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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 481
T.A. No.

1986.

DATE OF DECISION September 10, 1987.

Shri Ram Bharose Lal Petitioner

Shri Ram Saran Das, Advocate for the Petitioner(s)

Versus

Director, Map Publication, Respondent

Survey of India, Dehradun.

Shri P.H. Ramchandani, Advocate for the Respondent(s)
Sr. Counsel.

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice-Chairman.

~~The Hon'ble Mr.~~

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. Whether to be circulated to other Benches? *No*

B.C. Mathur
(B.C. MATHUR)
VICE-CHAIRMAN.
10.9.1987.

11

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI.

REGN. NO. OA 481/1986 .

September 10, 1987.

Shri Ram Bharose Lal

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Applicant.

Vs.

Director, Map Publication, Survey
of India, Dehradun. ...

Respondent.

CORAM:

Hon'ble Mr. B.C. Mathur, Vice-Chairman.

For the applicant ...

Shri Ram Saran Das, counsel.

For the respondent ...

Shri P.H. Ramchandani,
Sr. Counsel.

JUDGMENT:

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This is an application under Section 19 of the Administrative Tribunals Act, 1985 against the impugned order No. 101/HLO/5-A-2-397 dated 19.2.1985 from the Establishment & Accounts Officer, Survey of India, Dehradun (Annexure 7). The case of the applicant is that he was appointed as "Sweeper" Class IV service on 8.9.1950 by the Director, Map Publication, Survey of India, Hathibarkala, Dehradun and that in his service record the date of birth was erroneously recorded as 1.7.1928. He had made a representation to the Dy. Director, Survey of India, Dehradun on 9.4.1965 in which he mentioned that he came to know from the Junior High School Examination 1964 Certificate that his date of birth was actually 15.8.1934. Based on the Junior High School Examination Certificate as well as his Horoscope, the applicant has made several representations. According to the applicant, no enquiry has been made to ascertain the

for change of his date of birth

12

date of birth of the applicant.

2. In the written statement filed on behalf of the respondent it is stated that at the time of the initial appointment, the applicant had given his date of birth as 1.7.1928 which was duly recorded in his service book and was attested by the higher officer, and if the applicant's date of birth was taken as 15.8.1934, as now contended by him, the applicant would have been only 16 years of age at the time of his appointment and he would not have been eligible for such an appointment as the minimum age at the time of employment was eighteen years. It has been further stated that on 29.3.1982, the applicant was appointed on promotion to officiate as Despatcher in Grade 'C' and was put to medical examination. According to the certificate issued by the Superintendent, Doon Hospital, Dehradun dated 26.3.1982 (Annexure R I), the applicant himself had declared before the doctor that he was 53 years old and the doctor also certified that he appeared to be about 53 years of age. This was also given by him in his written declaration to the doctor who examined him (Annexure R-II). The age given by the applicant and as certified by the doctor thus tallies ^{Ben} with the date in the service book. It has been also mentioned in the written statement that the applicant appears to have passed his Junior High School Examination in 1964 which is long after he has joined service and

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he was in a position to give any date to the school authorities for this purpose as he liked. But no reliance can be placed on the date of birth which he changed long after he joined service. It has also been stated that after making enquiries in the office of the Deputy Director, Geodetic and Research Branch Office, it has not been possible to find any correspondence alleged to have been made by the applicant in connection with the change of date of birth. Even if it is accepted that he made an application on 9.4.1965, it should be considered as having been made at a belated stage and, therefore, could not be accepted. The applicant had represented his case to the Secretary, Ministry of Science and Technology, New Delhi on 27.3.1985 and decision ^{conveyed by} ~~having~~ rejection ^{of} ~~by~~ the Secretary was conveyed to him on 24.6.1986 vide Annexure R-IV.

3. The learned advocate for the applicant has stated that although the service record of the applicant shows his date of birth as 1.7.1928, the record does not mention the source from which this date has been recorded. He has also stated that the applicant had filed a copy of the Horoscope along with his original application in 1950 giving the date of birth as 15.8.1934 and the same should have been recorded by the respondents. In support of this, he has cited the judgment of this Tribunal in HIRA LAL Vs. UNION OF INDIA (ATR 1987(1) CAT 414) wherein it was held:

"A Government servant is entitled to show that the entry made in his service record does not represent his true date of birth."

In that case the Court held that there could not be any limitation to establish the fact of wrong recording of date of birth. In that case the entry in the service record was not based on any school record or any authentic document and as the applicant was able to establish his correct date of birth, later, ~~The same was~~ ^{then} ~~should be~~ ^{had} corrected in the service book. The case of Shri Hira Lal Vs. Union of India referred to above actually deals with the question of limitation. In that case the applicant was able to produce a report by the District Magistrate who made proper enquires and then certified the date of birth, which is not the case of the applicant.

4. The learned advocate for the respondents has emphasised the fact that in the averment of the applicant there is no mention that any Horoscope was produced at the time of his appointment in 1950 and that his date of birth was actually recorded on the basis of his own statement which was signed by him and attested by a senior officer. ^{According to him} ~~This~~ cannot be doubted under any circumstances. The question of limitation would not have ~~been~~ arisen had the applicant produced a school leaving certificate which was prior to the date of his joining the Government service. A school certificate issued about 14 years after his date of joining cannot be accepted as indicating his correct date of birth because the certificate as such was based on an affidavit and Horoscope filed by the

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15-

applicant. If the applicant could give a date of birth to the school authorities, he should have also taken steps simultaneously or earlier to give the same date of birth to his departmental authorities to change his date of birth. ^{or} Merely on the basis of school leaving certificate of a much later date ^{which} does not prove anything, *the service records cannot be changed.* [^] ^R The applicant has already enjoyed service for 36 years and by no stretch of imagination he could be allowed a further service of another six years.

5. The learned counsel for the applicant has indicated a few cases where persons below the age of 18 years at the time of their initial recruitment were appointed in various categories and, therefore, there was nothing unnatural about the applicant being appointed at the age of 16 years. Even if this point is accepted, the fact remains that the date of birth of the applicant as recorded in the service book is 1.7.1928 and if any change has to be made, there should be conclusive proof like recording of date of birth in the Municipality Register or in a School Leaving Certificate prior to the date of appointment of the applicant. As the applicant took the Junior High School Examination as a private candidate, it was open to him to indicate any date of birth he liked, and no reliance can be placed on Horoscope produced at that time. In the circumstances of the case, I see no reason to interfere with his retirement or change in the date of entry written in the service

book, the application is, therefore, dismissed.

There will be no order as to costs.



(B.C. MATHUR)
VICE-CHAIRMAN
10.9.1987.