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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 193/86      1986  
T.A. No.

DATE OF DECISION 25.2.1987.

Shri Des Raj Bajaj      Petitioner

Shri L.D. Adhlakha      Advocate for the Petitioner(s)

**Versus**

Union of India & Others      Respondent

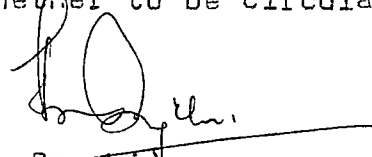
Shri K.N.R. Pillai      Advocate for the Respondent(s)

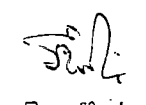
**CORAM :**

**The Hon'ble Mr.**    S.P. Mukerjee, Administrative 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*
4. Whether to be circulated to other Benches? *No*

  
(H.P. Bagchi)  
Judicial Member

  
(S.P. Mukerji)  
Administrative Member

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI

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Regn. No. CA-193/86

Date: 25.2.1987.

Shri Des Raj Bajaj

.... Petitioner

VERSUS

Union of India & Others

.... Respondents

For Petitioner

.... Shri L.D. Adhlakha,  
Advocate.

For Respondents

.... Shri K.N.R. Pillai,  
Advocate.

CORAM: Hon'ble Shri S.P. Mukerji, Administrative Member.  
Hon'ble Shri H.P. Bagchi, Judicial Member.

JUDGEMENT

The petitioner, a retired employee of the Northern Railways, moved the Tribunal with this application under Section 19 of the Administrative Tribunals Act on 19th March, 1986 praying that his date of birth may be corrected as 15.11.1930 instead of 8.3.1928 and the applicant be allowed to continue in service till his superannuation on 30.11.1988. He has also prayed that he should be considered in service till 30.11.1988 with full pay and allowances and other consequential benefits. The petitioner stood retired on superannuation on 31.3.1986 on the basis of the impugned date of birth recorded in his service documents.

2. The brief material facts of the case can be recounted as follows. The applicant joined <sup>the</sup> railway service on 7.3.1951 as an L.D.C. under the District Controller of Stores, Oudh Tirhut Railway at Izzat Nagar, District Bareilly in U.P. On 15.9.1952 he was transferred to the Northern Railways and retired <sup>on 31.3.1986</sup> as Senior Personnel Inspector at the Northern Railway

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Headquarters, New Delhi. The petitioner's case is that his date of birth as recorded in his service-book being 8.3.1928, is wrong and his correct date of birth is 15.11.1930. His further averment is that he never knew about the date of birth so recorded till 17.1.1972 when he submitted a representation to the Senior Personnel Officer by hand. He sent nine reminders between 23.2.1972 and 9.3.1973 without any response. When he did not get any reply to his representations in spite of verbal requests, he made a detailed representation on 27.6.1985 for correcting his date of birth and for the first time in July, 1985, he was informed by the respondents that his date of birth could not be corrected as he had applied after the <sup>deadline</sup> target date of 31.7.1973 by which date the Railways had invited applications for correction of dates of birth from the employees. The petitioner again represented referring to his earlier representations from 17.1.1972 and also that the target date of 31.7.1973 had been relaxed in other cases also. His further contention was that the entry of his wrong date of birth of 8.3.1928 did not bear his thumb impression or signature and that the wrong entry was out of malice borne against him by Respondent No.3, Shri A.N. Mittal, Deputy Chief Personnel Officer, Northern Railway Headquarters and that Respondent No.3 had exercised his influence over the Punjab University authorities also to get some allegedly fictitious date of birth recorded in the university documents. In response to the further representation the respondents asked the petitioner on 8.11.1985 to

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produce the necessary documents which were duly produced by him, including the original duplicate Matriculation Examination Certificate and the date of birth certificate, dated 1.9.1971 issued by the Punjab University. On 13.1.1986 the respondents made further queries and the applicant replied stating that he had filed original duplicate Matriculation Examination Certificate as the original Matriculation Certificate had been lost. The respondents have not yet replied to his further representations. The respondents have stated that as per the service register received from the ex Outh Tirhut Railways, Izzat Nagar, the date of birth declared by the petitioner at the time of his recruitment in March, 1971 was 8.3.1928 as per the applicant's own declaration. This entry had been witnessed by a clerk and signed by the District Controller of Stores. They have also stated that from time to time in the various seniority lists circulated, the petitioner's date of birth was recorded as 8.3.1928 and at no point of time the applicant had objected to the same. On 4.8.1972, the Railway Board afforded an opportunity to their employees to represent for rectification of any mistake in their recorded date of birth and the last date for sending such representations was 31.7.1973. The petitioner did not represent in response to this circular. The respondents have also denied having received any representation or reminder between 1972 and 1973. The only representation that was received from him on the question of date of birth was on 27.6.1985. On his representation of 27.6.1985, the case was referred to the University of Punjab for

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verifying his date of birth and in their letter of 7.3.1986 (Annexure IX to the counter affidavit) it was communicated by the university authorities that "The date of birth of Shri Des Raj Bajaj s/o Shri Bishen Dass, who was issued Matriculation Certificate of the session 1947 bearing Roll No.3481 is 15.11.1927." Thus, he was informed on 19.3.1986 that his date of birth as recorded in the service-book, cannot be changed.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The petitioner could not produce any documentary proof of his averment that he represented for the first time against his wrongly recorded date of birth on 17.1.1972 and sent several reminders between 23.2.1972 and 9.3.1973. In his petition<sup>s</sup> he mentioned that even the main representation of 17.1.1972 was handed over personally to the Senior Personnel Officer. It is surprising that on such a vital matter the petitioner should not have got any acknowledgment from the Senior Personnel Officer or any postal certificate to support his contention that he has been reminding the respondents about his representation of 1972. The respondents have indicated that neither the representation nor any reminder allegedly sent by the petitioner between 1972 and 1973 is available. It cannot be conceived that the respondents should have destroyed the records for ulterior motive. The applicant's contention that Respondent No.3 is engineering the rejection of his representations because of malice, cannot be accepted as Respondent No.3, who was the Deputy Chief Personnel Officer at the time of filing of this application in

1986, has been shown to be holding any responsible post concerning change of date of birth during 1972-73.

4. It is also an established fact that the Railway Board had given an opportunity to all its employees to represent till 31.7.1973 for rectification of the date of birth and the applicant did not avail of this opportunity. It is also surprising that having received no response after nine reminders, the last of which was sent on 9.3.1973, he kept quiet for twelve long years and made a detailed representation <sup>only</sup> on 27.6.1985. Against this backdrop of circumstances and petitioner's conduct, we have grave reservations about the veracity of the petitioner's contention that he made a detailed representation in 1972 and followed it up with nine reminders till 1973.

5. The fate of this case, therefore, will turn entirely on the representation which the petitioner had made on 27.6.1985 as admitted by the respondents themselves. In this representation the petitioner contended that on the basis of the Matriculation Certificate and the date of birth certificate issued by the University authorities, his date of birth should be corrected from 8.3.1928 to 15.11.1930. Unfortunately again, the petitioner avers that the original matriculation certificate and other relevant documents had been misplaced. He has produced a photostat copy of the <sup>'Duplicate'</sup> Matriculation certificate which does not bear any date of birth. In so far as the other documents regarding certificate of date of birth issued by the Punjab University is concerned, a photostat copy of the same is at Annexure P-II with the petition. This

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certificate reads as follows:-

" This is to certify that the date of Birth of Shri Des Raj Bajaj who appeared in B.A. Degree Examination held in September, 1969 under roll number 33351 (Regulation 8 d) is 15th November, 1930 (15.11.1930).

Sd/- Jai Ram Dass Dham  
Asstt. Registrar Exams."

6. From the above, it is clear that this certificate is based on the date of birth which the applicant had given in his application for the B.A. degree examination held in September, 1969. Therefore, this cannot be correlated to the date of birth which had been accepted by the Punjab University authorities at the time he took the Matriculation examination. The respondents had referred the matter to the Punjab University authorities and the University authorities in their letter, dated 7.3.1986 (Annexure IX to the counter-affidavit) intimated the Railway authorities to the following effect:-

" In this connection I am to inform you that as per our record the date of birth of Shri Des Raj Bajaj son of Shri Bishan Dass Bajaj, who passed Matriculation Examination of this University held in 1947 (under special Service Regulations) is Fifteenth November, one thousand nine hundred twenty seven (15.11.1927)."

7. The above communication clearly establishes that the date of birth given by the petitioner at the time of appearing in the Matriculation Examination was not even 8.3.1928 as claimed by him now but 15.11.1927 according to which the petitioner should have been retired on superannuation on 30.11.1985 instead of 31.3.1986, when he was actually retired.


8. From the above facts and circumstances it is clear that the applicant has not come up to the

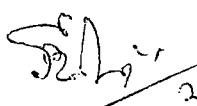
Tribunal with clean hands. He has been prevaricating about his date of birth and got three dates of birth recorded on different occasions. He gave 15.11.1927 as his date of birth at the time of admission to the Matriculation Examination, 8.3.1928 at the time of entry in service with the Outh Tirhut Railways, and 15.11.1930 at the time of admission for the B.A. degree examination. In such circumstances, we have to give credence, as per established convention, to the time-honoured entry in the service record, i.e., 8.3.1928. This date of birth has been admitted by the petitioner to have been recorded in his service-book though he says that it was recorded wrongly and maliciously - allegations which he has not been able to establish. The date of birth recorded in his service-book had been attested by the District Controller of Stores and witnessed by another official. He was a Matriculate at the time of entry in service in 1951 and the applicant was supposed to know what he was signing<sup>for</sup>. The applicant's contention that the original of the service record has not been produced but only a photostat copy of an attested copy has been produced, is not very material in view of the fact that he himself admits that the date of birth recorded in his service-book is 8.3.1928.

9. The only question which bothers<sup>is</sup> is that the applicant's representation, dated 26.7.1985 was rejected by the respondents by obtaining the verification of the date of birth from the Punjab University authorities without giving him an opportunity to defend



his representation. This may go against the concept of natural justice. However, since the applicant has already had opportunity to defend his claimed date of birth before us and we are not convinced about his claim, it will be fruitless at this stage to remand the case to the respondents for undertaking this exercise again. The applicant has had full opportunity before us in producing ~~of~~ the documents, averments, arguments not only through his own effort, but also <sup>R. the assistance of</sup> through a professional learned counsel and we do not think that the position could undergo any change by remanding the case. The applicant has already enjoyed the privilege of government service till 31.3.1986, when in accordance with the records of the Punjab University, at the time of his taking the Matriculation Examination he should have been retired in November, 1985. We do not find any merit in his application to modify the entry made in his service records and, accordingly, reject the application. There will be no order as to costs.

  
(H.P. Bagchi)  
Judicial Member 25.2.87

  
(S.P. Mukerji)  
Administrative Member 25.2.87