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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, DELHI.

Regn. No. O.A. 2294/1991. DATE OF DECISION: 13-12-1991.

Har Prasad Applicant.

V/s.

Union of India & Anr. Respondents.

COURT: Hon'ble Mr. Justice Ram Pal Singh, V.C. (J).
Hon'ble Mr. I.P. Gupta, Member (A).

Shri S.S. Tiwari, counsel for the applicant.

Shri Jog Singh, counsel for the respondents.

(Judgment of the Bench delivered by
Hon'ble Mr. I.P. Gupta, Member (A).)

JUDGMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who joined the Government service as a Peon in the Department of Company Affairs (formerly Department of Company Law Administration) on 24-2-1956, is presently working as a U.D.C. in the office of Registrar of Companies, Delhi & Haryana, at New Delhi. The applicant has sought the relief for rectification of mistake in his Service Book regarding date of birth and for changing the date of birth from 1-7-1936 to 1-7-1939 by quashing the respondents' letters of 31-7-1991 and 18-9-1991 whereby his request for correction was turned down on the ground that the request was time-barred.

2. At the time of initial recruitment, the applicant was a 9th-Pass student and he had given a copy of the certificate of his school in support of his having passed the 9th Class examination and his date of birth as being 1-7-1939. The applicant later passed the High School Examination and he produced a certificate to that effect where too his date of birth was shown as 1-7-1939. On the basis of this certificate, his educational qualification in the Service Book was changed, but the date of birth remained unchanged.

3. The learned counsel for the applicant argued that the rejection of the applicant's request for change of the date of birth on the ground of being time-barred is illegal. The settled

law is that in case of rectification of any clerical error in the Service Book, the case should be decided on merit. In this connection, he cited several case laws. Attention in this connection was invited to the case of V.N. CHAVAN Vs. UNION OF INDIA AND OTHERS (AISLJ - May 1991 - Volume 40 - Part I p.30) wherein it was held that the rejection of request for alteration of date of birth on the plea that the request was made long after the period as fixed by the O.M. of 4.8.72 did not have its being time-barred, therefore, the force of law and, therefore, each case should be considered illegal. The rejection of the representation on the ground of

4. The learned counsel for the respondents pointed out that the initial document produced by the applicant at the time of his initial recruitment in 1956 was not available in his personal record. The applicant's date of birth was entered as 1-7-1936 on the first page of the Service Book of the applicant and the applicant himself had signed this page in token of having seen the entries. Later the applicant had made a request for making an entry in his Service Book in respect of educational qualification acquired by him and this was done by the Department. The applicant, who had known so much about updating entries in the Service Book, had not pointed out even then the alleged clerical error in respect of his date of birth. For more than nine years, he had not raised the issue when he was working as a Peon in that Department. The learned counsel for the respondents also brought out that in case his date of birth was corrected as 1-7-1939, his age at the time of entry into Government service would become only about $16\frac{1}{2}$ years, whereas the minimum entry age is 18 years. The learned counsel for the applicant contended that there were instances at that time about intake of persons even below the age of 18 years.//⁵ In the conspectus of the aforesaid facts, the rejection of the applicant's request for change of his date of birth by orders dated 31-7-1991 and 18-9-1991 are quashed. In case, the rules/instructions precedents permitted at that time intake of a person

as Peon in Government service even at an age below 18, the date of birth of the applicant should be changed from 1-7-1936 to 1-7-1939. In case, the recruitment rules and instructions then prevailing stipulated that the minimum age should be 18, the date of birth as in the Service Book may remain unchanged since the rules (Note 5 below F.R. 56 and ATR Volume I 1956 p. 346) do provide that the change of date of birth should not be allowed in case that would make the incumbent ineligible for entry into Government service on the date on which he entered Government service by such alteration.

6. With the above observations, the case is disposed of. There shall be no order as to costs.

I. P. Gupta
(I.P. GUPTA) 13/12/91
Member (A)

Ram Pal
(RAM PAL SINGH)
Vice Chairman (J)