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Date of decision: 13.9.90 .

R.A. No. 26/90  
O.A. No. 638/86.

Shri Sardul Singh                      ...                      Applicant

vs.

Union of India                      ...                      Respondents.

For the applicant: Shri S.K. Bahadur, counsel.

For the respondents: Shri M.L. Verma, counsel.

CORAM:

Hon'ble Mr. T.S. Oberoi, Member (J)

Hon'ble Mr. I.K. Rasgotra, Member (A).

**JUDGMENT .**

(delivered by Shri T.S. Oberoi, Member).

The applicant, Shri Sardul Singh, who was earlier working as a Foreman (Elect.) Sub-Division No. 1, President's Estate, CPWD, New Delhi, has filed the instant R.A. seeking, inter alia, orders of the Tribunal to direct the respondents to correct his date of birth from 16.4.1927 to 17.3.1934 and to take him back in service till his superannuation based on the latter date of birth, with other consequential benefits.

2. Briefly, the facts of the case are as under. The applicant had filed O.A. No. 638/86 seeking the prayer mentioned in para. 1 above. The application was heard by a Bench comprising Hon'ble Shri K.S. Puttaswamy, Vice-Chairman, as he then was and Hon'ble Shri V.S. Bhiri, Member, as he then was. By an order dated 24.4.1987, while dismissing the application, the Bench made, amongst others, the

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following observations:-

"If the applicant was really born on 17.3.1934 as claimed by him, nothing prevented him from obtaining the school leaving certificate for his initial entry to the Primary and other schools till he joined D.A.V. School and produce them in proof of his case. As he has not produced them, we must necessarily draw an adverse inference against the applicant as enjoined by section 114(g) of the Evidence Act...."

3. The applicant has stated in the R.A. that the Tribunal overstepped in its jurisdiction by suggesting the requisite evidence needed to grant relief to the applicant, rather than deciding the issue on merits on the basis of evidence adduced on record. He has further stated that no opportunity was given to him to collect and produce the suggested requisite evidence for the satisfaction of the Tribunal.

4. In accordance with the observations of the Tribunal extracted in para. 2 supra, the applicant procured a certificate dated 21.7.1987 (Annexure K) in which it was certified that the applicant was admitted in the concerned school on 17.4.1939 in class Ist and according to the school record, his date of birth is 17.3.1934. Another document so procured by the applicant is a school leaving certificate issued by Nagarpalika Prathamik Bal Vidyalaya, Mandir Marg, New Delhi on 20.7.1987. After procuring these documents, the applicant filed O.A. No. 1849/87 praying for correction of his date of birth, as mentioned above. The application was heard by this Bench and vide order dated 17.1.1990, the application was rejected. It was mentioned in the said order dated 17.1.1990, that if at all, some fresh material, which was not earlier available to him and which came to his knowledge subsequently, and the same could help in any manner, such fresh material would, at best, form a

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ground for seeking a review of the judgment already rendered in the case. In view of this order of the Bench, the applicant has come up with the present R.A. seeking review of the order dated 24.4.1987 passed in O.A. No. 638 of 1986.

5. Alongwith the R.A., the applicant has also filed an application under Section 21(3) of the Administrative Tribunals Act, 1985, stating that there was no negligence or any inaction or want of bona fides imputable to him and appropriate and necessary action was taken within reasonable time for securing justice. He also cited certain rulings, particularly AIR 1978 SC 537 - Mrs. Sandhya Rani Sarkar Vs. Smt. Sudha Rani Debi - laying down that the provisions of the Limitation Act for condoning the delay should be liberally construed, depending upon facts of each case, so as to advance substantial justice, as in the instant case when the applicant had taken all necessary steps to procure copy of the certificate (Annex. K) from the New Delhi Municipal Committee, at the earliest. He also referred to the judgment in O.A. No. 321/86 decided by this Tribunal on 9.12.1986 (Hira Lal Vs. Union of India), wherein it was held that respondents should not be allowed to turn about and reject the report of the S.D.M. Parliament Street, New Delhi, to whom the matter was referred under Section 13(3) of the Registration of Births & Deaths Act, 1969.

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6. The learned counsel for the respondents filed reply to the R.A. in which the prayer of the applicant has been opposed mainly on the ground that the R.A. has been filed after the lapse of nearly three years of the judgment. The respondents have further stated in their reply that the judgment is final and binding and the applicant should have furnished all the relevant documents in support of his claim for the consideration of the Department.

7. We have heard the learned counsel for the applicant in support of the case of his client and the respondents opposing the prayer of the applicant. We have also carefully gone through the documents placed on the file. The order dated 24.4.1987 passed by another Bench of the Tribunal in unambiguous terms rejected the application. The mere observation, as extracted above, made by the said Bench of the Tribunal with regard to obtaining the School leaving certificate for his initial entry to the primary and other schools etc. does not, in our view, entitle the applicant to re-agitate the matter once concluded after a careful scrutiny of the case. The language used by the Bench to express their opinion for not accepting the plea for change of date of birth of the applicant does not bestow a right on the applicant to press his claim which has already been rejected. Apparently, the documents now produced by the applicant in support of his claim have not inspired the confidence

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of the respondents who have rejected his claim. The applicant joined service as a Wireman on 1.8.1948. He moved the Director-General of Works, C.P.W.D., New Delhi for alteration of his date of birth, for the first time, on 4.3.1982, i.e. after about 34 years of joining Government service. During these 34 years, the applicant simply accepted his date of birth as 16.4.1927. The applicant has not explained the reasons for the inordinate delay in moving the authorities for relief. Further, a perusal of the documents on the basis of which the learned S.D.M., Patiala House, New Delhi, issued the certificate, shows that it was not the original record of the New Delhi Municipal Committee, but the affidavit of the applicant himself. Had it been on the basis of the original record regarding registration of births with the N.D.M.C. or some hospital record, the position would have perhaps been different. Moreover, with his date of birth as 17.3.34, the applicant would have been just about 14 years and 4 months, or so (his date of joining service being 1.8.1948) which, too, does not normally fit in, for joining Government service.

8. In view of the foregoing discussion, we find no merit in the R.A. and accordingly, dismiss the same. There will be no order as to costs.

*(Signature)*  
(I.K. Rasgotra) 13/9/90  
Member (A)

*(Signature)* 13.9.90  
(T.S. Oberoi)  
Member (J)