

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. QA 678
T.A. No.

1986.

DATE OF DECISION July 1, 1987.

Shri Surender Kumar Petitioner

Shri D.S. Golani, Advocate for the Petitioner(s)

Versus

General Manager, Northern Railway Respondent
and another.


Shri K.N.R. Pillai, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman.

The Hon'ble Mr. Kaushal Kumar, Member.

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 ? No
4. Whether to be circulated to other Benches ? No



(Kaushal Kumar)
Member
1.7.1987.



(K. Madhava Reddy)
Chairman
1.7.1987.

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI

REGN. No. OA 678/1986

July 1, 1987

Shri Surender Kumar
Vs.

- Applicant

General Manager, Northern
Railway and another

- Respondents

CORAM:

Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member.

For the applicant


- Shri D.S. Golani, counsel.

For the respondents

- Shri K.N.R. Pillai, counsel.

(Judgment of the Bench delivered by Hon'ble
Mr. Justice, K. Madhava Reddy, Chairman)

In this application, under Section 19 of the Administrative Tribunals Act, 1985, the applicant calls in question the Order No. 729-E/68/59/KA.9 dated 10.7.1986 (Annexure VI) issued by the Assistant Personnel Officer IV (N.R.), New Delhi, by which the leave account of the Applicant "who is to retire on 30.9.1986" was required to be sent for further action. While the stand of the respondents, on the basis of the entries in the applicant's service book, is that the applicant's date of birth is 20.9.1928 and , therefore, he would attain the age of superannuation which in this case is 58 years in September, 1986, the applicant claims that his date of birth is 10.9.1936 and he is entitled to continue in service until 30.9.1994. The basis for the applicant's claim is a certificate issued by the Basic Primary School No.1, Shikarpur, District Bulandshahr (U.P.) on 1.1.1986(A.II) wherein his date of birth is recorded as 10.9.1936.



For the reasons which we record hereinafter, this certificate cannot be relied upon and any request for change of date of birth in the service record on the strength of that certificate cannot be accepted.

This certificate appears to be one issued by a school which he joined on 7.12.1941 and left barely 7 months thereafter on 4.7.1942. Though this certificate is purported to have been issued on 1.1.1966, it did not see the light of the day until 1983 when for the first time the applicant herein applied for correction of his date of birth in the Service Book. The applicant states that he made this application because he came to know in 1983 for the first time that his date of birth in the Service Book was entered as 20.9.1928. This explanation is falsified by the fact that in the Service Book maintained by the respondents from ^{the} date he joined the service i.e. 29.7.1953 the applicant has affixed his signatures as well as his L.T.I. In that Service Book, his date of birth is recorded as 20.9.1928. The Service Book also shows that he appeared before the doctor on 2.7.1953 for being medically examined for fitness of appointment. Before that doctor the applicant declared his age to be 24 years and signed that declaration. That declaration of 2.7.1953 also corroborates that he was born in 1928 and not in 1936 as now claimed by him. By 1983, the applicant had completed 30 years of service; yet he did not seek correction of the date of birth in his Service Book. We are unable to accept the contention

BA-678/86
S
[Signature]

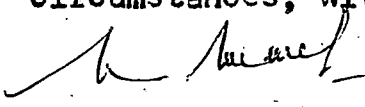
89
CA-678/86

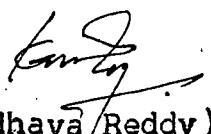
of the applicant that he came to know about the entry of date of birth in Service Book as 20.9.1928 for the first time in 1983. There is no explanation as to why he thought it necessary to obtain a certificate from the school in 1966 when he had not obtained such a certificate while he applied for service or at the time of joining the service. If he had obtained the certificate in the year 1966 and it was for the purpose of getting his date of birth corrected, he would have filed such an application in 1966 or soon thereafter. He filed it nearly 17 years thereafter. It is, therefore, doubtful if such a certificate was issued in 1966 at all.

Further, the applicant who is present in the Court, states that he has passed 4th or 5th Class. This certificate states that he had left the school while he was in E-2 Class. Obviously, he had joined some other school thereafter and studied upto 4th or 5th Class. No certificate from that school is produced. Presumably, that certificate does not corroborate his claim that he was born on 10.9.1936. While on the one hand he has not questioned the official record for over 30 years, on the other hand he has suppressed the material evidence which he could have produced in support of his claim. In any event, no explanation is given by him for not questioning the date of birth much earlier. Moreover, as this is the only evidence in his possession,

67

we do not see any ground to doubt the official record which has been maintained by the respondents in the usual course of business. The claim of the applicant for correction of his date of birth in the Service Book is wholly untenable. So long as the entry in the Service Book as regard the date of birth stands, he would be attaining the age of superannuation on 30.9.1986 and any action taken on that basis would be unexceptionable. Another glaring fact that cannot be ignored is that if the correct date of birth as claimed by the applicant is 10.9.1936, on 29.7.1953, the day he was appointed, he would have been a minor and would have been ineligible for appointment. This application is wholly without merit; it fails and is accordingly dismissed but in the circumstances, with no orders as to costs.


(Kaushal Kumar)
Member
1.7.1987


(K. Madhava Reddy)
Chairman
1.7.1987