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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 358 of 1986
~~T.A. No.~~

DATE OF DECISION 3.7.1987

Jogindar Paul Khanna Petitioner

Shri K.L. Kataria & Shri R.P. Oberoi Advocate for the Petitioner(s)

Versus

Director General of Police, Delhi Police Respondent

Shri B.R. Prashar Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G. Sreedharan Nair, Judicial Member

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?

(G. SREEDHARAN NAIR)
Judicial Member
3.7.1987

..2/-

ORDER

(Pronounced by Shri G. Sreedharan Nair,
Judicial Member)

The applicant while entering service gave his age as approximately between 19 to 20 years. This was on 21.6.1948 while he was enlisted in the Delhi Police. In the application for selection he gave the date of birth as 21.6.1928. When the applicant was asked in 1950 to produce proof of his age he obtained a copy of his Matriculation Certificate and produced the same. It is alleged by the applicant that it was only then that he came to know that his correct date of birth is 1.10.1930. Since the copy of the Matriculation Certificate produced by the applicant contained a different date of birth than the one stated by him in his application for the job, disciplinary proceedings were initiated against him for furnishing incorrect age, pointing out that according to the correct age he would not then have reached the age of 18 which is the minimum age required for entry in service. After the conduct of the enquiry the Enquiry Officer reported that the applicant gave incorrect age at the time of his appointment and hence he is guilty of the charge. The Disciplinary Authority imposed the penalty of reduction in the pay of the applicant by one stage in the time-scale for a period of one year. Thereafter the applicant requested for correction of the entry regarding his date of birth in his

Service Book but that was rejected. Copy of the final order is at Annexure 'J'. The applicant was retired from service by order dated 12.2.1986 copy of which is at Annexure 'K'. This order was on the premise that the date of birth of the applicant is 21.6.1928 as entered in the Service Book. The applicant prays for quashing the order holding that in view of the proceedings taken by the respondent his date of birth as entered in the Service Book should have been altered from 21.6.1928 to 1.10.1930. It is alleged that once the applicant was punished on the ground that he had given a false date of birth he should have been allowed to continue in service acting upon the date of birth which the respondent have accepted as correct for the purpose of imposing the penalty.

A reply has been filed by the respondents. ~~It was~~ the only contention ~~that was~~ advanced is that the request of the applicant for change of the recorded date of birth was examined with reference to the instructions on the subject and has been duly rejected. It is stated that it was not within the competence of the Head of Office to alter the recorded date of birth in view of the imposition of the penalty.

The question that falls for determination is simple. Can a Government servant who was proceeded against

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departmentally for furnishing a false date of birth, on the premise that the date of birth furnished is not in accordance with the date of birth given in his Matriculation Certificate, and was imposed a penalty on that score, be retired from service on the basis of the entry regarding date of birth in the service record, which according to ^{Department itself} the ~~employer~~ is not correct. It cannot be disputed that every Government servant has the right to continue in service till he reaches the age of superannuation. True, normally the determination of the age of superannuation is on the basis of the entry regarding date of birth in the service record of the Government servant. Here is a case where ~~immediately~~ after the applicant entered service the Department wanted proof of his age so as to satisfy themselves regarding the correctness of the entry in the Service Book. The applicant did furnish such proof by producing the copy of his Matriculation Certificate wherein ^{it was} a different date of birth that was given. According to the applicant he was not aware of his correct date of birth when he joined the service. Departmental proceedings were initiated against the applicant for furnishing false date of birth, the foundation for which was the entry regarding date of birth in the Matriculation Certificate. The explanation of the applicant was not accepted and a penalty was imposed upon him. ~~Can it be said that~~

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^{Can} thereafter the Department ^{hereafter} can take up ~~this~~ stand that the correct date of birth of the applicant is as has been mentioned in the Service Book? I am of the view that ^{it} ~~this~~ has to be answered in the negative.

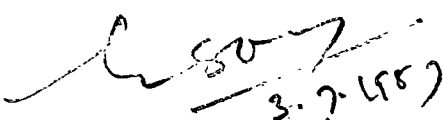
Counsel of the respondent submitted that the initiation of the departmental proceedings and the order regarding retirement on superannuation are distinct and have nothing to do with each other. As was stated earlier the applicant could be retired from service on superannuation only on reaching 58 years of age. A decision as to when he does so depends upon his correct date of birth and not on an incorrect entry regarding the same. According to the Matriculation Certificate the respondent cannot dispute that the correct date of birth of the applicant is ~~not~~ 1.10.1930. Having taken up ~~this~~ stand that the entry regarding the date of birth of the applicant is incorrect, and having proceeded against the applicant for furnishing such incorrect information regarding his age, and after penalising him for the same, it is extremely unfair, unjust and illegal to retire the applicant on superannuation on the basis of the incorrect entry in the service record. In the circumstances of the case when the applicant moved for correction of his date of birth in the Service Book, after the imposition of the penalty on him, the respondent should have in all fairness

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acceded to the request. What is found here is that, instead, by a one word order it was rejected, and following that the impugned order to retire the applicant on superannuation mentioning his date of birth as 21.6.1928 was passed.

In the result the impugned order dated 12.2.1986 under which the applicant has been ordered to be retired on superannuation on 30.6.1986 is hereby quashed. I hold that the applicant is entitled to be in service on the basis that his correct date of birth is 1.10.1930. Since the applicant has been retired from service the respondent shall reinstate him in service forthwith, allow him all consequential benefits, and retire him on superannuation treating his date of birth as 1.10.1930.

This application is allowed as above.


(G. SREEDHARAN NAIR)
Judicial Member
3.7.1987

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