

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 2/91
T.A. No.

199

DATE OF DECISION 24.1.1992

Shri Nathoo Lal

~~Petitioner~~ **Applicant**

Shri R.K. Garg, with Sh. T. Nand, Advocate for the ~~Petitioner(s)~~ **Applicant**
Kumar

Versus

Union of India through Secy., **Respondent**

Miny. of Home Affairs & Ors.

Shri N.S. Mehta

Advocate for the **Respondent(s)**

CORAM

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? / MC
4. Whether it needs to be circulated to other Benches of the Tribunal?

**(Judgement of the Bench delivered by Hon'ble
 Mr. P.K. Kartha, Vice-Chairman)**

The applicant, while working as Director General of Police, Government of Manipur, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to correct his date of birth as 17.1.1936.

2. The version of the applicant is that he was born on 17.1.1936 in U.P. He belongs to the 'Chamar' community. His father being a poor and illiterate Harijan, could not help the applicant in the matter of his admission in the school. In or around 1941, when he was aged five years,

(16)

one social worker, Baba Hari Shankar, took fancy on him and persuaded his father to spare him for the summer classes conducted by him (Baba Hari Shankar). In that class, some of the students from his village also participated. The said Shri Hari Shankar took him along with a few others for admission in the primary school, Tajpur, in Class I. His illiterate father was not present at the time of his admission in the school. The applicant has stated that Shri Hari Shankar, on his guess work, had mentioned that the applicant's date of birth was January 2, 1933 and the same was entered in the records of the primary school. That is how his date of birth has been wrongly mentioned as January 2, 1933 in the matriculation certificate.

3. The applicant joined the Indian Police Service under reserved quota in 1961 and his date of birth was recorded in his service records as January 2, 1933 on the basis of the date of birth indicated in the matriculation certificate. The applicant has stated that in spite of clear knowledge that his correct date of birth was 17.1.1936, he had relied on the advice of his fellow colleagues that the correction in the age as entered in the matriculation certificate was next to impossible. He

11

had, therefore, tried to console himself the bad luck of recording his date of birth as January 2, 1933 in the service records. He has stated that he had reconciled to the said obvious blunder of believing the advice of his fellow colleagues.

4. The applicant sent a representation for the first time on 6.10.1988 to the Home Secretary, Ministry of Home Affairs for correcting his date of birth as 17.1.1936. In the said representation, he had stated that in the course of inquiry, he had learned that in the old judicial records regarding births and deaths of the year 1933 to 1936 maintained in the Collectorate, Fatehgarh, in respect of Village Kumholi, his date of birth is January 17, 1936. His father, Shri Pooran Lal, alias 'Punnu' married only once with his mother, Smt. Kunam. He has given in his application the following genealogical tree of the family:-

"Shri Bhagwan Das (Grandfather)

Shri Madhav Smt. 'Sitabo' Shri Pooran Shri 'Sumer
Prasad (son) (daughter) Lal @Punnu (son)
(son)

Ram Sahai (son) Kalawati Ram Kali Nathoo Lal
(1st issue (daughter) (daughter) (Applicant)
born 1926) (2nd issue (3rd issue (4th issue
born 1930) born 1933) born 1936)

5. The applicant claims that he is the youngest issue/last issue of his father and his mother died when he was less than one year old.

6. The applicant has further stated that being a deeply religious man, his father visited many holy places like Mathura, Haridwar, Kashi and Prayag. The pandits/purohitas in the said holy places not only look after the devotees coming from different States, but also are in the habit of maintaining an elaborate running record of such devotees stating therein the State, District, Sub-Division, and the village of their origin. In view of this, the applicant has stated that he ascertained the places visited by his father. He met one Pandit, Shri Mohan Lal of Haridwar in whose jurisdiction his district was included. On scrutiny of the records maintained by Pt. Mohan Lal, it was found that an entry had been made in the month of Kartik (corresponding to October/November) of Samvat 1193 (corresponding to 1936 A.D.) stating that the applicant's father, along with Shri Madha (brother), Ram Shashi (son), Nathoo (son), and Ram Swarup and Bani (sons of his brother) came to Haridwar for immersion of the ashes of the applicant's mother. He has produced extracts of the entry of the records maintained by Pt.

Manohar Lal and an affidavit produced by him, along with the application.

7. The applicant has further stated that two eminent residents of the locality have also corroborated with his version and he has produced the affidavits signed and sworn by them along with the application. Copies of these documents were annexed to his representations also, but the respondents rejected the same on the ground that it was time-barred. The Chief Minister, Government of Manipur had also taken up the matter with the Prime Minister of India but that also did not yield any results.

8. The respondents have stated in their counter-affidavit that as per the records, on the basis of the information regarding school certificate, etc., given by the applicant at the time of his joining the service, his date of birth was 2.1.1933. They have pointed out that according to his contention, in or around 1941, the applicant was five years of age. If he was sure of his alleged date of birth as 17.1.1936, then he would have been five years old on 17.1.1941. According to them, the question of his being five years old in or around 1941, can be 1940 or 1942, which shows the falsehood of his contention. The applicant has not been able to give

the exact month and date of his admission in the primary school. They have contended that even if his father was illiterate, he was in a much better position to give the date of birth even on guess work which would have varied a few days or months but not a long period of three years.

9. The respondents have stated that the applicant has himself admitted in his descriptive rolls in the years from 1962 to 1989 that his date of birth was 2.1.1933. After joining the I.P.S. in 1961, he held very responsible positions. The fact that he chose to keep quiet and asked for his date of birth being altered after putting in about 27 years of service and at the fag end of his career, was with a view to getting undue advantage. They have also contended that the records maintained by the purhitis of Haridwar are not entitled to any credence.

10. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. Rule 16A of the All India Services (D.C.R.B.) Rules, 1971 provides, inter alia, that for the purpose of determination of the date of superannuation of a member of the Service, such date shall be calculated with reference to the date of his birth as accepted by the Central Government. The date of birth so accepted, shall not be subject

to any alteration except where it is established that a bona fide clerical mistake has been committed in accepting the date of birth.

11. According to the applicant, wrong date of birth was entered in the school register because one, Shri Hari Shankar, a social worker, who had gone to admit him in the school, gave the wrong date of birth. He has not disclosed the source of his knowledge about Shri Hari Shankar having got his wrong date of birth recorded in the school register. He has filed affidavits of some persons to support his claim of date of birth being 17.1.1936. In our opinion, the credibility of the affidavits relied upon by him, is open to question.

12. The applicant has stated his pedigree in the application which shows that his father had two sons and two daughters. He has filed a copy of the Birth Register which shows that one son was born to his parents on 13.1.1936 and one daughter was born on 12.3.1933. He has not shown the entries in the Birth Register relating to the birth of his other brother and sister. There is no evidence that the date of birth which he ascribes to himself, does not relate to his brother. He has not established that the entry in the

Birth Register of a son to his parents, related to him.

13. In the instant case, the change of date of birth is not a matter of clerical error. According to the General Financial Rules, every person appointed under the Government, has to declare the date of his birth by the Christian Era, as far as possible, with confirmatory documentary evidence, such as a matriculation certificate or equivalent certificate, or municipal birth certificate, etc. The actual date of birth once recorded in the service records, cannot be altered, except in the case of clerical error.

14. In the light of the foregoing discussion, we are of the opinion that the applicant has not produced documentary evidence to substantiate his claim that his correct date of birth is 17.1.1936. The documentary evidence produced by him is not entitled to any credence. In this view of the matter, he is not entitled to the relief sought in the present application. The application is, therefore, dismissed. The parties will bear their own costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 24/1/92
Administrative Member

Partha
24/1/92
(P.K. Kartha)
Vice-Chairman (Judl.)

SLP
240192