

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 160 of 1986
Ex. No.

DATE OF DECISION 13th May 1986

Shri Champat Singh Petitioner

Shri Sant Lal Advocate for the Petitioner(s)

Versus

Union of India Respondent

Mrs. Raj Kumari Chopra Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S.P. MUKERJI, Member

The Hon'ble Mr. H.P. BAGCHI, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement ? No

JUDGMENT:

The applicant has come up under Section 19 of the Administrative Tribunals Act praying that the date of birth indicated in the service records should be corrected from 1.7.1928 to 7.7.1929 on the basis of his school leaving certificate and that he should be retained in service till 31.7.1987 when he would

be completing 58 years of age. The brief facts of the case which are not in dispute are as follows:

2. The petitioner entered the Class-IV service on 25.6.1948 when he indicated his age as about 20 years on the basis of which the respondents recorded his date of birth as 1.7.1928. On 20.7.1950, the respondents asked the applicant to produce documentary proof of age and educational qualifications and accordingly the applicant submitted the School Leaving Certificate in original which is now with the respondents. In the School leaving Certificate the date of birth recorded was 7.7.1929. Though the number '9' is overwritten the year of birth written in words as Nineteen hundred and twenty nine is not overwritten. When the petitioner wanted to finally withdraw, his contributions from the GPF and filled his date of superannuation as 7.7.1987, the Accountant told him ^{as that} as per records his date of superannuation was 1.7.1986. His application dated 26.4.1984 to the Post Master, New Delhi for correction of his date of birth was rejected. His further representation and appeal were also rejected. According to the respondents, the date of birth in the service records was entered at the instance of the applicant duly supported by a Medical Certificate and the applicant had verified the date of birth on the service record on 13.7.1956 and 5.9.1961. The petitioner was asked to produce documentary proof

of his educational qualification in 1950 and it had nothing to do with further verification of the date of birth entered in the service record. According to the respondents, the petitioner cannot challenge the entry made in the service records 30 years after he had accepted the same.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents closely. For the following reasons we feel that the petitioner is fully justified in claiming correction on the wrong date of birth entered in the service records:

- (a) The petitioner had not declared his date of birth as 1.7.1928 at the time of entry in service on 25.6.1948. He had admittedly indicated his age as 20 years and on that basis the respondents entered his date of birth as 1.7.1928, by going back 20 years from the date of his appointment.
- (b) On 20.7.1950, the respondents themselves asked the applicant to produce documentary proof of age and educational qualifications. The learned counsel for the respondents' argument that this enquiry was made because the applicant was being considered for promotion as a Pest Master from the post of a Packer, is not convincing

because admittedly the applicant had been promoted as temporary Post Master earlier on 10.5.1950 whereas the query about his date of birth was made on 20.7.1950. We have examined the document through which the query was raised and it reads as follows:

"Documentary proof of age and educational qualifications:

Kindly obtain and submit proof of date of birth and educational qualifications immediately. The enclosed declaration may also be got signed by Shri Champak Singh, temporary Post Master attached to you and return early."

The above clearly shows that the applicant had already been working as temporary Post Master and the query cannot be for considering him for that post. The heading of the document also indicates that the documentary proof was needed not only for the educational qualification but also for his date of birth. Therefore, the respondents themselves had not accepted the date of birth entered as 1.7.1928 in the service records.

(c) The applicant duly submitted the original of the School Leaving Certificate shortly after he received the query in July, 1950. We have examined the original of the School Leaving Certificate where the date of birth is given in words as well as figures.

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Though there is some overwiring of figures, the year given in words is indicated as Twenty nine and seems to be genuine. The School Leaving Certificate being the most authoritative document about the date of birth and having been produced two years after the applicant's appointment, has to be given overwhelming importance in the matter of fixing the date of birth.

(d) It is admitted that the School Leaving Certificate was verified on the spot by the Inspecting Post Office and found to be correct. The following extract from Post Master, New Delhi's report to the Post Master(General) given in November, 1985 is relevant:-

"A perusal of the P/F of the official shows that SPM Karol Bagh vide his letter No.BX/Champat Singh dated 26.7.1950 addressed to SPM Kingsway Camp P.O. to collect age certificate from Shri Champat Singh. In response to this letter a duplicate copy of the school Leaving Certificate was forwarded by SPM Kingsway Camp P.O. The said copy of the certificate showing the date of birth as 7.7.1929 is lying in P/File of the official though the figure 29 appears to have been corrected or over-written, no action seems to have been taken by the said offices for verification. However, the certificate was got verified through I.P.O. Shamli Sub-Division vide letter No.A/Kairana dated 22.2.1985."

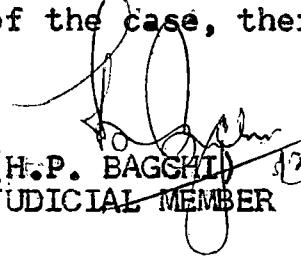
(e) It is true that the applicant had appended his signature on the first page of the Service Book in 1956 and 1961 but after 1961 the Service Book was never shown

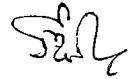
to the applicant. Being a Class-IV non-Matriculate, the petitioner cannot be pinned down through signature on the wrong date of birth recorded in the Service Book. Considering that in 1950 he had been asked to produce the documentary proof and he had produced the School Leaving Certificate, he can be reasonably presumed to have been under the impression that the wrong date of birth entered in the Service records would be corrected especially when he did not care anything to the contrary after he had submitted the School Leaving Certificate.

(f) By the same token, the applicant cannot be deemed to have slept over the wrong date of birth for 30 years. He had done his part of the Chapter in producing and submitting the original of the School Leaving Certificate two years after his entry and on the asking of his employers. Since he did not fear anything to the contrary he can be deemed to have been under genuine impression that his date of birth has been corrected.

4. For the aforesaid cogent reasons and facts and circumstances of the case, we find considerable merit in the application and allow the same. Accordingly, the respondents are directed to correct

the date of birth in the applicant's service records on the basis of the date of birth entered in the School Leaving Certificate within one month, and to reckon the date of superannuation of the applicant on that basis. All other consequential benefits should accrue to the applicant without let and hinderance. In the circumstances of the case, there will be no order as to costs.


(H.P. BAGCHI) 13.5.86
JUDICIAL MEMBER


(S.P. MUKERJI)
MEMBER