

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

No. R.A. 58 of 1989 in OA 1839 of 1988.

Date of decision: 29.5.89.

Shri Jila Kanakiah

Applicant

Vs.

Union of India

Respondents.

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Review Application No. 58 of 1989 has been filed by the applicant, Shri Jila Kanakiah, against the orders passed by this Tribunal in OA 1839 of 1988 on 16.4.89. Although the counsel for the applicant was not present on the date the case was decided, ~~but~~ he was present at the time of admission of the case and at the time of filing the rejoinder. The decision was given after going through the pleadings in this case including the original application, reply filed by the respondents and the rejoinder filed by the applicant. It was accepted that a Government servant has a right to serve till the age of superannuation and the limitation of five years was also not considered as a bar in his case, but it was stated that there must be overwhelming evidence to establish that the date of birth given in the village records should be relied upon in preference to the age given in the service records or the school leaving certificate which have not been challenged by the applicant for a very long time. The applicant made a representation more than 25 years after joining the service. All the points brought out by the applicant in his review application have already been considered and there has been no error of law. On the other hand, the court followed the judgements in many cases mentioned in para 7 of the judgment. The court also relied on the judgment of the Madras Bench in M. Asokan alias Munuswamy Vs. General Manager and Others - ATR 1986(2) CAT 142 - wherein it was held that a Birth Register entry is not of much evidentiary value as its entry denotes ~~its~~ factum of birth but not of date of birth. It was held that if the school leaving certificate or the birth register could not be taken as conclusive proof of

one's date of birth, it would be normal to rely upon the entry in the service record which has been accepted by the applicant as well as the respondents for a very long time. The court placed greater reliance on the date of birth given in the SSLC and the service record in preference to a village register extract of which was produced at a very belated stage. There is no apparent error of law in this case and in the circumstances, the review application is rejected.

B.C. Mathur
(B.C. Mathur)
Vice-Chairman