



**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

O.A.NO.060/00896/2020
Decided on: 23.11.2020

**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. ANAND MATHUR, MEMBER (A)**

Smt. Kiran Bala Verma

Wife of Virender Verma

Aged about 62 years,

R/o House No. 41, Ashok Nagar,

PO Mahesh Nagar,

Ambala Cantt (Haryana)-133001.

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Applicant

(BY ADVOCATE: MR. S.S.PATHANIA

VERSUS

1. Chief Post Master General, Haryana Circle, Mall Road
Ambala Cantt (Haryana)-133001
2. Senior Superintendent of Posts, Ambala Division, GPO
Building, Ambala Cantt (Haryana)-133001.
3. Union of India through its Secretary, Department of Posts,
Daak Bhawan, Sansad Marg, New Delhi-110001.

Respondents

O R D E R(oral)
HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)



The applicant has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, seeking quashing of the order dated 26.2.2020 (Annexure A-20) vide which the prayer of the applicant for correction in Date of Birth in service record has been declined on the basis of Rule 118D of Postal Manual Volume-II. She has also sought quashing of Rule 118-B of Postal Manual Volume-II and to direct the respondents to decide her representation on merit in a time bound manner.

2. The applicant was appointed as Postal Assistant in 1988. As per Higher Secondary (Part-I) Certificate issued by Punjab School Education Board, her date of birth was 7.11.1958. In various Government communications/orders including ACRs, her date of birth was shown as 7.11.1958. However, she came to know that her date of birth is recorded as 7.11.1957 instead of 7.11.1958 at the fag end of her service career. Her request to correct it was declined vide order dated 4.7.2016 (Annexure A-11), on the premise that such request can be made within five years of entry into Government service, with the sanction of competent authority. An appeal dated 9.9.2016 (Annexure A-12), was also rejected vide order dated 1.12.2016 (Annexure A-13). He filed an O.A. No. 489/2017 which was also dismissed in limine by this Tribunal. She was retired from service on 30.11.2017 vide order dated 21.11.2017. Further representation has been rejected vide order dated 26.2.2020 (Annexure A-17). Hence, the O.A.



3. Para 7 of the O.A. relates to a declaration as to whether the applicant has filed any other application, writ petition or suit regarding the matter in respect of which the instant application has been made etc. in which the applicant claims that she has not filed any such application. However, at page 4 of the O.A. in para 4 (x), it is mentioned that O.A.No.489/2017 filed by the applicant was dismissed in limine.

4. The file was summoned from the record and it was found that the applicant had filed similar O.A. in this Tribunal on same facts as pleaded in this case challenging the order dated 1.12.2016, annexed as Annexure A-13 to this Original Application. A Division Bench of this Tribunal had declined to interfere in the rejection order by passing a detailed order dated 13.7.2017, which is reproduced as under:-

5. Ex-facie, the argument of the learned counsel that since the date of birth of the applicant recorded in her Higher Secondary School Certificate (Annexure A-2) was 7.11.1958, so same is liable to be corrected in her service record as 7.11.1958, is not only devoid of merit but mis-placed as well.

6. What cannot possibly disputed here is that the applicant had joined as back as on 22.6.1988, on the post of Postal Assistant. She herself has perused the service book (bio-data) on 2.8.1988, 12.3.1994 and 21.10.2013 and signed the same in token of its correctness. It is not a matter of dispute that the date of birth of the applicant is recorded as 7.11.1957 in her entire service record. It is now well settled principle of law that as per service rules, when a person enters service, he/she has to record complete particulars including the date of birth in his/her service record. As a consequences thereof, the applicant has recorded the particulars including her date of birth as 7.11.1957 and has signed the service book in token of its correctness. She kept silent in this regard till she moved representations, on a very belated stage, which were rejected vide impugned order dated 1.12.2016 (Annexure A-1), by the Competent Authority. No implicit reliance can be placed on the photostate copy of Higher Secondary School Certificate (Annexure A-2), at this belated stage. Now, she cannot legally be permitted to claim that her date of birth was wrongly recorded in her service record, at the fag end of her career.



7. This is not the end of the matter. As per OM dated 16.12.2014, issued by the Govt. of India, Ministry of Personnel, Public Grievances and Pensions, Department of Personnel & Training, the request for correction of date of birth based on genuine explanation and authentic documentation can be made within five years of entry into Government service and not beyond that. In that eventuality, the mere recording of date of birth as 7.11.1958 in the photostate copy of the Higher Secondary School Certificate, Annexure A-2, Identity Card, Annexure A-3 and Medical Card, Annexure A-3A, pales into insignificance, in the relevant connection. This matter is no more res-integra and is now well-settled.

8. An identical question came to be decided by the Hon'ble Apex Court, in the case of **Union of India Vs. Rama Swami**, 1997 SC 2057, wherein it was ruled that when a candidate, at the first instance, communicates a particular date of birth, there is obviously his intention that his age calculated on the basis of that date of birth should be taken into consideration by the appointing authority for adjudging his suitability for a responsible office. In fact, where maturity is a relevant factor to assess suitability, and older person is ordinarily considered to be more mature and therefore, more suitable. In such a case, it cannot be said that an advantage is not obtained by a person because of an earlier date of birth. If he subsequently, claims to be younger in age, after taking that advantage, in such a situation, it would be against public policy to permit such a change to enable longer benefit to the person concerned, and principle of estoppel would apply, in this direction.

9. Sequently, it was observed by the Hon'ble Supreme Court in the case of **Union of India & Others Vs. Kanti Lal Hematram Pandya** (AIR 1995 SC 1339), that when an employee slept over his/her rights to get the date of birth altered for more than 30 years and woke up from his/her deep slumber on the eve of retirement only, the said stale claims and belated applications for alternation in the date of birth recorded in service book at the time of initial entry, made after unexplained and inordinate delay, cannot be entertained.

10. Likewise, in the case of **U.P. Madhyamik Shiksha Parishad and Others Vs. Raj Kumar Agnihotri** (2005) 11 SCC 465, Hon'ble Apex held that the correction in entries made in Govt. records on the basis of which the Govt. servant got the service cannot be allowed to be changed just a few years before retirement or at the fag end of the retirement. The Hon'ble Court further held that the date of birth or the age recorded in the service book at the time of entry in the Govt. service shall be deemed to be the correct date of birth or age as the case may be for all purposes and that no application or representation shall be entertained for correction of date of birth or age in any circumstances whatsoever.

11. Not only that, in the case of **State of Punjab Vs. S.C. Chadha** 2004 (2) SLR SC 741, the Hon'ble Supreme Court has held that any such claim regarding correction of date of birth should not be made or entertained after decades, especially on the eve of superannuation of such public servant.

12. Similarly in the case of **Govt. of Andhra Pradesh Vs. M. Haygareev Sarma**, 1990 SCR (2) 366, the Hon'ble Apex Court has observed that if an employee does not make any attempt to have date of birth corrected in the service record



for decades, then any amount of evidence produced subsequently will be of no consequence.

13. Again, in the case of **Burn Standard Co. Vs. Dinabandhu Majumdar**, AIR 1995 SC 1500, the Hon'ble Supreme Court has held that the claim of a public servant, who never raised objection regarding his date of birth, approached the Court at the fag end of his retirement, seeking change in date of birth, cannot be entertained on the ground of delay and laches. Same view has been taken in the case of **Punjab and Haryana High Court at Chandigarh Vs. Megh Raj Garg & Another**, (2010) 6 SCC 482.

14. Thus, would be seen that the ratio laid down in the aforesaid judgments, ***mutatis mutandis***, is applicable to the present controversy and is the complete answer to the problem in hand.

15. Therefore, taking into consideration the Govt. Instructions, other pointed relatable factors and legal position, the competent authority has examined the matter in the right perspective and correctly negated the claim of the applicant in this regard. The claim of the applicant is purely based on speculative assumptions and wishful thinking which, as such, cannot legally be accepted, in the obtaining circumstances of the case.

16. No other point, worth consideration, has either been urged or pressed by the learned counsel for the applicant.

17. In the light of the aforesaid reasons, as there is no merit, so the instant O.A. is hereby dismissed, as such, with no order as to costs."

5. Applicant has not annexed the copy of the order dated 13.7.2017. Apparently, the O.A. is barred by principle of res-judicata and not maintainable at all but the applicant has tried to wriggle out of the same by not mentioning in detail as to what was claimed in earlier O.A. and what was the result and as to why this O.A. is not barred by the indicated principle. Even the order passed by this Court has not been annexed by her. This is a fit case which should have been dismissed by us with heavy costs but finding that the applicant is a retiree, we are restraining ourselves from doing so but with a caution that she should be slightly more careful in future in approaching a court of law.



6. In view of the above, this O.A. is dismissed being barred by res-judicata and even otherwise on ground of limitation as well as on merit, reiterating the earlier findings recorded by a co-ordinate Bench of this Tribunal in O.A.No. 060/00489/2017, that when an employee sleeps over his/her rights to get the date of birth altered for more than number of decades and wakes up from his/her deep slumber on the eve of retirement only, such stale claims and belated applications for alternation in the date of birth recorded in service book at the time of initial entry, made after unexplained and inordinate delay, cannot be entertained.

(SANJEEV KAUSHIK)
MEMBER (J)

(ANAND MATHUR)
MEMBER (A)

Place: Chandigarh
Dated: 23.11.2020

HC*