

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 1256/2004

New Delhi, this the 5th November, 2004

Hon'ble Shri S.K.Naik, Member(A)

S.P.N.Bhambi
1667, Nai Sarak, Delhi-110006 .. Applicant

(Shri T.M.Ranganathan, Advocate)

versus

Union of India, through
1, Secretary
Department of Legal Affairs
Ministry of Law, Justice & Company Affairs
Shastri Bhavan, New Delhi
2. Dy. Secretary
Ministry of Law, Justice & Company Affairs
Shastri Bhavan, New Delhi

(Shri Madhav Panickar, Advocate)

ORDER(oral)

By virtue of the present application, applicant has challenged the memorandum dated 6th January, 2004 by which his request for alteration/change in date of birth has been turned down. According to the applicant, who has since retired from service on 30.9.2003, his correct date of birth is 23.12.1946 and not 9.9.1943. He has contended that he has made a representation on 23.9.2003 enclosing therewith a certificate issued by the Senior District Registrar, Birth & Death, Amritsar showing his date of birth as 23.12.1946. This was followed by another representation on 20.10.2003 and reminder dated 14.12.2003, i.e. after his retirement on 30.9.2003, but the same has been rejected by the impugned memorandum. Hence, this application seeking quashment of the said memorandum and a direction for grant of consequential benefits.

2. Needless to state, respondents have resisted the claim of the applicant. They have stated in their reply that as per the service record of the applicant, who joined service as Assistant (Legal) on 25.7.1972, his date of birth is recorded as 9.9.1943. Thus he retired on 30.9.2003 on superannuation in the normal course. However, at the fag end of his retirement i.e. on 26.9.2003, just before 5 days from his retirement, they received his representation dated 19.9.2003 mentioning therein that his date of birth as recorded in the office record as 9.9.1943 is controversial in

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view of the communication received from the District Registrar, Births & Deaths, Amritsar stating that there is no entry of his date of birth till end of the month of September/October, 1943 and that the record for subsequent months/years is being searched by the said office. Thereafter, again on 29.9.2003, i.e. just a day before the date of his retirement on superannuation, respondent-Ministry received another representation dated 23.9.2003 from the applicant mentioning inter alia that his real date of birth will be available after the record is searched and checked by the aforesaid office but there was no conclusive proof of his age. After retirement, the applicant sent representations on 29.10.2003 and 14.12.2003 for altering his date of birth claiming his date of birth to be 23.12.1946 as per certificate issued by Sr. District Registrar, Births & Deaths, Amritsar. After considering all aspects of the case, the applicant was rightly informed vide the impugned memo dated 6.1.2004 that his request was badly time barred. Thus, the applicant has no case and the OA be dismissed, the respondents contend.

3. I have heard the learned counsel for the parties and perused the records.

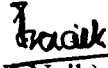
4. Learned counsel for the applicant has placed reliance on a catena of judgements starting from 1976(1) SLR 402 and others as mentioned in page 10 of the OA to contend that correction is liable to be made on the basis of documentary proof.

5. On the other hand, respondents' counsel has drawn my attention to the DoPT instructions on the subject of requests for alteration in the date of birth and has contended that such a request could have been made within five years of entry into service i.e. by 1977. The request therefore is hopelessly delayed and is an after thought to derive undue benefit. He has referred to the decision of the apex court dated 9.2.2004 in **State of Punjab Vs. Chadha (2004) 3 SCC 394** wherein it has been categorically held that the sole object of such rules/instructions is that any such claim regarding correction of the date of birth should not be made or entertained after decades, especially on the eve of superannuation of such public servant.

6. In the instant case, applicant having joined service in the year 1972 by giving his date of birth as 19.9.1943 has chosen to wake up after more than 31 years to claim that his date of birth had been wrongly recorded and that the actual date of birth is 23.12.1946 that too just a few days before his

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retirement. Respondents have rightly rejected his claim keeping in view the legal position. That being the case, there is hardly anything for this Tribunal to interfere in the matter. Resultantly, the OA must fail and is accordingly dismissed. No costs.


(S.K. Naik)
Member(A)

/gtv/