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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1123.  
T.A. No.

1986.

DATE OF DECISION February 24, 1987.

Shri Harsaran, Petitioner

Shri R.F.Oberoi, Advocate for the Petitioner(s)

Versus

Union of India & others Respondent s.

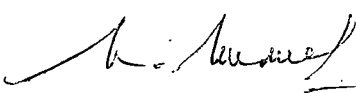
Mrs. Raj Kumari Chopra, Advocate for the Respondent(s)

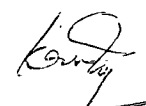
CORAM :

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  
24.2.1987.

  
(K. Madhava Reddy)  
Chairman  
24.2.1987.

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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

MP No.946/86 in  
OA No.1123/86

Dated: 24.2.1987

Shri Harsaran.

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Applicant

Vs.

Union of India & Others

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Respondents

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

For the Applicant

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Shri R.P.Oberoi, counsel.

For the Respondents

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Shrimati Raj Kumari Chopra,  
counsel.

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

In this application filed on 11.12.1986, the applicant  
had prayed for several reliefs enumerated below:-

- " (i) to quash the impugned orders No.1923/SG/963  
EIP dated 6.8.1986 passed by the respondent No.  
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- (ii) to quash the orders No.101/Superannuation/  
214/E1 dated 9.3.1984 and No.1062/HS/6/EIA  
dated 14.12.1983 passed by Respondent No.6
- (iii) to quash the order No.15001/IND/1000/EIB(S)  
dated 14.8.1985 passed by respondent No.5.
- (iv) to declare that the change in the declared/  
accepted date of birth in the service book  
from 18.12.1929 to 1.7.1924 was incompetent  
and unauthorised and consequently his retirement  
from service on 1.7.1984 was illegal;
- (v) to correct the date of birth as 18.12.1929 and  
to reinstate the applicant in service and to  
permit him to continue in service till the date  
of his retirement on basis of the corrected date  
i.e. upto 31.12.1989;
- (vi) to grant to the applicant the pay scale of  
Rs.260-400 in the trade of Painter w.e.f.1.1.73.
- (vii) to grant to the applicant pay scale of Rs.330-480  
(in the grade of Highly Skilled Grade II) w.e.f.  
28.12.81, the date from which his junior was

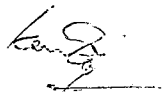
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granted Selection Grade;

- (viii) to pay to the applicant arrears of pay and allowances on the basis of revised scales of pay as requested in (vi) and (vii) above.
- (ix) to pay interest @ 18% per annum w.e.f. the date the amounts at (viii) became due to the date of actual payment.
- (x) to grant all consequential benefits which would have been admissible to him for his continuation in service but for his forced and illegal retirement w.e.f. 1.7.1984 by way of promotion to higher grade in preference to his juniors who had been wrongly promoted denying his legitimate claims and promotions to the grade of highly skilled grade I in the scale of Rs.380-560 on the basis of his seniority in the cadre.
- (xi) compensatory/exemplary damages for agony, mental torture and financial loss caused to the applicant by wrongful and capricious actions and negligence of the respondents.
- (xii) Costs of the application.
- (xiii) Any other relief or consequential benefit which this Hon'ble Tribunal may deem appropriate and proper on the facts and circumstances of the case. "

2. When this matter came up before this Tribunal for admission on 16.12.1986, it was pointed out to the applicant that the application is time barred so far as the relief for change of date of birth is concerned. In regard to other reliefs prayed for therein the applicant undertook to file separate applications. The applicant has now come up with MP No.946/86 for amendment. By this MP he requests that the original application be amended so as to confine it to the reliefs as to correction of date of birth and for the relief claimed in the new clause x(a) to be inserted as under:-

" to pay interest @ 18% p.a. w.e.f. the date the amounts at(x) become due to the date of actual payment".



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The petition for amendment is allowed. This amended application is, therefore, confined to the relief as to correction of the date of birth in the service record. According to the applicant, his correct date of birth is 18.12.1929 and not 1.7.1924 as entered in the service record. He avers that originally in the service record his date of birth was recorded as 18.12.1929 but it was later corrected without his knowledge as 1.7.1924.

On the basis of that entry the applicant was retired on 30.6.1984 as having attained the age of superannuation. The applicant has filed this application on 18.12.1986.

3. According to the applicant, he had applied for correction of his date of birth on 20.7.1982 and his request was rejected on 20.9.1982. He made a second representation on 8.12.1983 and that was also rejected on 14.1.1984. He did not move either the Civil Court or the High Court challenging the said rejections; nor did he move the Tribunal within six months from the date of its constitution i.e. 1.11.1985 and before 30.4.1986. The order of rejection was made first on 20.9.1982 i.e. more than 3 years prior to the constitution of this Tribunal. If that order is the basis for the present application this Tribunal would have no jurisdiction to entertain the application at all. Even assuming that the second order of rejection dated 14.1.1984 which was made within 3 years of the constitution of the Tribunal gives a fresh cause of action for the applicant to move the Tribunal the application ought to have been filed within six months of the constitution of the Tribunal. That was not done. It was filed more than one year from the date of the constitution of the Tribunal. The application is, therefore, clearly barred by time. The applicant states that he retired from service on 30.6.1984 and he could have filed a suit within 3 years of the date of retirement or date of rejection of his claim for

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correction of the entry in service record. This contention of the applicant cannot be upheld. The retirement of a public servant is based on the date of birth as entered in the service record. When the application of the applicant for correction of date of birth was rejected on 14.1.1984 for the second time, the applicant ought to have moved the Court for appropriate directions. He did not do so. He was retired consequent upon the rejection of his claim for correction of date of birth in the service record. The date of retirement does not furnish a fresh cause of action. Even so ~~no~~ suit having been filed before 1.11.1985, he could not have filed any suit thereafter in regard to this service matter. He could only file a petition under Section 19 of the Administrative Tribunals Act within one year of the order of rejection or within 6 months of the 'Appointed Day' i.e. before 30.4.1986. His plea that some Advocate advised him that application under Section 19 of the Act could be filed within 3 years cannot be accepted. The applicant has not mentioned the name of the Advocate who so advised him. We, therefore, see no reason to condone the delay in filing this application. Even otherwise the application is devoid<sup>of</sup>/merit.

4. The claim of the applicant that he was born on 18.12.1929 and that the entry which originally stood as 18.12.1929 was surreptitiously altered as 1.7.1924, is to say the least, absolutely untenable claim. It is urged that since the applicant could not give his date of birth and no record was available on the basis of which his date of birth could be recorded, he was sent to a Medical Officer for verification of his age and the Medical Officer had given a certificate in the year 1950 certifying that the applicant was born in the year 1929. There is no record to that effect and in any event such a claim is not supported by any other document. On the other hand it is positively belied by

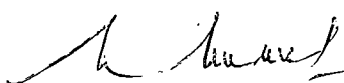
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voluminous documentary evidence.

5. His service book clearly records his date of birth to be 1.7.1924. Initially it was entered as 18.12.1924 but that was corrected as 1.7.1924. The entry 1924 remains untouched. That correction is signed by the applicant himself, on 23.12.1958. Even the subsequent entries in the service record show his year of birth to be 1924. When he was appointed to the service, a letter was addressed to the Superintendent of Police, Delhi District for verification of his character and antecedents- vide letter No.1034/13/EI dated 27.4.1950. In that letter he is stated to be 26 years old which corresponds with the year of his birth 1924 as entered in the service record.

6. In the nominal roll of the Garrison Engineer maintained for <sup>a</sup> number of years his date of birth is shown as 1.7.1924. Even on 20.4.1960, the applicant under his own signatures declared his date of birth to be 1.7.1924. In the face of this voluminous and impeachable evidence, it is difficult to accept the claim of the applicant for correction of his date of birth on the eve of his retirement. We find absolutely no merit in this petition; it is accordingly dismissed.



(Kaushal Kumar)  
Member  
24.2.1987.



(K. Madhaya Reddy)  
Chairman  
24.2.1987.