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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No. 605/92

Date of Decision: 30.3.1992
~~00-04-1992~~

P.L. Choudhary

- Applicant

Shri B.S.Charya

- Counsel for the applicant

Vs.

Commissioner of Police,
Delhi and others

.. Respondents

None

.. Counsel for the respondents

CORAM:

The Hon'ble Shri. S.P.Mukerji - Vice Chairman

The Hon'ble Shri. J.P.Sharma - Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(delivered by Hon'ble Shri S.P.Mukerji, Vice Chairman)

The facts of the case lie within a narrow compass and can be stated as follows. The applicant joined as Assistant Sub Inspector of Police in July, 1957 and on the basis of the entry in the Higher Secondary Certificate (Annexure P.6) his Date of Birth was recorded as 1st April, 1934. He had passed the Higher Secondary Examination in 1955. He carried on with this recorded Date of Birth until 13.1.92 when he represented to claim the Date of Birth as 1.4.1938. He moved this Tribunal by this application dated 4.3.92 just 27 days before he has to superannuate on 31.3.1992, on the basis of his recorded Date of Birth. According to him he had been alerted about his impending retirement vide the order dated 20.7.90 but when he came to know that his elder brother had been alerted on 24.10.91 for retirement on 30.6.92 he represented on 13.1.92 for correction of his Date of Birth to the Police Authorities. According to him the Police authorities made an

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enquiry about his Date of Birth and recommended his case for correction of the recorded Date of Birth but since nothing tangible emerged he moved this Tribunal with this application.

2. The main plank of his case is that since his elder brother's date of birth, who is working in the Union Public Service Commission, has been recorded as 2.6.34 his Date of Birth cannot be on 1.4.1934^{that is} earlier than the date of birth of his elder brother. He has produced the birth certificate of his immediate elder sister who was born on 4.4.36. He has cited a number of rulings of the Supreme Court and High Courts to assert that he is entitled to get his Date of Birth corrected at any stage^{and} even after retirement.

3. We have heard the arguments of the learned counsel for the applicant in ~~great~~^{great} detail. It is true that the Supreme Court and various High Courts and even this Tribunal have recognised the right of an employee to claim the correct Date of Birth at any stage of his career and no such claim can be summarily rejected as time barred, but the claim must be based on irrefutable evidence and the circumstances should indicate that the applicant has been a victim of bonafide mistake and other circumstances beyond his control. In the instant case the Date of Birth of the applicant was recorded in his Service Book as 1.4.34 on the basis of the Date of Birth recorded in his Higher Secondary Examination Certificate. The matriculation or SSLC or Higher Secondary Examination Certificates are recognised in law and service jurisprudence as ~~an~~ authoritative documents in proof of the Date of Birth. The Date of Birth so recorded can be changed only on very cogent grounds supported by authoritative collateral evidence in rebuttal. In the instant case the applicant having got his Date of Birth recorded^{in 1957,} from his Higher Secondary Examination Certificate as 1.4.34^{has} taken no action^{for thirty five years} to get the Date of Birth so recorded in that Certificate corrected, and rushed to the

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Department within less than three months and to the Tribunal within less than one month of his date of superannuation. He has merely produced a number of affidavits from his close relations and acquaintances in support of his claim. He has not produced any affirmative documentary evidence to establish that his correct Date of Birth was 1.4.38 and not 1.4.34. Unless therefore, the applicant gets his Date of Birth corrected in the Higher Secondary Examination Certificate which is the foundation of the recorded Date of Birth in the Service Records, he is bound by the recorded Date of Birth.

4. In more or less similar case, while disposing of a similar application No. O.A. 1902/89, (S.C. Kain Vs. Union of India), Mr. Justice Amitav Banerji, the Chairman of the Central Administrative Tribunal as he then was, while sitting singly ^{in the Principal Bench,} in the Judgment dated 19.9.91 observed as follows:

"The Division Bench sitting at Hyderabad in the case of M.M. Cherian Vs. Union of India (1990(1)CAT) held:

"Alternation of date of birth cannot be allowed where no request for change till the end of service; he did not raise the issue; had signed the service book entries of date of birth; no clerical or other mistake".

We have a similar case here. The date recorded in the Matriculation Certificate has not been changed. It remains. In the Matriculation Certificate, the date of birth is 1.5.1933. So long as the date in the Matriculation Certificate which is the usual evidence of record of date of Birth in government service is not changed or altered, there is no scope for change of the recorded date of birth and more so at the end of the career." (emphasis added)

In the same judgment it was further observed as follows:

"Apart from above, the significant fact to be borne in mind is that unless the High School Certificate was corrected, there was no question of correcting the date of birth in the Service Book. If the date recorded in

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the Matriculation Certificate is not shown to be erroneous by cogent evidence and circumstances, it cannot be altered.

In view of above, I see no reason to interfere in this case. The date of birth as recorded in the Service Book and supported by the Matriculation Certificate does not call for any alteration. This OA is accordingly dismissed. There will be no order as to costs."

5. In the circumstances, we see no force in the application and dismiss the same at the admission stage itself under Section 19(3) of the Administrative Tribunal Act. We, however, make it clear that this order of the Tribunal will not prejudice ^{the applicant's} ~~his~~ legitimate ^{claim} of the ^{any} corrected Date of Birth, after he gets the Date of Birth recorded in the Higher Secondary Examination Certificate in accordance with law. There will be no order as to costs.

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

S.P. Mukerji
30.3.92
(S.P. MUKERJI)
VICE CHAIRMAN

30-04-1992
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