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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

R.A. No. 57/89 in OA 1662 of 1988

Date of decision: 29.5.89.

Shri C.L. Kapoor

Applicant

Vs.

Union of India

Respondents.

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The Review Application No. 57 of 1989 has been filed by Shri C.L. Kapoor in OA 1662 of 1988 on the ground that the court has erred in the orders passed on 17.3.89 rejecting the application on the grounds which have been upheld by this Tribunal. ^{in the case} He has quoted the case of Shri Bani Madho Vs. General Manager, Northern Railway & Others - OA 727 of 1988 decided ^{that} on 16.11.88 - where it has been held if the gender of the new born baby is given alongwith the date of birth and parentage, it should be considered as a reliable document, but this has not been accepted as a conclusive proof when the date of birth has been mentioned in the records of Municipal Corporation of Lahore. Again, the case has been rejected as the applicant came for change of date of birth after a very long time of joining his service, whereas in the case of Shri Bishambar Nath Malhotra, Head Clerk, Northern Railway, he was allowed to change his date of birth at the fag end of his service. He has stated that the certificate of date of birth ~~was~~ issued by the Lahore Municipal Corporation was obtained through the Embassy of India and is of great evidentiary value.

2. The application was ~~not~~ ^{not} rejected ^{not} merely on the ground that the applicant applied for change of date of birth at the fag end of his service nor was the record of the Municipal Corporation of Lahore considered as unreliable, but there must be overwhelming evidence to establish the correct date of birth if the same is applied for after an unduly long period of joining the service. At the time of joining the service, the applicant had given his date of birth as 4.4.1930 and as proof gave the

supporting documents, namely, the certificate dated 26.11.1948 issued by the Vice President, Hindu College, Delhi, and the form of application dated 20.2.49 duly signed by the applicant in his own handwriting in which the same date of birth was given and it was also signed by two gazetted officers. He subsequently supported it by an affidavit duly signed by a Magistrate 1st Class, Delhi, and also a horoscope which was received by the applicant on 15.5.1950. The circumstances under which he tried to obtain his true date of birth from Lahore are not convincing. He moved the respondents to change the date of birth after the receipt of notice of retirement while he had all along been aware of the date of birth recorded in the service book. The date of birth accepted by both the parties for a very long time has a great evidentiary value. The Municipal records only indicate the factum of birth but not of date of birth. Since the information is given by some relation only, it cannot be a conclusive proof of age as has been held by the Madras Bench of the Tribunal in M. Asokan alia Munuswamy Vs. General Manager and Others - ATR 1986(2) CAT 142. As there was overwhelming evidence that the applicant had himself given his date of birth recorded in the service book and also confirmed by the records of Hindu College and a certificate given by two gazetted officers at the time of appointment as well as an affidavit signed by a Magistrate, it was felt that it would be difficult to accept that a person should suddenly get curious to know the date of birth on meeting ^a of acousin and that also in 1970. The orders passed on 17.3.89 clearly ^{will} show a doubt as to what the applicant was doing between 1970 and 1987 and his statement that he was trying to find out the date of birth informally was not found convincing. Since the overwhelming evidence in this case was not in favour of the applicant, the application was rejected correctly. There is no new point adduced by the applicant in his review application which was not considered earlier while deciding the original application. In the circumstances, the review application is rejected.

(B.C. Mathur)
Vice-Chairman