

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No.2904 of 1992

New Delhi this the 19th day of November, 1993

(12)

Shri B.N. Dhoundiyal, Member (A)

Shri T.S. Krishnamoorthy,
R/o 78, Bharati Nagar,
New Delhi.

...Applicant

By Advocate Shri K.N. Balgopal

Versus

Union of India through
Secretary,
Department of Revenue.

...Respondent

By Advocate Shri V.P. Uppal

O R D E R

Shri B.N. Dhoundiyal, Member

The applicant, Shri T.S. Krishnamoorthy, a member of Indian Revenue Service of 1963 batch, is aggrieved by rejection of his representation regarding change of his date of birth from 16.05.1940 to 19.05.1941.

2. The applicant submitted a representation on 25.09.1987 stating that his date of birth in the school leaving certificate had been erroneously shown as 16.05.1940. He received a copy of the Municipal Certificate only in October, 1985 and he understood that he could seek revision in the date of birth 5 years before the date of retirement. He filed an O.A. 738/1988 before the Madras Bench of this Tribunal which vide order dated 15.09.1989 directed the respondents to examine his representation on merits and pass a reasoned order thereon. In the impugned order dated 30.10.1991, the main reason given for rejection of his representation is that "according to note 6 below FR 56, the request for change in the date of birth can

be made within 5 years of entry into Government service. In the instance case, request for the first time was made on 25.09.1987, i.e., after a lapse of more than 2 decades after entry into Government service". Relying on a number of cases*, the applicant has pleaded that exceptional circumstances which warrant alteration of the date of birth may be considered and respondents be directed to alter his date of birth in his service record from 16.05.940 to 19.05.1941.

3. In the counter-affidavit filed by the respondents, it is stated that the orders of the Hon'ble Tribunal were complied with and a speaking order was passed on 30.10.1991 rejecting the applicant's representation for alteration of his date of birth. The applicant joined I.R.S. in 1963 but representation for alteration of date of birth was made in 1987 only, i.e., after a lapse of almost 24 years of service. Relying on a number of judgements*, the respondents have contended that the application is liable to be rejected due to delay and laches. He had neither in his representation nor in his application given any explanation regarding the mistake by his parents in recording his date of birth in the school.

4. We have heard the learned counsel for the parties. The period of 5 years for alteration of date of birth has been prescribed in Note 5 to FR 56(m) as substituted in 1979. It was held by the Supreme

* Cases relied upon by the learned counsel for the applicant:

AIR 1963,,Bombay 25 in Paryanibai Vs. Bajiro: Manak Chand Vs. State of Himachal Pradesh, SIR 402; AIR 1987, 17 CAG 414.

* Cases relied upon by the learned counsel for the respondents:-

Shri Lakshminarayan Vs. U.O.I(OA 330/86 - CAT Bangalore Bench; T.V.N. Reddy Vs. U.O.I & Anr. (OA 944/90 - CAT Hyderabad); 1987 (2) SLR 319; Ghasita Lal Vs. U.O.I & Anr.1988 ATC 224

3.

(X)

Court in Union of India Vs. Harnam Singh, (1993) 2 Supreme Court cases 162 - those already in service prior to 1979, for a period of more than 5, years would be obliged to seek alteration within the maximum period of 5 years from the date of coming into force of amended Note 5 in 1979. However, in this case, the first representation was made by the applicant only on 25.09.1987, i.e., 3 years after the due date. Hence, the application cannot be allowed in view of the unexplained and inordinate delay.

5. The O.A. is dismissed. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

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