

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(S)

O.A.No. 1754/91.

Date of decision 14-1-93

Smt. Sumitra Devi ... Applicant

V/s

U.O.I. & Ors. ... Respondents

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The Hon^{ble} Member Sh. I.K.Rasgotra, Member(A)

For the Applicant ... Sh.Ashish Kalia,counsel

For the Respondents ... None appeared.

JUDGMENT (ORAL)

(Delivered by Sh.I.K.Rasgotra, Member(A))

Heard the learned counsel for the petitioner and perused the records carefully. The case of the petitioner is that date of his birth at the time of initial entry in Government service was recorded as 1-10-1933. But he had been made to retire from service on 31-7-1991 deeming his date of birth as 15-7-1931. It is against this background that the petitioner has filed this application against order dated 16-5-91 contemplating his retirement on superannuation. Thus the petitioner was put on notice that she is due to retire on the age of superannuation on 31.7.91. She was also asked to submit in triplicate all necessary documents forms etc.regarding retirement on the other hand benefits for necessary action. She has prayed that

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she should be retired from service w.o.f. 31-10-93 with all consequential benefits as per her date of birth 1-10-1933.

2- The respondents in their counter affidavit have denied that the date of birth of the petitioner is 1-10-33. They submit that date of birth in their records is 15.7.31. Her Service Book as well as personal file however is stated to be not readily available as they are misplaced in transit. They rely on, total strength register maintained in the office of the Social Welfare Department where date of birth, date of appointment, post held by the individual, qualifications and residential address are entered. The date of birth of the petitioner in the said register is recorded as 15.7.31. They further submit that the date of birth of the petitioner in accordance with the other entries as made in the Establishment Register is also recorded as 15-7-31 and therefore, affirm that the date of retirement of the petitioner is 31-7-91. They have also filed a photo-copy of the Establishment Register where the petitioner figures at serial No.7. Her date of birth is recorded as 15.7.91 with date of appointment as 1-3-1960. It is further recorded therein that she became a permanent employee on 7-1-1976. In their reply to para 4.4. of the O.A. respondents have further stated that date of birth was wrongly shown in the seniority list. They further submit that no bio-data was furnished by the D.O.O. where the date of birth of the petitioner was shown as 1-10-33 and resist the petitioner's claim for changing the date of birth according to her janampatri.

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3- I have heard the Ld.counsel for the petitioner and perused the counter affidavit of the respondents and the other records on the judicial file. The petitioner retired from service w.e.f. 31-7-91. The present O.A. No.1754/91 was also filed on the same date. Inspite of the fact that the petitioner was on notice vide order dated 16-5-91 that she was to retire on 31-7-91, she did not move with any sense of urgency and alacrity as she was aggrieved by the imminent date of retirement. In Executive Engineer, Bhandrik Division, Orissa V/s Rambir Mallick reported JT 1992(5) SC 364, their Lordships observed that date of birth as recorded in the service record should be challenged if wrongly recorded at the earliest opportunity it should not be allowed to remain unchallenged till the time of retirement comes. In the case of Ex.Engineer, Bhandrik date of birth of the petitioner was recorded as 10-7-28 in the service roll. He did not challenge the aforesaid date of birth till he made a representation on 9-9-1986. Their Lordships observed that

" the representation as well as documents furnished by the respondent were considered by the Governor and thereafter his representation was rejected. It can not be said that such action taken by the Government was in any manner illegal or against any principles of natural justice."

In the case before us the respondents have produced the photo copy of the Establishment Register which clearly shows the date of birth of the petitioner as 1-10-1933. The petitioner did not challenge her date of birth till 31-7-91

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when she filed this O.A. and did not file any representation with the respondents earlier than 17-5-1991 when she supported her case on the basis of her horoscope. Keeping in view the observation of the Supreme Court in Ex. Engineer Bandhrik Division, Orissa and in the facts and circumstances of the case. I am of the opinion that the case does not merit judicial interference at this stage as no reliable documentary evidence for changing the date of birth has been produced by the petitioner even at this belated stage. The mistake made by the respondents in showing wrong date of birth can not be the basis for accepting her claim. In the facts and circumstances of the case the OA does not merit judicial interference and is accordingly dismissed. No costs.

I. K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)