

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

(9)

O.A. No. 396 of 1987 198
T.A. No.

DATE OF DECISION 4.5.88

Shri Baldev Raj

Petitioner

Shri B.S. Mainee

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri O.N. Moolri

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. S.P. MUKERJI, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? Y
2. To be referred to the Reporter or not ? Y
3. Whether their Lordships wish to see the fair copy of the Judgement ? NO

S.P.
(S.P. MUKERJI)
ADMINISTRATIVE MEMBER

ansd
(P.K. KARTHA)
VICE CHAIRMAN(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(10)

Regn. No. O.A. 396/87

DATE OF DECISION: 4.5.88

Shri Baldev Raj

...Applicant

Versus

Union of India

Respondent

For Applicant: Shri B.S. Mainee, Advocate

For Respondent: Shri O.N. Moolri, Advocate

CORAM: HON'BLE MR. P.K. KARTHA, VICE-CHAIRMAN(J)
HON'BLE MR. S.P. MUKERJI, ADMINISTRATIVE MEMBER

JUDGMENT:

(Judgment of the Bench delivered by
Mr. S.P. Mukerji, Administrative Member)

The applicant who retired as Head Clerk in the office of the Deputy Chief Engineer, Bridge Workshop, Northern Railway, Lucknow, moved this application on 23.3.87 just a few days before his superannuation praying that his recorded date of birth, i.e., 1.4.29 should be corrected to 12.2.1931 and he should be declared to be entitled to be kept in service till 28.2.1989. His contention is that on the date of his appointment as Khalasi on 1.5.50, the date of birth was wrongly recorded as 1.4.29 and when he received a copy of the Matriculation Certificate dated 31.7.1953, he represented on 12.8.1953 to correct his date of birth accordingly. He made a further representation on 13.12.85, but no response has been received from the respondents despite reminders. The dated respondents deny that there was any representation/12.8.53. They have argued that the entry in the service book regarding date of birth was authenticated by the applicant himself at the time of entry into service in 1950 and again in 1964. They have also challenged the contention of the

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petitioner that he had taken any undue advantage by getting his date of birth recorded as 1.4.29. The respondent's case is that by declaring his date of birth as 1.4.29, the applicant made it out that his age on 1.5.50, when he was recruited, was more than 21 years. If he had declared his date of birth as 12.2.1981 as claimed by him now, his initial pay would have been reduced by Rupee 1/- for each year by which his age fell short of 21 years and his pay would have been Rs.28/- per month instead of Rs.30/- per month. He has also received the benefit of seniority by declaring his age as 21 years.

2. Since pleadings were complete and none appeared on behalf of either party even though the case was continuously listed for hearing, it was decided to dispose of the case on the basis of the available pleadings. However, Shri Mainee counsel for the applicant later appeared and prayed to be heard on oral arguments. We heard him on 3.5.88. We have gone through the documents carefully and find that for the following reasons, the claim of the applicant does not merit consideration:-

- (a) Being a Matriculate he knew what he was signing for. On the employee's record of service bearing his date of birth as 1.4.29 (Exhibit R-1) his signature is a clear acknowledgement of the recorded date of birth. He did not record any protest whatsoever.
- (b) Again on 8.2.1964, he affixed his thumb impression and signatures on his service record where it was clearly indicated that on 1.5.50, he joined as a Coolie with a pay of Rs.30/- p.m. Even in the seniority list circulated on 15.5.81 (Exhibit R-V) at S.No.14 in the seniority list of Senior Clerks the applicant's date of birth was shown as 1.4.29.
- (c) The applicant has not been able to produce any tangible evidence to support his claim that he had applied on 12.8.53 for correct of recorded date of birth.

(d) The applicant admits that between 1953 and 1985 he did not make any representation about correction of date of birth.

(e) His representation for alteration of date of birth dated 13.12.85 was also inadmissible because he did not avail of the general opportunity given to all and sundry by the Railways in 1973 for correction of dates of birth.

(f) The applicant did derive financial advantage by declaring his date of birth at the time of his entry in service as 1.4.29 by getting his pay fixed at Rs.30/- instead of Rs.28/- per month. He also derived advantage of seniority. He cannot at such a late stage legitimately claim a change in his date of birth.

(g) The sole basis of the applicant's claim is ~~that~~ the Matriculation Certificate issued on 31.7.53. This is a duplicate certificate which indicates that "His date of birth, according to his guardian's affidavit is Twelfth February, One Thousand Nine Hundred and Thirty-one." Actually, the original certificate had been issued by the then University of Punjab in Lahore, but the same could not be produced. The duplicate certificate was issued on the basis of the result sheets which did not indicate the date of birth. Thus the duplicate certificate cannot be accepted as conclusive evidence in support of the applicant's claim.

3. Through a catena of cases, it has become established law that the entry of date of birth in the service record which went unchallenged and accepted by the employee concerned ^{for years} cannot be altered at the fag-end of one's career unless there is overwhelming evidence in support of the correct date of birth and no element of fraud or mala fide intention or taking undue advantage at the time of recruitment

by the recorded date of birth is present. The present application miserably fails in fulfilling any of these criteria. The application has no merit and the same is rejected. There will be no order as to costs.

~~S.P.M.~~
(S.P.MUKERJI)
ADMINISTRATIVE MEMBER

~~Parmit~~
4/3/88
(P.K.KARTHA)
VICE-CHAIRMAN(J)