

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1204/86. 198  
T.A. No.

DATE OF DECISION 18.12.1987

Shri Jaochim David \_\_\_\_\_ Petitioner

Shri E.X. Joseph \_\_\_\_\_ Advocate for the Petitioner(s)

Versus

Union of India & Ors. \_\_\_\_\_ Respondent

Shri K.C. Mittal with Shri \_\_\_\_\_ Advocate for the Respondent(s)  
K.K. Gupta,

CORAM :

The Hon'ble Mr. Justice J.D. Jain, Vice-Chairman.

The Hon'ble Mr. Birbal Nath, Administrative Member.

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

18/12/87  
(BIRBAL NATH)  
Member (A)

(J.D. JAIN)  
Vice-Chairman.

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Regn. No. D.A. 1204/86.

VS.

COR AM:

Hon'ble Mr. Birbal Nath, Administrative Member.

For the respondents: Shri K.C. Mittal with Shri M.K. Gupta,  
counsel.

(delivered by Hon<sup>ble</sup> Mr. Birbal Nath, AM).

2. The facts leading to the application are that the applicant was recruited to the post of Messenger under the Directorate of National Archives of India on 14.6.1951. The applicant has studied upto 6th standard and knows only Urdu and Hindi. When he joined service, according to him, he had produced the school

leaving certificate which shows that his date of birth was 24th March, 1929 (Annexure 2). However, his date of birth was recorded in the service record as 22nd March, 1927 and he has accordingly since retired from service. He claimed that he had applied for change of his date of birth in 1980. The applicant claimed that the same date of birth is written in his Baptism Certificate issued by the Church of Sardhana.

3. The respondents, through the counter affidavit, maintained that the applicant had joined the Government of India Press where he might have submitted his school leaving certificate. Since he was received on transfer from the Government of India Press, the question of submitting school leaving certificate by the applicant to the Department of Archives did not arise. They maintained that he had signed his service record on 5.9.1980 and earlier also in 1962 and 1978 etc. and he had never raised any objection about his date of birth. He had raised this objection on 13.2.1985 only, and in this request, he had prayed for appointment of his son on compassionate grounds rather than the correction of his date of birth. The respondents filed a copy of the service record of the applicant to show that the applicant had signed the entry regarding his date of birth as 21.3.1927 on 5.9.1980 and earlier also.

4. In his rejoinder, the applicant also filed a copy of an Office Memorandum from the Administrative Officer, National Archives (Annexure A-5) which shows that the applicant had taken up the question of his date of birth as early as 28.2.1978 to rebut the averment of the respondents that he had taken up this question for the first time on 13.2.1985 (para. 6.7 of the counter).

5. During the course of arguments, it was found that the respondent-Department had made no enquiry

about the genuineness of the school leaving certificate as well as the Baptism certificate issued by the aforesaid Church because it was maintained that the Baptism certificate is issued soon after the birth and could not be manipulated or concocted. The respondent Department was asked to verify the correctness of the above said two documents from the authorities who had issued the same. The Church of P.O. Sardhana, District Meerut confirmed the issue of the original Baptism certificate. In pursuance of the directions issued by the Tribunal, <sup>the Principal of</sup> St. Charles' Inter College, Sardhana (Meerut) has sent a true copy of the school leaving certificate of the applicant which shows that the date of birth of the applicant was 24th March, 1929. Similarly, the Baptism certificate sent by the Administrator of Basilica and Shrine of Our Lady of Graces, P.O. Sardhana, Distt. Meerut (U.P.), vide his letter dated 16th November, 1987, shows that the date of birth of the applicant is 22nd March, 1929 and the date of Baptism is shown to be 24th March, 1929. Thus, there is reliable documentary evidence to show that the date of birth of the applicant was March 22/24, 1929.

6. The contention of the respondents that a belated request for change of date of birth cannot be entertained under the Rules, is not well founded in law. It is well settled by now that the change in the date of birth is a legal right and has to be processed on the merits of each case. This view is fortified by the judgment of the Himachal Pradesh High Court

in the case of Shri Manak Chand Vaidya vs. State of Himachal Pradesh and others.<sup>1</sup>

7. It is also to be noticed that the respondents had almost conceded the applicant's request vide noting on his application dated 13.2.1985 made for changing his date of birth, as under:-

"It can be altered by the Head of the Deptt. if he is satisfied/certifies that the change is necessitated due to bonafide clerical error in terms of G.F.R. 79(2)."

From the above, it is clear that the respondents were willing to change the date of birth of the applicant if it was a clerical mistake. In view of the reliable documentary evidence produced on behalf of the applicant, it is clear that the year of birth of the applicant was 1929 and not 1927. The mistake might have been clerical or otherwise, but now well settled law is that a Government servant can seek change in his date of birth at any time during his service. The plea of belatedness is not enough by itself to resist the request of a Government servant seeking change of date of birth on reliable documentary or other evidence.

8. In view of the foregoing factual and legal position, the application is allowed and the applicant shall be deemed to have continued in service till his retirement on superannuation on the basis of the date of birth as determined by us viz. 22nd March, 1929. He shall also be entitled to all the consequential reliefs by way of salary and other allowances etc.

There will be no order as to costs.

(B) 18/12/87  
(BIRBAL NATH)  
Member (A)

18th December, 1987.

J. D. Jain  
(J.D. JAIN)  
Vice-Chairman.