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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

REGN. NO. O.A. 1895/87.

DATE OF DECISION: 28.4.1988.

Shri R.K. Sharma

Applicant

Vs.

Union of India & Ors. ...

Respondents.

CORAM:

Hon'ble Mr. Birbal Nath, Member.

For the applicant:

Shri V.P. Gupta, counsel.

For the respondents:

Shri K.C. Mittal with
Shri M.K. Gupta, counsel.

J U D G M E N T.

Per this application No. 1896/87 filed under Section 19 of the Administrative Tribunals Act, 1985, Shri R.K. Sharma, Personal Assistant in the office of C.B.I., has prayed that his date of birth xx presently recorded as 15.1.1931, as given out by the original High School cert. as per entry made in the S.Book, be changed to 7.9.1931 in view of the entry made with regard to his birth in the Birth Register.

2. Facts leading to the present application are that

the applicant had joined Government service on 29.12.1956. When he had joined service, he had produced a matriculation certificate which shows his date of birth to be 15.1.1931. The applicant, however, claims that he recently came to know that he was born

on another date and he discovered in March, 1984 his actual date of birth as per the Birth Register was 7.9.1931. Accordingly, he sought change in his date of birth in the official records by requesting the respondents for the same. His request was summarily rejected vide order dated 8.5.1984 but the final rejection came in September, 1987 (Annexure I) wherein the Director, CBI held that under Rule 79(2) of the G.F.R., the actual date of birth/assumed date of birth once recorded in Service Book cannot be altered except in case of clerical error. Hence, this application under Section 19 of the Administrative Tribunals Act.

3. At the bar, the learned counsel for the respondents resisted the claim of the applicant on the ground that the applicant was seeking a change in the date of birth after 30 years. The applicant had been signing the service record every year without any demur. According to him, the birth certificate produced by the applicant at this belated stage was neither authentic nor reliable. According to him, it was sheer manipulation on the part of the applicant. He went on to argue that it has become a practice for various Government servants to seek change in the date of birth towards the fag end of their careers. The purport of this argument also finds place in their affidavit wherein in reply to para. 6(vi) and 6 (vii), the respondents have averred as follows:-

"...It is submitted that genuineness of the Certificate issued by the District Court, Distt. Bulandshaher (UP) is denied...."

4. On the other hand, the learned counsel for the applicant vigorously argued that the date entered in a school certificate or even a matriculation certificate should not be taken to be true as generally, ^{as} this is written on hear-say evidence of the person accompanying the child to the school for admission. In this connection, he relied on the judgment delivered by the Madras Bench of the Central Administrative Tribunal in the case of T. Ramaswamy Vs. General Manager & Ors.,¹ wherein the Bench had observed as follows:-

"....The entry in the school register is normally made on information furnished by persons accompanying the child to the school. Unless the person who gave the information is available for examination, the mere entry in the school register cannot be taken as conclusive evidence of the age of the applicant...."

So far as the contention that the change in date of birth was being sought belatedly is concerned, the learned counsel for the applicant argued that as soon as the mistake was discovered, it was brought to the notice of the respondents. The learned counsel for the applicant acknowledged that the original date of birth as 15.1.1931 was recorded on the basis of the matriculation certificate furnished by the applicant himself.

5. The only question to be determined in this case is whether the respondents could decline to consider the case of the applicant for change in date of birth merely on the technical ground that it was not in accordance with Rule 79 (2) of the G.F.R. or they should have examined the authenticity or evidentiary value of the birth certificate ~~entry~~ produced before them. So far as the rejection of a request for change in date of birth on technical grounds is concerned, the Tribunal has held in the case of

1. A.T.R. 1986(2) CAT 332.

Hira Lal Vs. Union of India² that Rule 79(2) of the G.F.R.

cannot defeat the legal right of the applicant to seek a change in the date of birth. This judgment had relied upon the Himachal Pradesh High Court judgment in the case of Manak

Chand Vs. State of Himachal Pradesh & Ors.³ which reads as under:-

"A Government servant is entitled to show that the entry made in his service record does not represent his true date of birth. That is a right which flows from his right to continue in service until he reaches the age of superannuation. He is entitled to show that the recorded entry, which determines the date on which he attains the age of superannuation does not reflect the true position and that on its misleading basis he is liable to be retired before he in fact attains the age of superannuation..."

In the course of the same judgment, Hon'ble Chairman Shri Justice K. Madhava Reddy had also referred to the Supreme Court judgment in the case of State of Assam v. D.P. Deka⁴, wherein the Hon'ble Supreme Court has observed as follows:-

"It is true that ordinarily when an application is made for rectification of age by a public servant concerned, the State should give the applicant proper opportunity to prove his case and should give due consideration to the evidence brought before it...."

It is, therefore, found that the rejection of the applicant's claim to seek a change in the date of birth under Rule 79(2) of the G.F.R., as given in Annexure I issued by the respondents in September, 1987 is not in accordance with the legal proposition enunciated by the courts. In their affidavit as well as during the course of arguments at the bar, the respondents have resisted the claim of the applicant on the ground that the birth certificate produced by the applicant lacks authenticity and amounts to a manipulation. However, this does not amount to more than a bare assertion because no enquiry was held to go into the genuineness of the certificate and come to a reasoned decision in this regard.

2. A.T.R. 1987(1) CAT 414. 4. A.I.R. 1971 SC 173.
3. 1976(1) SLR 402.

6. In view of the foregoing facts, the order of the Director, C.B.I. dated 18th September, 1987 rejecting the claim of the applicant for change in date of his birth is liable to be quashed and the same is hereby quashed.

In view of the doubt thrown on the genuineness of the date of birth certificate produced by the applicant, the respondents are directed to hold a thorough enquiry about the same since the certificate is claimed to have been extracted from the judicial records of the District Magistrate, District Bulandshahr and pass a reasoned order on the request of the applicant with regard to change of date of birth, within three months of the receipt of a copy of this order.

With the above directions, the application stands disposed of, with no order as to costs.

29/4/88
(BIRBAL NATH)
Member.