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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

475

198⁶

DATE OF DECISION 15.5.87

Prem Prakash

Petitioner

in person.

Advocate for the Petitioner(s)

Versus

Shri S. Swamathan and another

Respondent



Mr. P.H. Ramchandani

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice S. Zaheer Hasan, Vice Chairman.

The Hon'ble Mr. V.S. Bhir, Member (A)

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 ?
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(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, DELHI.

D.A. 475 of 1986

Prem Prakash Applicant

vs.

Shri S.Swamathan, Controller
General of Defence Accounts
and another Respondents.

CORAM:

Hon'ble Justice Shri S.Zaheer Hasan, Vice Chairman.

Hon'ble Shri V.S.Bhir, Member(A).

Present: Applicant in person.

Mr. P.H.Ramchandani, counsel for respondents.

(Delivered by Hon.S.Zaheer Hasan, V.C.)

This is an application under Section 19
of the Administrative Tribunals Act(No.XIII of
1985).

On 13.10.1947 applicant Prem Prakash was
appointed as Sepoy Clerk in the Army. At the
time of recruitment the applicant gave his age
about 19 years. Rule 80(2) of the General
Financial Rules lays down that if a Government servant
is able to state his approximate age, his
date of birth shall be assumed to be the corres-
ponding date after deducting the number of years
representing his age from his date of appointment.
On this assumption applicant's date of birth was

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recorded in Army records as 13.10.1928 (i.e. appointed on 13.10.1947: gave his age as 19 years on the date of appointment, so 13.10.1947 minus 19 years = 13.10.28).

The applicant continued in the Army till he was discharged on 31.10.1975. In the discharge certificate applicant's date of birth is given as 13.10.1928 on the basis of calculation referred to above. On 1.7.1977 he was re-employed as L.D.C. in the Office of Controller of Defence Accounts, Central Command, Meerut. On 4.6.1977 he was medically examined and the Doctor estimated his age about 50 years. In the 'Form of Health Certificate' there is a column in which the age as stated by the Government servant is to be filled in and in this column '49 $\frac{2}{12}$ years' is written. This medical certificate is dated 4.6.1977. In the declaration form dated 4.6.1977 the applicant gave his date of birth as 12.2.1928

which is entered in his High School Certificate issued by the Board of High School and Intermediate Education, United Provinces. It shows that Prem Prakash Verma appeared in High School Examination held in August, 1947 at Meerut Centre with English, Commerce and other subjects; and this certificate is dated 27.9.1947. The applicant was appointed in the Army on 13.10.1947. As already stated, in the declaration form the applicant has mentioned that he was born on 12.2.1928 and by putting an asterisk against the date it was mentioned at the bottom of the page that per discharge certificate the applicant was 19 years of age at the time of enrolment in the Army. So in this new service

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record his date of birth was recorded as 12.2.1928 which is based on the High School Certificate.

Applicant's contention is that since his date of birth was recorded in the Army as 13.10.28, so under clause (3) of Rule 80 of the General Financial Rules the same date of birth should have been entered when he was reemployed in the office of the Controller of Defence Accounts. An average man should be credited with average common sense. The applicant passed his High School Examination in the year 1947, and we are told that passing a High School Examination in those days was considered something of importance. The applicant appeared in the High School Examination held in August 1947. The High School Certificate is dated 27.9.1947 and we do not know when it was received by the applicant from the Board. However, he was an educated person. He had appeared in and passed the High School Examination held in August 1947 and he was employed in the Army in October, 1947. Thus, as regards applicant's date of birth, everything was quite fresh at the time of his appointment in the Army. He must have filled in the date of birth in his High School Examination Form, which must have been submitted much earlier than the date on which the actual examination was held. So, in the normal course the applicant should have given the actual date of birth on 13.10.1947 when he was employed in the Army. In case he did not remember the exact date he could have given the month of birth and if he could not remember the month at least he could have given the year in which he was born. However, even if nothing

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in this respect was ^{in his memory} ~~remembered~~, he could have stated that roughly speaking he was ^{old} ~~of~~ about 19 years and that he would subsequently produce his High School certificate to prove his exact age. In any view of the matter the applicant should have subsequently brought the High School Certificate to the notice of the authorities and got the entry regarding his age corrected. Nothing like that was done and when the medical examination took place even then the applicant did not give his exact date of birth to the Doctor. So, the facts and the circumstances detailed above lead to irresistible conclusion that the date of birth recorded in the High School Certificate was deliberately concealed and the applicant simply stated that he was about 19 years old and he knowingly did not state that he was born on 12.2.1928 as per High School Certificate. Normally speaking there is a motive behind every action, and in this case the motive is apparent as by concealing the date of birth indicated in the High School Certificate the service age of the applicant gets extended by about 8 months. To sum up, applicant's date of birth as recorded in the High School Certificate is 12.2.1928. When he entered the Army on 13.10.1947 he deliberately gave his age as 19 years and concealed the exact date of birth given in his High School Certificate with the motive stated above. The applicant is not contending that the entry in the High School Certificate regarding his date of

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birth is incorrect. He is simply taking shelter *behind*
m Rule 80 of the General Financial Rules (photo-
copy of the rule given at page 8 of the paper book,
as 'Exhibit AA') which is reproduced below:-

"80(1) - If a Government servant is unable to state his exact date of birth but can state the year, or year and month of birth, the 1st July or the 16th ~~16th~~ of the month, respectively shall be treated as the date of his birth.

(2) If he is only able to state his approximate age, his date of birth shall be assumed to be the corresponding date after deducting the number of years representing his age from the date of appointment.

(3) When a person who first entered Military employment is subsequently employed in a Civil department, the date of birth for the purpose of the Civil employment shall be the date stated by him at the time of attestation, or if at the time of attestation he stated only his age, the date of birth shall be deduced with reference to that age according to sub-rule (2) of this rule."

The applicant gave his age as about 19 years at the time of his entry in the Army. He did not give the exact date of birth before the Doctor. For the sake of re-employment the applicant had to fill in a form in which there is a column meant for educational qualification and since he had to mention in that column that he passed High School he had ~~also~~ ^{to} mentioned ⁱⁿ that in the High School Certificate his date of birth is written as 12.2.28 and he produced the same in proof of the age so

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Under the circumstances stated above stated. ~~Here~~ he was cornered to mention his date of birth as given in the High School Certificate. Prior to it at two stages the applicant simply asserted that he was about 19 years of age and, as already stated, he deliberately concealed his actual date of birth in order to remain in service for 8 months more. The aforesaid rule which says that if a Government servant is merely able to state his approximate age then only his date of birth will be assumed in the prescribed manner. Here was a case of deliberate concealment by a literate person who knew the date of his birth and it was not a case where a person is not in a position to know the actual date, month or even the year of his birth and he gives his age on a rough estimate basis. So, on the facts and in the circumstances of the case, the applicant cannot take benefit of Rule 80(3) mentioned above.

To our mind, the application has no force and is dismissed with costs on parties.

V.S. Bhir
(V.S. BHIR)
MEMBER (A)

S. Zaheer Hasan
(S. ZAHEER HASAN)
VICE CHAIRMAN.

May 14, 1987.
R.Pr.