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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

Date of Decision: 10.09.92.

OA 1765/91

C.S. GEORGE

... APPLICANT.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

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

For the Applicant ... IN PERSON.

For the Respondents ... SHRI M.L. VERMA.

1. Whether Reporters of local papers may be allowed to see the Judgement? *ye*
2. To be referred to the Reporters or not? *ye*

JUDGEMENT (ORAL)

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

The applicant C.S. George presently working as Deputy Commissioner, Ministry of Food Processing Industries, has filed this application aggrieved by the order dated 31.5.91 by which the representation made by the applicant for alteration in the date of birth in the Service Book has been rejected. The applicant has prayed that his case for correction of date of birth may be considered favourably on the basis of the correct entry of date of birth in his SSLC Book.

The facts of the case are that the applicant joined Central Govt. Service on 14.1.74 as a Class I Officer. Immediately thereafter in May, 1974 he made a

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request that the date of birth entered in the service record on the basis of SSLC Book page 2 is not correct. In the meantime, the applicant was promoted as Deputy Commissioner in the Ministry of Agriculture on 13.5.83. The request of the applicant was turn^{ed} down by the Ministry of Agriculture by the order dated 8.2.84. An another representation to the same effect was rejected by the order dated 20.12.85. Other representations also made the same fate by the orders dated 8.6.88 and 11.7.88, which is annexed as Annexure A-6 to the application. The Director, Fishery Survey of India was however informed by the Zonal Director that the personal file of C.S. George could not be traced out and the efforts are being made to have a thorough check up of old records. However, subsequently the Zonal Director informed the Deputy Commissioner (FVC&E) that the matter does not come under the purview of the Director. The Govt. of Kerala, however, by the memo dated 20.3.86 allowed the applicant C.S. George to apply to the Commissioner for Govt. Examinations for correction of date of birth in relaxation of rules for consideration of the request for correction of date of birth in the school records/SSLC. The applicant, therefore, made certain representations in that regard to the Commissioner for Govt. Examinations, Trivandrum and the Commissioner for Govt. Examinations passed an order dated 27.2.88 for correction of date of birth of the applicant from 6.10.39 to 4.10.40 in school records and the qualifications

certificates issued to him. After obtaining this order the applicant appears to have made another representation to the Ministry of Food Processing Industries but the same has been rejected by the impugned order dated 31.5.91. The present application is, therefore, has been filed for the redress of the aforesaid grievance.

The respondents contested the application and took the preliminary objection that the application is barred by limitation and in this connection they have referred to the authority of Ramakant Sharma Vs. State of Haryana (1990 (3) SLR 74), where it has been held that the Suit for correcting date of birth filed in 1980 (the official joined service in 1950) was barred by Section 58 of the Limitation Act, as the Suit was filed after three years after joining of service. On merits the respondents have stated that the order of the Govt. of Kerala and the Commissioner for Govt. Examinations dated 27.2.88 clearly states that alteration of date of birth in the school records will not entail the correction of date of birth in the service records. It is further stated that the order rejecting the request for correction of date of birth ^{was} had already communicated to the applicant in the year 1984, 85, 86 and also in 1988 and at that time the applicant did not assail those orders. It is further stated that the present application is hit by Section 21 of the A.T. Act,

1985 and the applicant is not entitled to any relief. It is also stated that the date of birth of the applicant was recorded in the service record on the basis of the SSC Certificate filed by the applicant at the time of joining the service and i.e. in accordance with Note-6 under FR 56.

I have heard the applicant in person and the learned counsel for the respondents at length and have gone through the records of the case. The case of the applicant has been considered by the department also and the applicant has, during the course of the arguments, circulated note given by the Joint Secretary of the Ministry of Food Processing Industries showing that the case of the applicant is genuine and needs reconsideration even on the lines of FR 56 which lays down three conditions wherein the date of birth once given by the employee can be altered.

The applicant, who argued in person, has only pleaded that his case is genuine and that he could finally make representation after getting his SSC Book corrected regarding the date of birth. Of Course, the decision given by the Hon'ble Supreme Court in the case of S.S. Rathore Vs. State of Madhya Pradesh (AIR 1990 SC 10), the repeated representation do not give an extension to the period of limitation provided under Section 21 but in the

present case, there are two factors which also needs reconsideration. Firstly, the Govt. of Kerala has waived the necessary embargo in the case of the applicant for correction of date of birth and gave him permission to approach the Commissioner of Govt. Examinations, Kerala to plead his case for correction of date of birth in Scholars Register as well as in SSLC. It is only after a necessary correction has been effected by the Commissioner for Govt. Examinations by the order dated 22.2.88. The applicant with the document in his possession made another representation. The respondents have entertained this representation also and passed an order, which is impugned in this application. The impugned order runs as follows:-

"The request of Shri C.S. George, Dy. Commissioner (Fy) for alteration in the date of birth in the Service Book has again been examined. Since the request has been made after the prescribed period of five years, it is regretted that his request cannot be acceded to."

While passing this order the respondents have forgotten that Note-6 under FR 56 has been amended in the year 1979 which provides the period of five years from the date of joining service in moving for alteration of date of birth. The applicant has joined service in January, 1974. Thus, the consideration and rejection of the representation by the order dated 31.5.91 cannot be said to be an order which has been passed by the proper application of mind and due compliance with the extant rules on the subject.

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However, the hurdle which comes in the way is that there are other orders of 1984-85, 86 and 1988, which have not been assailed by the applicant in this application nor there is any request for petition for condonation of delay. About two special features mentioned above are unique to this case. When the State Govt. has relaxed certain rules and permitted the applicant to move the Commissioner for Govt. Examinations for correction of date of birth in the school register and SSLC and further, the same correction has been ordered, the respondents may have considered this aspect also while disposing of the representation of the applicant. For this court to decide the matter it has been held in the case of State of Uttar Pradesh Vs. Bahadur by the Hon'ble Supreme Court (1983 (3) SCC 73) that the court helps the vigilant and not the indolent.

However, the applicant has claimed that what he is aspiring is ^{correction on} for an unconcealed representation regarding his correct date of birth. Since it was wrongly recorded in the Scholars Register, so it was also give in the same manner while joining service in January, 1974. Now when once that has been corrected then on the principles of natural justice he may have been given benefit in his service career. But in view of the principles of law enunciated by the Hon'ble Supreme Court in the case of S.S. Rathore Vs. State of Madhya Pradesh, AIR 1990 SC 10

and for the reasons that there ^{are} unassailed orders against the applicant of 1984, 1985 and 1988, the present application is dismissed as barred by limitation. However, before parting with the case, it is observed that the respondents may, if they so like, consider the case of the applicant as recommended by the Joint Secretary, Ministry of Food Processing Industries sympathetically to redress his grievances.

In the circumstances, the OA is dismissed with costs on parties.

J. P. Sharma
(J.P. SHARMA)
MEMBER (J)
10.09.92