per certificate issued by the school is 12.12.1934. That claim was rejected by an order dated 25.3.1988 of the Military Secretary to the President. On the evidence he came to the conclusion that present claim is not established and that there is no valid basis for altering the date of birth of the applicant. Accordingly, he rejected the claim of the applicant.

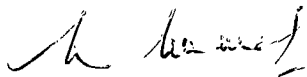
3. Learned counsel for the applicant contends that the entry in the service record given at the time of appointment is not correct. Upon the application of the applicant, the respondents should have made a regular enquiry. The respondents should have called for the original school record and examined the witnesses.

No such procedure is prescribed under any Office Memorandum. That apart whatever evidence was produced by the applicant, was taken into account. The evidence was meagre. One was the entry at the time of entering the service and another is the entry stated to have been made in the school record. It is not shown why the school certificate must be given preference to service record. Extract of Birth Register has not been produced to establish his date of birth. If we assume for the sake of arguments that the applicant was born on 12.12.1934, in that case he would not have been eligible for appointment to the service at all. If it is presumed that the date of birth as recorded at the time of joining the service is incorrect, he would be guilty of having obtained employment by giving a false date of birth. The entry in the service record only shows that he was eligible for appointment and on the basis of that, applicant secured the employment and the said entry has continued unchallenged for the last 30 years. In these circumstances, we do not think that the impugned order calls for interference.

4. Mr. Joseph learned counsel for the applicant contended that this court itself may make an enquiry when such claim is made. This is not a petition for a declaration that the correct date of birth of the applicant is 12.12.1934. This petition is filed against the order of the Military Secretary to the President who was admittedly the Competent Authority to enquire into the claim that the date of birth as entered in the service record requires to be corrected. If there is no error or illegality in the order of the Competent authority we do not see any reason to direct a fresh enquiry under Section 19 of the Administrative Tribunal Act. This application is an original application. That apart on the

present record we do not think there is any warrant to admit this petition and to hold that the entry in the service record is wrong. We, therefore, see no reason to interfere with the impugned order.

5. This application is accordingly dismissed.



(Kaushal Kumar)
Member (A)
22.7.88



(K. Madhava Reddy)
Chairman
22.7.88.