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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A.No.2555/90

Date of Decision: 04.09.1991

Shri U.R. Arya

Applicant

Shri J.P. Verghese

Counsel for the applicant

Union of India & Another

Respondents

Shri M.L. Verma

Counsel for the Respondents

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The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Member(A)

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

JUDGEMENT

(of the Bench delivered by  
Hon'ble Member Shri B.N. Dhoundiyal)

The applicant Shri U.R. Arya, an Assistant Engineer in the PWD, New Delhi has filed this application under section 19 of the Administrative Tribunal Act, 1985 challenging the impugned order dated 09.08.1989; issued by Directorate General of Works, CPWD, New Delhi rejecting his request for changing his date of birth from 11.08.1933 to 02.08.1940.

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2. The applicant had joined the CPWD as Section Officer (Civil) on 30.05.1963 and his date of birth in the records was at that time given as 11.08.1933. He had lost his parents when he was quite young and according to his version one of his distant relatives had given his age wrongly during his admission in the school. He has stated that he came to know later that he was born in Delhi in August 1940 and was able to obtain his birth certificate from the Registrar Municipal Corporation of Delhi showing his correct age as 02.08.1940. The applicant submitted his representation on 05.10.1988 to the respondent No.2 (DG,CPWD) and received instructions on 10.11.1988 for taking steps for getting date of birth changed in his High School certificate. He therefore approached the SDM, Kotwali who after due verification issued an order that the date of birth of the applicant be corrected as 02.08.1940 in place of 11.08.1933. After receiving this order from him, the applicant approached the respondents again to change his date of birth in service records but without success.

3. The respondents have stated that the applicant himself gave his date of birth as 11.08.1933, when he joined the service and it was recorded in the service book duly signed and verified by him. He made an application

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for the change in date of birth only at the fag end of his career when his retirement was drawing near. They have contended that in accordance with Rule 79(2) GFR and note 6 under FR.56, any representations for correction of errors in the date of birth should be made within 5 years of joining the service, that generally the date of birth of the Government servant as shown in the Matriculation Certificate is accepted and that in case of the applicant, it was shown as 11.08.1933. If it is assumed that his date of birth is 02.08.1940, it would imply that he had passed his High School examination at the age of 12 years and 7 months. They have also stated that at the time of entering into service, he was 30 years and he sought and received age relaxation, being an SC candidate.

4. According to the respondents, at the time of his entry into service, the applicant made a declaration that he had two elder brothers aged 39 years and 34 years respectively and one younger sister of age 25 years. The sarpanch as well as the certificate given by the DMC showed that he was the 3rd child of his parents. But if his date of birth is taken as 02.08.1940, he would have to be the youngest and the 4th child.

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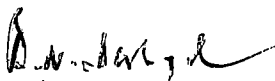
5. We have gone through the records of the case carefully and heard the contentions of the learned counsel for both the parties. In our view, when an employee keeps on affirming his date of birth on a number of occasions during his service and even claims relaxation of age at the time of entering into service, the claim made by him at the fag end of his career is not very convincing (vide *Din Dayal Pande Vs. Union of India*, 1987(4) SLJ 790). The date of birth of the applicant had been recorded in his service book on the basis of his High School certificate at the time of his entry into service. In our opinion, he is not entitled to reopen the correctness of that entry on the basis of extract of birth register (vide *Government of Andhra Pradesh & Another Vs. M.H. Sarma*, 1990(1)SCALE 746). In his request for alteration of date of birth dated 5.10.88 addressed to the Director General of Works, he has stated that he had been "worrying that I shall retire in young age due to none of my fault" and that "recently during a family gathering" he came to know that he was born in Delhi in 1940. In case a person is worrying about his early retirement due to wrong date of birth contained in the service records, it is inconceivable that he did not disclose the same to any one earlier. He has also not given any details of the alleged family gathering attended by him and from whom he came to know that he was born in Delhi in 1940. The version given by him amounts to an effort to explain the long delay in raking up the question of his date of birth. In our opinion, no reliance can be placed on the finding of the Sub divisional Magistrate

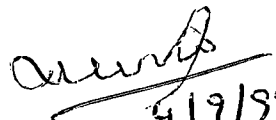
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in his order dated 16.12.1988 based solely on the entries in the birth register that the date of birth of the applicant is 02.08.1940. The order dated 16.12.1988 is not based on any independent enquiry made by the sub divisional Magistrate.

6. In the facts and circumstances of the case and for the reasons discussed above, we do not find any merit in this application. It is hereby dismissed. The parties will bear their own cost.

  
(B.N. DHOUNDIYAL) 4/9/91  
MEMBER

  
4/9/91  
(P.K. KARTHA)  
VICE CHAIRMAN