

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.177/92

09.07.92

Shri Horam Singh

...Applicant.

vs.

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Sh.R.L. Dhawan

For the Respondents

...Mrs. Raj Km.Chopra

1. Whether Reporters of local papers may be allowed to see the Judgement? *yy*

2. To be referred to the Reporter or not? *yy*

JUDGEMENT (ORAL)

The applicant, Ex-Deputy Regional Director, National Savings, Meerut has the grievance that his actual date of birth according to certain school leaving certificates is 25.12.1936 and on that account his date of superannuation cannot be 31.8.1989 when he was retired from service by the respondents. The applicant has made a representation to the respondents on 30.6.1989, i.e., a couple of months before he reached superannuation according to the recorded date of birth. His representation was rejected vide order dt.28.8.1989 (Annexure A2). He made another representation, which was rejected on 14.5.1991. The applicant has claimed the relief in this application filed on 24.1.1992 that the respondents be directed to alter the date of birth of the applicant as mentioned in the

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birth certificate issued by Municipal Board of Ghaziabad and primary school leaving certificate issued on 20.6.1943 and reinstate the applicant in service from which he has been retired with full benefits and pay and allowances and seniority besides promotion.

2. A notice was issued to the respondents and Mrs. Raj Kumari Chopra appeared and opposed the admission contending that at this stage, she is opposing the application without filing any reply which according to the respondents is not necessary.

3. I have heard the learned counsel for the parties at length on admission. The learned counsel for the applicant insisted that let a reply be got filed from the respondents regarding their stand, but it is not mandatory when a case is taken up under Section 19 for admission as provided under Section 19(3).

4. The contention of the learned counsel for the applicant is that the actual date of birth of the applicant is evidenced by certain documents like birth certificates issued by Municipal Board, Ghaziabad and the school leaving certificate issued by the institution of some village within Ghaziabad when Ghaziabad was under Meerut district. He has also filed a photocopy of the horoscope.

5. The challenge has been made to an impugned order dt. 28.8.1989 passed by National Saving Commissioner (Annexure A2). This is a detailed order narrating facts and reasons for rejecting the

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representation dt.23/28.6.1989. It cannot, therefore, be said that the respondents have not considered the case of the applicant on merit. As provided under Section 21(1), the applicant has to assail this order within a period of one year, but the application has been filed in January, 1992 which is beyond the limitation provided under the Act. However, the learned counsel argued that the final order is of 14.5.1991 which according to him was passed on an appeal preferred against the earlier order of August, 1989. However, a perusal of Annexure A1 will show that it was a subsequent representation of the applicant and as per the authority of S.S.Rathore vs. State of M.P., AIR 1990 SC 10, the repeated representations cannot add to the period provided under the Act. Thus this application is barred by time and there is no application for condonation of delay under Section 21(3) of the Act.

6. However, since the learned counsel for the applicant has also touched certain points on merits, those have also been gone into. The applicant is a person of the rank of Regional Director and cannot at any time be said that he falls within the category of those persons, who are not aware of the dates when they were born and brought up. The applicant has himself given out his date of birth while taking the Higher School Examination under the UP Board as 19.8.1931. The applicant passed the High School in 1950 and he joined the Government service on 2.4.1957. Since 1957 onwards, the applicant served and would have had an occasion to look into the various stages

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of his service career in documents like seniority list or similar other records. It cannot, therefore, be said that there was a bonafide desire on the part of the applicant during his service career to get the date of birth recorded in the High School certificate duly corrected from the competent issuing authority of that certificate. In the Government service, High School Certificate is taken to be authentic to the extent that even a copy thereof is taken to be relevant to assess the age of a person at the time when he enters the Government service. However, the learned counsel for the applicant has also referred to certain averment made in paras- 4.6 and 4.7 of the application and these averments themselves go to show that they are after-thought. It is said that in 1989, he rushed to his native village and that too in the month of June, meaning thereby two months before his retirement and then he came across the primary school leaving certificate issued on 20.6.1943. To cut short, when a school going boy leaves a primary school and enters in another school for higher education, such a certificate is filed for getting admission in that institution and at least in UP, this is mandatory. The date of birth recorded in the earlier institution is taken to be correct date of birth for entering into the other institution where such a person got admission for higher education. *The date of birth recorded in High School Certificate is more authentic and conclusive unless the said certificate is corrected by issuing authority.*

7. Keeping all these facts in mind, the education and the post on which the applicant has worked, I do not find that any prima-facie case is made out for admitting this matter for hearing. In the circumstances of the case, the application is dismissed as hopelessly barred by time and devoid of merits at the admission stage itself leaving the parties to bear their own costs.

AKS

J. P. Sharma
 (J.P. SHARMA)
 MEMBER (J)
 9.7.92