

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

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O.A. No. 2670/1990

DATE OF DECISION: 21.2.92

SHRI BIJAY PAL SINGH SHARMA

...APPLICANT

VS.

THE ADMINISTRATOR, UNION  
TERRITORY OF DELHI & ORS.

...RESPONDENTS

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SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI M.L. BHARGAVA

FOR THE RESPONDENTS

...SHRI DINESH KUMAR

1. Whether Reporters of local papers may be *45* allowed to see the Judgement?

2. To be referred to the Reporter or not? *45*

JUDGEMENT

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J)

The applicant, Assistant Commissioner of Police, Anti-Narcotics Branch, filed this application under Section 19 of the Administrative Tribunals Act, 1985 against the order dt. 14.2.1990 where the applicant was to retire on superannuation on attaining the age of 58 years on 31.12.1990. The applicant claimed the relief for quashing the order dt. 14.2.1990 and a declaration to the effect that the actual date of birth of the applicant is 25.9.1933 and the recorded date of birth 2.12.1932 be corrected accordingly and consequently he is entitled to continue in service till 30.9.1991.

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2. The facts of the case are that the applicant was appointed as Assistant Sub Inspector on 12.9.1958 and ultimately stood promoted to the post of Assistant Commissioner of Police on 2.2.1987. The applicant produced a matriculation certificate in which the date of birth recorded is 2.12.1932 and on the same basis, it was recorded in his service record. The case of the applicant is that after the death of his father, the applicant found the Horoscope and on scrutiny of the Horoscope, it was revealed that the date of birth of the applicant was 25.9.1933. On account of this fact, the applicant submitted the application on 30.6.1988 to the Commissioner of Police for the correction of the date of birth from 2.12.1932 to 25.9.1933. That no orders were issued on the representation of the applicant and he was asked to retire by the order dt. 14.2.1990 on completing the age of superannuation on the basis of date of birth as 2.12.1932, i.e., w.e.f. 31.12.1990. The applicant again submitted the representation and on this representation, the Deputy Commissioner of Police called upon the applicant to produce original bahi containing the Horoscope of the applicant. The Deputy Commissioner of Police forwarded the representation of the applicant for the change of date of birth of the applicant to the Additional

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Commissioner of Police. The representation of the applicant was, however, rejected on 6.12.1990. The applicant in his rejoinder stated that he received this order on 6.12.1990 after filing the application before the Tribunal.

3. The grounds taken by the applicant in the main application are that the applicant has a right to show that the entry made in the service record for date of birth is not correct and the applicant submitted representation and the matter was also duly forwarded by the Deputy Commissioner of Police for the change of date of birth and as such the matter has not been considered on merit.

4. The respondents contested the application. The applicant has since retired from service on attaining the age of superannuation. The applicant has himself given the date of birth as 2.12.1932 on the basis of his matriculation certificate. The applicant has himself given the recorded date of birth and he has put his signature at p-1 of the Service Book as well as of the Character Roll. The Commissioner of Police is not competent to effect any change. However, his request for change of recorded date of birth has been considered and rejected by Delhi Administration as he does not fulfil the condition as laid down in Government of India decision No.5 below FR 56 and GFR 79 and 80. It is further contended that

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the date of birth cannot be changed on the basis of the Horoscope. The applicant should have submitted representation for affecting change in his date of birth within five years from entering into Government service as given in Note-6 below FR 56 and GFR 79 and 80. The date of birth recorded in the High School Certificate Examination is considered authentic proof of age under the provisions of Rules prescribed by Government of India. Thus in view of the above facts, it is stated that the application is devoid of merit.

5. I have heard the learned counsel for the parties at length. The learned counsel for the applicant has placed reliance on the case of Hira Lal, reported in ATR 1987(1) CAT p-441. However, this decision does not help the applicant at all because it is only to the effect that the applicant has a right to get his date of birth corrected at any time. The representation of the applicant has been duly considered by the Lieutenant Governor of Delhi Administration and it has not been found legally justifiable to correct the recorded date of birth. The learned counsel for the respondents has relied on the decision of Chaman Lal Vs. UOI, reported in 1991 (15) ATC p-122. The learned counsel referred to para 11 of the said judgement. It is an established fact that an application for correction of date of birth should be followed by reliable and cogent evidence. Since

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the applicant passed the matriculation examination and the date of birth recorded therein is 2.12.1932 and that was given by the applicant himself, so against this evidence recorded in the High School Certificate of the applicant, there must be some cogent evidence for effecting a change in the recorded date of birth. Though there is no time limit for correction of date of birth, but the proof should be furnished as to convince that the original date of birth given by the applicant was given under some wrong impression or was given by a person not duly authorised or the applicant himself was illiterate and there was some medical examination on the basis of which, the date of birth was recorded. The representation of the applicant for date of birth has been duly rejected and there is a reasonable basis for its rejection. At the fag end of the carrier, the applicant working on a responsible post of Assistant Commissioner of Police wants to get his date of birth now recorded on the basis of a Horoscope. Though Horoscope may be genuine, but at the same time, when earlier the date of birth has been given by the guardian of the applicant at the time when he was minor in the school and subsequently the same date of birth by passage of time was filled up by the applicant himself in the matriculation examination form on the basis of

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which a certificate was issued wherein the date of birth is recorded as 2.12.1932, now the applicant is stopped to say that this is not the correct date of birth.

6. Who prepared the Horoscope and in what circumstances, is another factor to be considered. However, if the applicant learnt that his date of birth has been wrongly recorded in the matriculation certificate, then the proper course would have been open to him to approach the educational authorities to get the date of birth recorded in the matriculation certificate, corrected according to the Horoscope. The applicant has not preferred that procedure. Now before the administration, there are two available documents regarding the date of birth of the applicant. One is the matriculation certificate in which the date of birth 2.12.1932 is recorded. The other is Horoscope which is traced out by the applicant himself at the fag end of his service. In that event, the matriculation certificate is more reliable and authentic. As per Government instructions, the matriculation certificate is an important document and the date of birth recorded therein is taken for granted.

7. In view of the above facts, the applicant could not make out that he is in possession of a more reliable evidence regarding his date of birth as September, 1933.

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The genuineness of Horoscope and its late discovery  
are also factors which cannot outweigh the evidentiary  
value of the matriculation certificate.

8. Not only this, the applicant on joining the service  
must have filled up certain forms for getting entry into  
service and in that too, the applicant admitted that his  
date of birth is 2.12.1932. The applicant wants to undo  
what he himself has done only on the basis of a Horoscope  
which too was not available with him, but appears to  
have been found out from a Bahi after the death of his  
father. Such a document carries no weight in the  
eyes of law in the facts and circumstances of the present  
case.

9. In view of the above discussion, I find no merit  
in the application and the same is dismissed. In the  
circumstances, the parties to bear their own costs.

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*J. P. Sharma*  
(J. P. SHARMA)  
MEMBER (J)

21.2.92