

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI.

O.A. No. 209/87.

Shri Brahma

... Applicant

Vs.

The Northern Railway.

... Respondent.

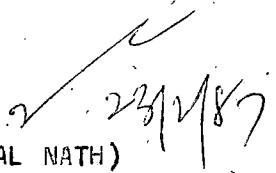
23.2.1987

Applicant by Shri Ashok Agarwal, counsel.

In this application, the applicant has sought a declaration to continue him in service of the respondent till he attains the age of 58 years on the basis that 1.9.1934 is his actual date of birth. The applicant joined the service of the respondent on 19.12.1952. At the time of the entry ~~into~~ service 1.4.1929 was taken as his date of birth and the said date has been recorded in his service book. The applicant ^{have been} should be aware of the date of birth entered in his service record and he kept silent all these years until filing of this application on 12.2.1987, just on the verge of retirement, ~~is~~ which, according to the service record, is 31st March, 1987. The main grievance of the applicant in this application is that he being an illiterate, the respondents should have followed the procedure set down in rule 145 of the Railway Establishment Code which contemplates the person being sent to a Doctor for estimating his date of birth if the person concerned is an illiterate and he is not quite clear about his date of birth. Even assuming, as contended by the learned counsel, that the procedure contemplated in rule 145 of the said Code was not followed, the fact remains that the applicant, who has approached the Tribunal with a claim that his date of birth is 1.9.1934, must show some *prima facie* material to prove his date of birth. In this case, the applicant has asserted that his date of birth is 1.9.1934 but he has not produced any material, tangible or otherwise, to establish his date of birth. The applicant's claim is merely based on the fact that the procedure contemplated by rule

145 of the said Code has not been followed. The fact that the procedure set down in rule 145 was not followed will not enable the applicant to claim 1.9.1934 as his date of birth. That should be proved by some tangible evidence. In this case, neither any record from his school nor any extract from the date of birth register of any municipal authority or any other material is forthcoming to establish the date of birth of the applicant. In this state of affairs, it is unnecessary to call the service record or other files from the respondents to establish the applicant's case that his date of birth is 1.9.1934. The learned counsel for the applicant does not say that if the records are called for, the records will prove 1.9.1934 as his date of birth. As already stated, not following the procedure contemplated by rule 145 of the Code will not automatically enable the applicant to claim that his date of birth is 1.9.1934.

2. In this case, since no documents have been produced to establish the applicant's date of birth to be 1.9.1934, we have to reject this application. The Application is dismissed at admission stage.


(B IRBAL NATH)
Member 23.2.1987


(G RAMANUJAM)
Vice-Chairman 23.2.1987