

Central Administrative Tribunal
Principal Bench, Delhi.

REGN. NO. O.A. 1289 of 1987 Date of decision 28.10.87

Shri T. Wangtak

....

Applicant

Vs.

Union of India & Others

....

Respondents

PRESENT

Shri B.R. Rawal

...

Advocate for the applicant.

Shri V.P. Khurana

...

Advocate for the respondents.

CORAM

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

This is an application under Section 19 of the Administrative Tribunals Act, 1985, against the impugned orders No. 15/74/70-E-9401 dated 21st August, 1987 passed by the Under Secretary (Pers) Cabinet Secretariat, rejecting the claim of the applicant for changing his date of birth.

2. The applicant is now serving as a Deputy Field Officer in the Research and Analysis Wing of the Cabinet Secretariat. He was recruited as a Head Constable on 1st May, 1950 in J&K Police and came on deputation to the Intelligence Bureau (Ministry of Home Affairs) in 1953 and was allotted to RAW in 1969. The case of the applicant is that at the time of his recruitment in J&K Police, the atmosphere in J&K was surcharged and recruitment was taking place on a war footing. Youngmen who had completed 18 years of age were recruited on a large scale and their age, as declared by the candidates or their guardians verbally, was taken on record. In the case of the applicant, his guardian gave the approximate date of birth as 1.7.86 (Vikrami Samvat) corresponding to 9.10.1929 in the Christian Era and the same was recorded in his service record. When he came to Intelligence Bureau on deputa-

4

tion, he came to know of his wrong date of birth and submitted an application giving his correct date of birth as 13.11.89 (Vikrami Samvat) corresponding to 25.2.1933 in Christian Era. According to the applicant, he was informed that his age will be corrected in his service book accordingly. Due to some mistake, the age was corrected during 1953-54 as 1.5.32 instead of 25.2.33. When he happened to see this, he brought it to the notice of the authorities but the authorities continued to mention his date of birth as May, 1932, until March, 1982, when in the Seniority List of Deputy Field Officers (General Duty - Deputationists) as on 1.3.1982, the applicant was shown at Sl. No. 1 with his date of birth as May, 1932. The applicant was, however, served with a notice on 2.7.1986 informing him of his impending retirement on 31.10.87 and asked to fill up the relevant forms. The applicant represented against advancement of his date of superannuation with a request to correct the date of birth as already done at the time of his deputation to Intelligence Bureau in 1953. This was, however, not accepted by the respondents.

3. The applicant submitted a photostat copy of a School Discharge Certificate issued by the Principal of Government Higher Secondary Institution, Leh, wherein his date of birth has been recorded as 13.11.89 (Vikrami Samvat) corresponding to 25.2.1933. The respondents, however, told him that the date of birth recorded on his recruitment in Indo-Tibetan Boarder Force was 1.7.1986 (Vikrami Samvat). The applicant also mentioned about four cases of deputationists where change in their date of birth was allowed. For example, Tashi Namgial, a deputationist from J&K Police figuring at Sl. No. 22 of the Seniority List of deputationists as on 1.3.1982, wherein his date of birth ^{recorded as} September 1928 was allowed to be changed to 12.11.1932. Similarly, in the case of Shri Moh. Ibrahim, Shri Stanzin Tashi and Shri R.S. Chauhan, the date of birth was changed. In the case of Shri Chauhan it was stated that his date of birth was changed on merit whereas in the case of the applicant

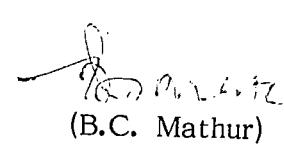
it was stated that the date of birth could not be changed after five years of joining the service.

4. The respondents in their written statement have denied the fact that the date of birth of the applicant was recorded wrongly and ^{stated} that it was never changed to 1.5.1932. They do admit that when the Seniority List was issued on a provisional basis, there was a typographical mistake regarding date of birth of the applicant showing it as May, 1932, but in their records, the correct date of birth has been given. Even when the case of the applicant's permanent absorption was under consideration in October 1984, it was recorded that he was due to retire on 31.10.1984 at the age of 55 years (age of superannuation as per J & K State Government Rules). The applicant was also informed by the respondents on 17.5.1984 that ^{he} had not been found suitable for permanent absorption and was asked to submit his pension papers. The applicant was informed on 17.5.1984 that he was due to retire from J&K Police Service on 31.10.84 on attaining the age of 55 years. In his representation dated 23.5.84, the applicant acknowledged the said memo dated 17.5.84 and did not raise any objection about his date of retirement; rather he insisted that he should be permanently absorbed in the Research & Analysis Wing so that he will get three years more service as per Central Government Rules. As such, the contention of the applicant that he became aware of his date of birth i.e. 9.10.1929 only in July, 1986, is not correct. It has been stated that had he any doubt about his date of birth, he should have immediately represented against the said memo for changing his date of birth.

5. The service record of the applicant was produced in Court by the learned advocate ^{of} the respondents. The date of birth in the service record is clearly shown as 1.7.1986 (Vikrami Samvat) corresponding to 9.10.1929 in Christian Era. This has been signed by the Superintendent of Police, Incharge, Indo Tibetan Border Force, Leh. It is quite clear that he was recruited in J&K Police and not

: 4 :

in the Indo Tibetan Border Force. The contention of the applicant that his date of birth was recorded in 1953 as 1.5.32 and that too wrongly as it should have been 25.2.33 is not substantiated by any application in his file and there is also no correction in the service register of the applicant. In fact, he has produced a discharge certificate from the Govt. Higher Sec. Institution, Leh, in 1986 which cannot be relied upon at this stage. If, according to him he found the mistake regarding the date of birth in 1953, he should have produced such a certificate in 1953 and 1954 and not asked the School to give a Discharge Certificate giving his date of birth in 1986. Since the date of birth has been recorded as 9.10.1929 from the very beginning in his service book, there appears to be no case for altering the date of birth and the respondents have, therefore, correctly rejected his application for change of date of birth. He cannot claim change of date of birth merely because in some other cases dates of birth have been changed. These would have been changed after considering the merit in each case. The only thing in favour of the applicant is date of birth given in the Seniority List which can be taken as a typographical error, specially as even that date does not correspond to the dates given in the service register or in the School Certificate. In the circumstances, it is held that no injustice or discrimination has been done against the applicant and the respondents have correctly issued notice to him for superannuation on the last day of October, 1987. The application is rejected and there will be no order as to costs.


(B.C. Mathur)

Vice-Chairman