

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 47/86 198
T.A. No.

DATE OF DECISION 30.4.1986

NEW DELHI - 110001

Shri Nagina Singh Chemdel Petitioner

Shri B.S. Arora Advocate for the Petitioner(s)

Versus

Union of India & Others Respondent

Smt. 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.

JUDGEMENT

The petitioner has come up under Section 19 of the Administrative Tribunals Act praying that his date of birth which is recorded in the Service Book as 1st January, 1926 may be changed to 30.4.1933. The brief facts of the case are as follows.

2. The applicant was appointed as a Peon in the Railway Board on 4.3.1948 and the date of birth recorded at that time was 1st January, 1926. Only in 1981, i.e. 33 years after entering service, he started moving authorities for changing his date of birth to 30.4.1933 on the basis of the transfer certificate from the educational institution in District Patna. The certificate is dated 30.4.1981. The applicant retired on 31.1.1986.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents. The arguments of the learned counsel for the petitioner is that the petitioner being illiterate, and in accordance with Rule 145 of the Indian Railway Establishment Code Volume I, the date of birth should be entered by a senior Class III Railway servant and witnessed by another Railway servant. The learned counsel for the respondents produced the Service Book wherein the date of birth had been duly witnessed by the Assistant Secretary of the Railway Board and recorded by a Class-III Railway servant. The same rule provides that any satisfactory explanation for changing the date of birth should be given within a reasonable time after joining service. It is felt that 33 years after joining service cannot be considered to be a reasonable time for changing the date of birth.

4. It also transpires that if the changed date of birth, i.e. 30.4.1933 is accepted, the age of

the petitioner at the time of joining service on 4.3.1948 will be less than 15 years whereas in accordance with the learned counsel for the petitioner himself, the minimum age for Class-IV staff was 16 years if not 18 years as urged by the learned counsel for the respondents.

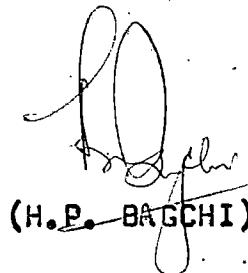
5. We are also not prepared to accept that the applicant is totally illiterate. He has been signing the various records right from 1948 in good English hand and his innocence about his date of birth cannot be taken to be so abysmal as to overlook a difference of seven years. The three criteria which have to be followed in deciding cases of change of date of birth have been succinctly indicated in Note 5 below F.R. 56 as quoted below:-

- "(a) a request in this regard is made within five years of his entry into Government service;
- (b) it is clearly established that a genuine bonafide mistake has occurred; and
- (c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service."

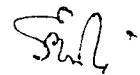
6. We find that none of the three criteria prescribed above is met in the case of the applicant. He did not move the authorities within five years of joining service, he has not given satisfactory explanation about the alleged error in the date of birth and with the alleged

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date of birth now being projected he would have been disqualified for joining service as being under-age on 4.3.1948. For the reasons indicated above, we find no merit in the application and reject the same. In the circumstances of the case, there will be no order as to costs.



(H.P. BAGCHI)



(S.P. MUKERJI)