

9

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 189/1990.      DATE OF DECISION: 8-11-1991.

Smt. Motia Kumari      ....      Applicant.

V/s.

Delhi Administration & Anr.      Respondents.

CCRAM:      Hon'ble Mr. P.C. Jain, Member (A).

Mr. K.N.R. Pillai, counsel for the applicant.  
Mrs. Avnish Ahlawat, counsel for the respondents.

JUDGMENT

The applicant, who was posted as Assistant Teacher, Government Model Senior Secondary School No. II, Ludlow Castle, Delhi, under the Delhi Administration, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, assailing the impugned order dated 1.8.89 (Annexure A-II) by which she was informed that she shall stand retired from Government service with effect from 28.2.1990, as her date of birth was 1-3-1930. She has also assailed Memo dated 28.12.89 (Annexure A-V) by which she was directed to produce and deposit the original certificate in regard to Basic Teachers Training. She has prayed for the following reliefs: -

- "a) The Hon'ble Tribunal may be pleased to summon the Personal file, Service Book and other relevant files where the case was dealt with and after scrutinizing, direct that the entry of the date of birth in the applicant's Service Book be corrected to 1.1.1931 and the applicant be allowed to continue in service till she reaches the age of superannuation on the basis of such corrected date.
- b) Applicant may be given all consequential benefits in the form of pay and allowances, higher retirement benefits etc.
- c) Any other relief which the Hon'ble Tribunal may consider appropriate in the circumstances of the case."

(C)

2. The respondents have contested the application by filing a return. The applicant, however, did not file any rejoinder despite a number of opportunities allowed to her. Learned counsel for both parties agreed that the case could be disposed of by a Single Member Bench. I have carefully perused the material on record and also heard the learned counsel for the parties.

3. The date of birth of the applicant as recorded in the service record, copy of which has been produced by the respondents, is 1-3-1930 (Annexure R-2). The applicant, however, contends that her date of birth is 1-1-1931 as shown in the Basic Shikshak Parman Patar issued by Shiksha Vibhag Delhi Prant, Delhi, on 6.4.1950. The respondents have challenged the genuineness of the certificate on which the applicant relies as the sole proof of her date of birth. They have stated that the Basic Teachers Training Certificate relied upon by the applicant does not match with the other certificates issued by the Institution, a perusal of which shows that Roll Numbers are given on all the certificates, but the certificate produced by the applicant does not bear any Roll Number therein. Secondly, such certificates were, at that time, written in hand and not typed while the entries in the certificate produced by the applicant are typed. Thirdly, there has never been a Typewriter of Hindi in the Institution and the Institution did not have a Hindi Typewriter even on 4.5.1990, the date of the written statement. Fourthly, an English Typewriter and a Hindi Typewriter have been used while manipulating the certificate by the applicant. Fifthly, the certificate shows the same subject twice at Sl. No.2 and 4, which clearly indicates malafide intention of the applicant. It is also stated that the signatures of the Principal on the certificate furnished by the applicant are not in conformity with the original records

(i)

and that the signature of Shri S.N. Kalla, the then Principal of the School also does not tally with his signatures in the old records. The respondents have also pleaded that the presumption of law is that the Government records are correct.

4. It is true that the certificate produced by the applicant (copy at Annexure A-I) does not bear any Roll Number therein. Normally, all such certificates bear Roll Number of the candidate for the examination in respect of which the certificate is issued. Learned counsel for the respondents made available the personal file of the applicant, in which the case of the applicant regarding her request for change in the date of birth after the impugned order was issued on 1.8.39, has been dealt with. During the course of inquiry, the respondents procured Basic Shiksha k Parman Patars of one Jai Kishan Gupta, Nasim Ahmed, Pushpa Devi, Pritam Lal Malhotra and Bimla Sachdeva; photo-copies of these certificates are available on the personal file of the applicant, referred to above. All these relate to the 1964 Examination and bear Roll Numbers instead of any Serial Number which is mentioned on the certificate produced by the applicant. There is also a letter dated 24.2.90 from the Principal, Govt. Co-Educational Teachers' Training Institute, Darya Ganj, New Delhi, in the said file which states that "As per records, there is no Hindi typewriter in this Instt." It is also doubtful whether a Hindi Typewriter was at all available in 1950 when the certificate is shown to have been issued. It is also clear from the certificate produced by the applicant that among the four subjects in which the applicant is shown to have obtained 'Vishesh Yogyata' the subject of 'KALA KAUSHAL' appears twice at Sl. Nos.2 and 4 of the subjects listed therein. The applicant has not shown that there were two subjects of the same name. According to the respondents, the subject at Sl. No.4 should have been 'Greh Vigyan'. The certificate also shows that

U.C.

the blanks between the printed words in the format of the certificate have been typed out in Hindi. That is the only certificate on which the applicant relies as proof for her date of birth, which is prima-facie not genuine and cannot be relied upon. Learned counsel for the applicant produced two original certificates which are also shown to have been issued on 6.4.1950 for the same course and the entries therein are also typed in Hindi. These certificates are in the name of Shanti Devi Thrija and Santosh Kumari. These certificates also do not bear any roll number but have serial numbers therein. The difference in these two certificates and the one produced by the applicant is that in these two certificates, the subject of 'Kala Kaushal' is mentioned only once while in the certificate produced by the applicant, 'Kala Kaushal' is mentioned twice at Sl. Nos. 2 and 4. In the other two certificates, at Sl. No.2 'Kala Kaushal' is mentioned and at Sl. No.4 'Greh Vigyan' is mentioned. Moreover, unless the originals of these certificates are inquired into, it cannot be stated whether these are genuine or not. Production of these two certificates would not lead to any reliable conclusion that the certificate produced by the applicant is genuine.

5. In her application, the applicant has stated that she was 16 years of age and had appeared at the Matriculation Examination in Pakistan, from where she came as a refugee in 1947. She had to leave before certificates were issued and she was admitted to the Basic Teachers Training Course at Delhi Administration Teachers Training Institute at Darya Ganj and like all other refugees from Pakistan who did not have certificates of educational qualifications, she was also asked to give declaration of qualifications, age, etc. and the Education Department accepted her declaration and her date of birth was duly entered in the Institute as 1.1.1931. However, in her representation dated 14.9.1989 against the impugned order of intimation of date of retirement, she has stated that she was transported from Pakistan in 1947 and

she was considered a Matriculate as all her papers/certificate and documents were misplaced/lost there and, therefore, the question of submitting Matriculation Certificate does not arise. In her representation dated 8.8.1989 also the language used by her is that she was 'considered at par with a matriculate'. In these representations, she has nowhere stated that she appeared in the Matriculation Examination or she passed any such Examination. From all these statements, one may infer that it is doubtful whether she even passed the Matriculation Examination.

6. The applicant admits, as stated above, that she was asked to give declaration of her qualification, age etc. and the Education Department, Delhi accepted her declaration. The date of birth recorded in the service record is 1-3-1930. This entry, in these circumstances, can be presumed only to be on the basis of her declaration; otherwise there is no other evidence available as to how the date of 1-3-1930 came to be entered in the service record of the applicant. The original records are stated to be not available

7. In her application, the applicant has stated that with the Basic Shiksha k. Parman Patar, she applied to the Directorate of Education and was appointed as Assistant Teacher on 11.4.1950. As already stated, the certificate produced by her is dated 6.4.50. Normally, the applicant could have received this certificate a few days after 6.4.1950 and the application of the applicant for appointment as Assistant Teacher would have also normally taken a few days, if not a few weeks/ <sup>for processing.</sup> Thus, her appointment on 11.4.50 on the basis of a certificate dated 6.4.50 itself creates some suspicion. What looks possible is that on the basis of her declaration that she had passed the Basic Teachers course, she was appointed and at the time of her appointment, she might have mentioned her date of birth as 1-3-1930, but she might have produced the certificate dated 6-4-50 at a later date.

Cie'

1A

8. The personal file made available by the respondents also shows that in the course of inquiry, the locks of two almiraahs in the T.T.I., Darya Ganj, were opened after breaking the same and a list of candidates who appeared in the Basic Teachers Training Examination in the year 1949 was found. The name of one Ms. Motia Devi appears at Sl. No.96 of that list, but the name of Motia Kumari, the applicant herein, does not appear therein. A copy of that list is also available on the personal file of the applicant.

9. Annexure R-1 is a copy of the application for 10 days' leave applied for by the applicant in 1977 from 1.9.77 to 10.9.77. Herein also, the date of birth of the applicant is shown as 1.3.1930. This application is signed by the applicant. Learned counsel for the applicant argued that the entries in this form were not made by the applicant. Prima-facie, this contention does not appear to be correct. Even presuming that the entries in this form had been filled in by somebody else, the fact remains that the applicant was not an illiterate person and she had signed the same. Thus, it will have to be presumed that she was aware of the contents of the paper which she signed, and she will be deemed to have had knowledge of the date of birth as recorded in her service record as late as 1977. But she represented only after the impugned order of 1.8.89 indicating the date of her retirement was issued.

10. It is also seen from the personal file of the applicant that she had signed the Service Roll on 20.8.88 and her date of birth recorded in column 5 thereof is written as 1.3.1930. Here also, learned counsel for the applicant argued that her signatures and thumb impressions were taken on the blank sheet and the entries in the Service Roll were made subsequently without her knowledge. In the absence of any concrete evidence in support of this argument, the same cannot be sustained.

Ce.

15

11. Learned counsel for the applicant strongly urged that the applicant had not been shown the entries in the service record before 1988, while as per the requirement, these should have been shown to her after every five years. In reply to this, the respondents stated that the averments made are not admitted and that the Half Pay Leave Account in the Service Book shows that at Sl. No.5 the date of birth has been stated as 1.3.1930 and the entry on 6.12.58 has been attested by the Principal who originally attested and even written the date of birth as 1.3.1930 in his own hand in the first page of Service Book. In view of the facts earlier stated, the mere fact that the Service Book was not shown to the applicant periodically, would not entitle her to the benefit she has claimed in this application.

12. In the light of the foregoing discussion, it is clear that the only proof on which the applicant relies for the date of birth claimed by her is the Basic Shikshak Parman Patar, which itself, for reasons stated above, cannot be considered as a reliable evidence. Accordingly, the O.A. is dismissed as devoid of any merit, leaving the parties to bear their own costs.

(P.C. JAIN) (9)  
MEMBER (A)  
8.11.1991.