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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

C.A. NO. 27/91

DATE OF DECISION 26.9.91

JAMAL UDDIN

.....APPLICANT

VS

UNION OF INDIA & OTHERS

.....RESPONDENTS

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SHRI B.N. JAYASIMHA, HON'BLE VICE-CHAIRMAN

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

FOR THE APPLICANT

.....SHRI S.B. A /

FOR THE RESPONDENTS

.....SHRI P.B. A /

1. Whether Reporters of local papers are allowed to see the Judgment?

2. To be referred to the Reporter or not?

J U D G M E N T

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

The applicant serving as Senior Railways Inspector, Northern Railway filed this application under Section 19 of the Administrative Tribunal Act, 1935 aggrieved by non-recognition of his representation dated 30th October, 1980 with regard to the alteration of date of birth of the applicant in his service record from 30.1.1933 to 13.3.1931.

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2. The applicant claims the following :-

- (a) The respondents be directed to change the recorded date of birth in the service book of the applicant from 30.1.33 to that of 15.3.1933 on the basis of revised High School Certificate.
- (b) The respondents may be directed to give all the consequential benefits arising out of the change of date of birth to the applicant.

The facts of the case as given by the applicant are :-
that the applicant initially started his education from primary school Sikhera, Moradabad where his actual date of birth has been recorded as 15.3.1933. The applicant passed his High School Examination in the year 1952 from the Board of High School and Technical Education, U.P., Allahabad; now renamed as Mahayoni Shiksha Parishad where his date of birth was erroneously recorded as 30.1.1933. The applicant made efforts for the correction of his date of birth in the said High School Certificate by resorting to correspondence with the Raghbir Singh Kisan Higher Secondary School, Simbholi (U.P.) from where he passed his Higher Secondary Examination as a regular student. The applicant joined the Railway Department, North-East Railway, Gorakhpur as Clerk on 4.8.1953 at the age of about 20 years as per his actual date of birth, i.e. 15.3.1933, but in the service book, his date of birth was recorded as 30.1.1933. The applicant on mutual exchange got himself

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transferred to Northern Railway where he continued his duty v.e.f. 7.3.1959 and was posted in Headquarters Office, Baroda House, New Delhi. Even after joining service, the applicant continued his efforts for correction of his date of birth recorded in the service record as well as in High School Certificate and in this connection he made representation dated 17.6.1973 to the Railway authorities. The applicant through the then S.D.O., Shri Manzoor Ahmed made subsequent representations in the year 1990 and sent the representation to Secretary, Madhyamik Shiksha Parishad, U.P., Allahabad. In response to this representation, the applicant was informed vide letter dated 15.10.1990 (Exhibit-12) that after careful consideration, the request for the change of applicant's date of birth has been decided in his favour and consequently a duplicate High School Certificate altering his date of birth from 30.1.1933 to 11.3.1938 has been issued (Exhibit-13). The applicant on the basis of this duplicate High School Certificate requested the Chief Personnel Officer, Northern Railway, Baroda House through his representation dated 30.10.1990 (Exhibit-14) to correct his date of birth from 30.1.1933 to 11.3.1938, but no reply has been received by him in spite of subsequent reminders having been sent to the respondents in November and December, 1990. Since

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the applicant was going to retire on 30.1.1991, he filed the present application on 4.1.1991.

3. The applicant prayed for interim relief and by the order dated 23.1.1991, the respondents were directed, without prejudice to the right of the parties to allow the applicant to continue in service after 31.1.1991 till further orders on the petition, that if the applicant does not succeed in the suit, his service beyond 31.1.1991 shall not count for the purposes of calculating any of his retirement benefits.

4. An application for review of that order is also pending, but that is not before us. Since the application is being disposed of on merits, finally, it is not necessary that the same be disposed of also.

5. The respondents contested the application to the extent that the date of birth of the applicant as recorded in his application dated 24.9.1981 is 30.1.1933. On the basis of this application, he was given initial appointment in the North Eastern Railway. The said date of birth is recorded on the basis of High School Certificate submitted by the applicant. It is stated that no representation in the year 1973 was received from the applicant. It

It is further stated that the alleged revised High School Certificate was issued to the applicant in October, 1990, so in the circumstances it is wrong on the part of the applicant to allege that he had applied for change in the date of birth as far back as in the year 1973. It is further stated that since the original High School Certificate has not been cancelled or withdrawn by the said board, the duplicate copy, issued by the applicant cannot be taken into consideration and the same will not take the place of the original certificate which shows the date of birth of the applicant as 30.1.1933 as recorded in the school record. It is further stated that the alleged representation dated 30.10.1990 has yet not been received by the respondents. The copy of the alleged representation as filed by the applicant is said to have been submitted in the General Manager's Office of the West Quarter's Office of the Indian Railway, but the same has not yet been received by respondent No.2. It is further stated that alleged reminders have been received by respondent No.2 from the applicant. The application filed by the applicant is highly belated and time barred.

6. We have heard the learned counsel of both parties at length and gone through the record of the case.

7. Section 20 of the Administrative Tribunal Act, 1965 lays down that the Tribunal shall sit in public.

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admit an application unless it is satisfied that the applicant had filed all the remedies available to him under the relevant service rules as to matters of grievances. Though the application was admitted by the order dated 24.1.1991, but the reply filed by the respondents goes to show that no representation was received by the respondents as alleged in para-4 XI & XII. The applicant has not filed any receipt, but in the rejoinder in para-4 XI, it was reported that the said representation was received by the General Receipt Section of Railway Head Quarters. The representation (Annexure-A 1) is addressed to Chief Personnel Officer, Northern Railway and has been sent through F.A. & C.A.O. It does not extend to show how it was presented in the General Receipt Section when it was already presented to the localising officer, under whom the applicant is working. In any case in para 4.12 in the rejoinder, no specific mention has been made as to how the reminders have been sent and who have received them, though the applicant is said to have sent three reminders, one in November and two in December, 1990. In fact, the letter from the Secretary, Railway Board dated 15.10.1990 goes to show that the correction in the date of birth had already been ordered and information was sent to the Principal on 25.7.1989.

8. After giving careful consideration, we consider that it is not necessary to go into evidentiary value of the certificates filed as the representation of the applicant is alleged to be pending with the respondents and that has not yet been disposed of. It shall, therefore, be in the interest of justice that the representation of the applicant be considered on merits and if such representation is not available, then the applicant shall make available another representation along with the documents in support of his date of birth as alleged by him within two weeks from the receipt of this order and the respondents shall consider the case of the applicant according to law and rules.

9. In view of the above discussion, the application is disposed of in the following manner:-

- a) The respondent No.2 is directed to dispose of by a reasoned order the representation dated 30-10-1990 within six months from the receipt of this order;
- b) if the said representation is not available the applicant shall file a fresh representation ^{within two weeks} furnishing all the documents in support of his case for correction of the date of birth;
- c) the interim order dated 28-1-1991 shall stand vacated after the disposal of the representation for which six months period has already been fixed;
- d) the applicant can file fresh application if he is still aggrieved by the order passed on his application.

In the above circumstances the parties shall bear their own costs.

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

B.N. Jayasimha
(B.N. JAYASIMHA)
VICE-CHAIRMAN