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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 347

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~~T.A. No.~~

DATE OF DECISION 9.10.1986

Shri Faquir Chand

Petitioner

Shri K.L. Sabharwal

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri K.N.B./Pillai

Advocate for the Respondent(s)

Ms. Rachna Joshi

Sd/-
28.10.86

CORAM :

The Hon'ble Mr. Justice V.C. Gadgil, Vice Chairman(Judicial)

The Hon'ble Mr. S.P. Mukerji, Administrative 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*

Sd/-
(S.P. MUKERJI)

P.C. Gadgil
(V.C. GADGIL)

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Registration No:-OA-347/1986

Date of decision:
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Shri Faquir Chand ... Petitioner
Shri K.L. Sabharwal ... Advocate for petitioner
 versus

Union of India ... Respondent
Shri K.N.R. Pillai ... Advocate for respondents
Ms. Rachma Goshi *SVL*
 28.10.86

CORAM:

The Hon'ble Mr. Justice V.C. Gadgil,
Vice Chairman(Judicial)

The Hon'ble Mr. S.P. Mukerji,
Administrative Member.

JUDGMENT

The petitioner, Shri Faquir Chand who is working as Head Clerk in the Bridge Workshop, Northern Railway, Jalhander Cantt., has moved the Tribunal under Section 19 of the Administrative Tribunals Act by this petition dated 15.5.1986 praying that the date of birth recorded in the service records as on 1.5.1928 should be corrected to 20.10.1931 on the basis of the School Leaving Certificate.

2. The brief facts of the case can be summarised as follows. The applicant joined the Bridge Workshop on 27.10.1950 as a Coolie and on the basis of the declaration given by him the date of birth was recorded as 1.5.1928 in the service book. The entry stands verified by his left thumb impression, his signature and

SVL

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attested by his superior officers. According to the applicant as soon as he came to know about the wrong date of birth he made his first representation on 2.7.1983 that is about 33 years after entering service on 27.10.1950. Again he avers that he applied for alteration of his date of birth even in 1980. He has produced the photostat copy of the duplicate of the school Transfer Certificate issued on 22.1.1983 to substantiate his claim of date of birth as 20th October, 1931. His representation having failed to bear any fruit he moved the application to the Tribunal. According to the applicant, he had not derived any undue benefit in the matter of recruitment to the Railway service by the recorded date of birth and there being no time limit in the rules for correction of the date of birth his application should be accepted. According to the respondents, the applicant is a literate person and had signed service records once in 1950 at the time of entry in the Government service and again in 1967 at the time of promotion as a Clerk accepting the recorded date of birth as 1.6.1928. Having conceded the date of birth for more than 30 years, he is estopped from challenging it on the eve of his retirement. The respondents have averred that if his date of birth had been as now alleged by him, he would not have been recruited in

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the Bridge Workshop Organisation as a Coolie as he would have been underage the age minimum being 21 years. Further on the basis of his recorded date of birth his pay had been fixed at Rs.30/- per month but would have been reduced by Re.1/- per month for each year of shortfall of two years in the minimum age if his alleged date of birth is accepted. It has also been stated that the date of birth as 1.6.1928 had been indicated in the various seniority lists circulated from time to time and the applicant had never challenged the same.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents very carefully. We have seen the original pages of the service record and are satisfied that the applicant had duly signed the pages of the service book in 1950 and 1967 along with his thumb impression when his date of birth had clearly been indicated as 1.6.1928. The conduct of the applicant in accepting the recorded date of birth for more than three decades gives the lie to his present claim of change in the date of birth. The Railway authorities had in early 1970's given a blanket opportunity to its employees for correcting the date of birth. The applicant did not avail of that opportunity at that time. His present claim based on the duplicate of transfer certificate issued in 1983 seems very inconsequential against the sanctity and authority

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of the time-honoured entries in the service book which the petitioner himself has been accepting for more than 30 years. The learned counsel for both the parties have cited a number of rulings of the various High Courts and the Supreme Court about the manner in which the date of birth recorded in the service book has to be assessed. We do not want to go into the factual and circumstantial matrix of those cases in which those rulings had been given because we feel that the weight be given to the entry made in the service record as compared to the entries made in the records of the educational institutions will much depend upon the circumstances and conduct of the Government servant in each case. Entries in the service records which have stood the test of time and remained unchallenged for a considerable period cannot be modified unless there are overwhelming reasons to establish that the entries had been made under dubious or erroneous circumstances which throw grave doubts about the authenticity or validity of the entry and the conduct of the Government servant has been throughout transparently open and above board. It is also a recognised principle that unless the entry is challenged well in time and unless it is established that the Government servant had not derived any undue benefit which he would not

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have enjoyed by his claim of changed date of birth, the changed date of birth at the fag end of one's career should not be countenanced.

4. We are satisfied that in the instant case the conduct of the applicant himself throughout his career makes his claim of change of date of birth quite unconvincing. He had derived some benefits at the time of his original recruitment by the recorded date of birth and he cannot be allowed to get his tenure of service extended by modifying his date of birth at such a late stage and thus enjoy the best of both the worlds. In the facts and circumstances of the case, we find no merit in the application and reject the same. There will be no order as to costs.

S.P. Mukerji
(S.P. MUKERJI)

V.C. Gadgil
(V.C. GADGIL)

The name of the counsel was corrected today on an application by Ms. Rachna Joshi

S.P. Mukerji
28.7.86.