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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 772 / 1987
~~T.A. No.~~

DATE OF DECISION 11th Sept., 1987.

Shri Des Raj Petitioner

Shri B.S. Mainee Advocate for the Petitioner(s)

Versus

Union of India & others Respondent

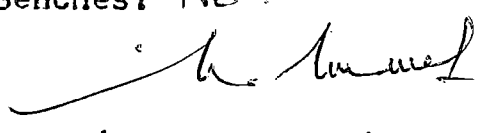
Shri Inderjeet Sharma Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. KAUSHAL KUMAR, Member.

~~The Hon'ble Mr.~~

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. Whether to be circulated to other Benches ? *No*


(KAUSHAL KUMAR)
MEMBER
11.9.87.

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. OA 772/87.

Dated: 11th September, 1987.

Shri Des Raj

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Applicant.

V/s.

Union of India &
others

....

Respondents.

CORAM: Hon'ble Mr. Kaushal Kumar, Member.

For the applicant

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Shri B.S. Mainee,
Counsel.

For the respondents

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Shri Inderjeet Sharma,
Counsel.

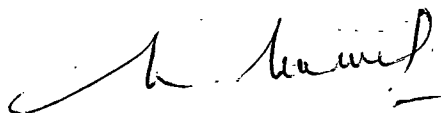
(Judgment delivered by Hon'ble
Shri Kaushal Kumar, Member(A))

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JUDGEMENT

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant who is a Khalasi in Track Supply Depot, Northern Railway, Ghaziabad, has questioned his date of birth as recorded in his Service Book. The Service Book indicates his date of birth as being 11.8.1929 whereas according to the applicant it should have been 20.1.1936 as indicated in the school leaving certificate issued by the Government Primary School, Bharath (Gurdaspur District).

2. The applicant joined service as a Khalasi in the Northern Railway on 16.9.57 and the date of birth shown in his 'PARTICULARS OF SERVICE' is 11.8.1929. This service Sheet was signed by the applicant and it also bears his thumb impression. The applicant was sent for medical fitness test. The Assistant Surgeon Grade I, Incharge, Northern Railway Hospital, Ghaziabad who examined the applicant issued the fitness certificate and in this certificate the date of birth of the applicant is given as 28 years. Thereafter the applicant was required to fill in the "Form of Verification Roll". There also the



applicant indicated his age as 28 years. He also signed the certificate at the end of the form to the effect that "I certify that the foregoing information is correct and complete to the best of my knowledge and belief. I am not aware of any circumstances which might impair my fitness for employment under Government". Thereafter the applicant for the first time made an application on 9.2.77 wherein he stated that "...My correct date of birth is 1.4.1936 and in this proof, I am producing my school's leaving certificate No.52 for examining the same and to write 1.4.1936 instead of 11.8.1929 in my service record" (Annexure R-4 to the Counter affidavit). Along with the application, he also filed a copy of the certificate issued by J.P.B.B. High School, Behrampur (District Gurdaspur), indicating his date of birth as 1.4.36 and also indicating that he had studied in the said school during the period from 1.4.1947 to 31.3.1948. The applicant made another application on 24.9.1983 (Annexure R-5 to the Counter affidavit) wherein he stated as follows:

"Respectfully I beg to request your honour to correct my date of birth as 6.1.36 in my service record."

Along with this application he produced another certificate from the same school, namely J.P.B.B. High School, Behrampur (District Gurdaspur) wherein his date of birth was shown as 6.1.36. When a reference was made by the Department to the Headmaster, J.P.B.B. High School, Behrampur (District Gurdaspur), the letter was returned by the postal authorities with the remarks that no such school existed in that area. Thereafter the applicant produced a letter from the Sarpanch Gram Panchayat, Behrampur (Distt. Gurdaspur) Punjab certifying that J.P.B.B. High School was there in the village Behrampur,



District Gurdaspur, Punjab long back which has closed down since many years. Now, there is no school of this name in the village Behrampur. The applicant thereafter submitted two certificates one from the Government Primary School, Bharath, District Gurdaspur showing his date of birth as 20.1.1936. This certificate was issued on 17.3.1986. He produced another certificate from C.L. Aggarwal D.A.V. High School, Behrampur (District Gurdaspur) dated 6.2.87 also showing his date of birth as 20.1.36 and further indicating that he had studied in the same school from 3.7.47 to 8.11.48.

3. The case of the applicant is that he is entitled to a change in the date of birth on the basis of the last two certificates produced by him.

4. This is a case which merits no consideration. The applicant after a period of more than 20 years of joining of service has been making inconsistent statements in his applications and trying to procure certificates with different dates of birth. The two certificates issued by the J.P.B.B. High School, Behrampur give divergent dates of birth in respect of the applicant and the school itself is reported not to be in existence. No credibility can be given to certificates issued by such a school. In so far as the certificates issued by the two schools of Bharath are concerned, they were procured in 1986 and 1987. The applicant obviously could not have attended the C.L. Aggarwal D.A.V. High School, Behrampur during the period from 3.7.47 to 8.11.48 when according to his own statement he had been attending the J.P.B.B. High School, Behrampur during the period from 1.4.47 to 31.3.1948. During the period from 3.7.47 to 31.3.48, the applicant could not simultaneously be attending two schools.

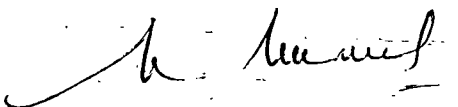
Rule 145, sub-rule (3) of the Indian Railway Establishment Code Volume I regarding change in date of birth reads as follows: -/ 0

"The date of birth as recorded in accordance with these rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall, however, be open to the President in the case of a gazetted railway servant, and a General Manager in the case of a non-gazetted railway servant to cause the date of birth to be altered -

- (i) where in his opinion it had been falsely stated by the railway servant to obtain an advantage otherwise inadmissible, provided that such alteration shall not result in the railway servant being retained in service longer than if the alteration had not been made, or
- (ii) where, in the case of illiterate staff, the General Manager is satisfied that a clerical error has occurred, or
- (iii) where a satisfactory explanation (which should ordinarily be submitted within a reasonable time after joining service) of the circumstances in which the wrong date came to be entered is furnished by the railway servant concerned, together with the statement of any previous attempts made to have records amended."

The case of the applicant for change of date of birth is not covered by the above Rule.

5. The learned counsel for the applicant Shri B.S. Mainee referred to the ruling of this Tribunal in Hira Lal Vs. Union of India (A.T.R. 1987 (1) 414) in support of his contention that mere signing the service record on a

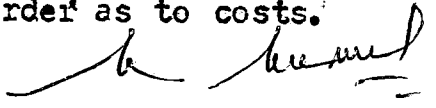


number of occasions does not operate as an estoppel to get an erroneous entry as to the date of birth being corrected. The above plea can be of help to the applicant only when there is reliable credit-worthy evidence to justify the change in date of birth. Where such evidence is itself open to serious doubt and suffers from many lacunae, the plea of signing in the service record as not operating as an estoppel is of no avail.

6. The learned counsel for the applicant also referred to another ruling of this Tribunal in *Udai Ram Vs. Northern Railway* (A.T.R. 1986 C.A.T. 435) wherein it was held that ".....where an authentic and unimpeachable evidence about the date of birth is furnished the same cannot be ignored or brushed aside impinging upon the fundamental right of a party to continue in service until he attains the age of superannuation".

7. In the present case what to say of authentic and unimpeachable evidence, the various representations made by the applicant and the school leaving certificates produced by him suffer from various inherent self-contradictions and irreconcilable inconsistencies as against the incontrovertible evidence regarding age provided by the service record, the fitness certificate issued by the medical authority and the 'Verification Roll'.

8. In view of the above discussion, the application merits no consideration whatsoever and is accordingly rejected. There shall be no order as to costs.


(KAUSHAL KUMAR)
MEMBER
11.9.87.