

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHIO.A. No. 126  
T.A. No.

1987

DATE OF DECISION 20-2-1990

P.C. Misra PetitionerNone Advocate for the Petitioner(s)

Versus

Union of India & others RespondentMr. M.L. Verma Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. G. Sreedharan Nair, V.C.

The Hon'ble Mr. P.C. Jain, M(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? X
2. To be referred to the Reporter or not? X
3. Whether their Lordships wish to see the fair copy of the Judgement? X
4. Whether it needs to be circulated to other Benches of the Tribunal? X

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

Registration No.O.A.126 of 1987

Date of order 20.2.1990

P.C. Misra ..

Applicant

- versus -

Union of India and others ..

Respondents

CORAM:

Hon'ble Shri G.Sreedharan Nair, Vice-Chairman

Hon'ble Shri P.C. Jain, Member (Administrative)

Counsel for the applicant : None appeared.

Counsel for the respondents : Mr. M.L. Verma.

ORDER

(passed by Hon'ble Shri G. Sreedharan Nair, Vice-Chairman):-

The applicant entered Railway service in the year 1944. On 15.5.1981 the respondents issued a notice to him that he will retire on superannuation with effect from 1.5.1982. This notice was evidently issued on the premise that the date of birth of the applicant is 25.4.1924. According to the applicant, his actual date of birth is 5.5.1926. It is stated that representation was submitted to the respondents against the notice regarding the retirement but it has been rejected. The applicant prays for a direction to the respondents to withdraw the aforesaid letter and cancel it, to enter his date of birth in his service records as 5.5.1926 and for consequential benefits.

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It is urged that he came to know about the mistake in the entry relating to the date of birth only when a Seniority List was circulated. Reliance is placed by him on the certificate issued to him in connection with the passing of the Vernabur final examination, wherein it is stated that he was born on 5.5.1926.

2. In the reply filed on behalf of the respondents, it is stated that when the applicant joined the service of the respondents on 25.4.1944, he declared his age as twenty and did not produce any school records. It is further stated that the date of birth was recorded in the service register as 25.4.1924, wherein the applicant affixed the thumb impression in token of its correctness. The notice dated 15.5.1981 was issued to enable the applicant to avail of his leave, etc., and when representation was submitted against the same, it was looked into and was duly disposed of. It is contended that if the date of birth of the applicant is 5.5.1926, he was actually under-aged at the time of entry in service. The respondents have also pointed out that the first representation that was made by the applicant alleging mistake in the record of date of birth was only on 7.12.1968, after a lapse of 24 years after entry in Railway service, and that too ~~they were~~ ~~are~~ not supported by any document.

3. When this application was taken up for hearing yesterday, neither the applicant nor his counsel appeared and there was no representation on behalf of the applicant. We adjourned the application for today. But today also none has turned up to represent the applicant. We have heard counsel of the respondents and have perused the records.

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4. It is not disputed that the recorded date of birth in the service register of the applicant is 25.4.1924. The respondents have asserted in the reply that the said date of birth was recorded on the declaration which was given by the applicant at the time of entry in Railway service in April, 1944 and have also pointed out that the applicant has affixed his thumb impression in token of correctness of the entry. Even according to the applicant, there is no case that till the year 1968 any representation was made for alteration of the recorded date of birth. In support of the present application wherein it is alleged that the correct date of birth of the applicant is 5.5.1926 <sup>is</sup> ~~is~~ solitary document on which reliance is placed is a copy of certificate stated to have been issued by the Department of Public Instruction, United Provinces on 1.7.1949. In that certificate besides certifying that the applicant has passed the particular examination, there is also a statement that he was born on 5.5.1926. It is significant to note that the statement in the certificate is to the effect that the examination was held in the month of March, 1950, but the certificate ~~states~~ bears the date as on 1.7.1949. Apart from that, we are at a loss to comprehend as to the necessity for a mention of the date of birth in a certificate certifying the passing of a particular examination. At any rate, the mention in the certificate that the applicant is born on 5.5.1926 cannot have any probative value, for evidently the date of birth is mentioned therein on the basis of the entry relating to the same in some other register as the Admission Register. As such, we are not inclined to

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attach any weight to the copy of the certificate that is relied upon.

5. Accepting the date of birth mentioned in the certificate, and now put forward by the applicant in the application, it will follow that at the time of entry in service the applicant was below 18 years of age. The respondents have pointed out that if that be so, he was ineligible for securing appointment. As such, when the applicant declared his age as 20 and managed to enter Railway service, it is a case where fraud was practised by him so as to gain advantage, and after having enjoyed that benefit, it is not open to him to urge on the eve of his service that there is a mistake with respect to the recorded date of birth so that he is eligible to continue in service for a further period of two years.

6. It follows that the application is devoid of merit. It is accordingly dismissed.

*C. Jain*  
24/2/90  
(P.C. Jain)  
Member(A)

*G. Sreedharan Nair*  
20.2.1990  
(G.Sreedharan Nair)  
Vice-Chairman