

In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1222/92

Date: 13.8.92

Shri Krishan Pal alias Applicant
Krishan Kumar

Versus

Union of India Respondents

For the Applicant Shri A.K. Bhardwaj, Advocate

For the Respondents Shri M.L. Verma, Advocate

CORAM: Hon'ble Mr. J.P. Sharma, Member (Judl.)
Hon'ble Mr. N.K. Verma, Member (A).

1. To be referred to the Reporters or not?

(Judgement of the Bench by Hon'ble Mr. J.P. Sharma, Member)

The applicant filed Civil Suit No.933/85 in the Court of Senior Sub-Judge, Delhi, which stood transferred to the Central Administrative Tribunal, Principal Bench and registered as T-466/86 and was decided by the Division Bench on 30.7.1991. This application was dismissed, but was left open to the respondents that in case the applicant satisfied the respondents regarding his date of birth, there is no reason why the respondents would not consider him for reinstatement. The applicant made a representation on 17.9.1991 to the Joint Secretary, Ministry of Law that his case of reinstatement may be considered on the basis of the original copy of the certificate issued by the Government, C-Education, Middle School, Sabhapur, P.O. Gokul Puri, and that he has passed VIII Class and his date of birth

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as per the school records, is 1.1.1961. The applicant has not been reinstated and in this application, he has prayed that the oral order of termination be quashed which was passed in the month of September, 1984 and direct the respondents to reinstate the applicant with back wages. The respondents contested the application and stated that the applicant was informed by a memo, dated 1st July, 1992 that he had failed to satisfy the Government regarding his identity that he was the same person who was registered with the Employment Exchange and was sponsored for being engaged as a daily-wager in the year 1980. Further, it was not sufficiently explained that he and his father were also known by other names at the time when the applicant was engaged as a daily-wager. The Government also did not accept the explanation of the applicant regarding his date of birth because in the original school leaving certificate earlier submitted by the applicant at the time of his engagement as a daily-wager, was shown as 1.1.1964, while at the time of regularisation, he has given the date of birth as 1.1.1961. Thus, this is the case of the respondents that the authorities have fully considered the representation of the applicant in pursuance of the directions given in the judgement in case No.T-466/86 decided on 30.7.1991, and that Civil Suit was dismissed which was for declaration praying for a decree that the oral discharge of the

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applicant in the office of the defendants was illegal. If the applicant was aggrieved by the dismissal of this application, he should have assailed the same before the higher authorities. The respondents have applied their mind to the various documents furnished by the applicant and it was found that he has no case for regularisation of his services as a daily-wager in the Ministry of Law. The observation made in para.3 of the oral judgement by the Principal Bench by the order dated 30.7.1991 in T-466/86 is as follows:-

"The contention of the learned counsel for the respondents to the effect that the SLC withdrawn on 21.1.1984 was a primary document and it was not controverted in any justifiable or convincing manner. This is not without any substance."

However, at the time of disposing of the T.A., it was observed that it will be open to the applicant to satisfy the respondents regarding the date of birth. The matter which weighed with the respondents is that the original records submitted by him to the department, the name of his father was mentioned as Raju Singh and the date of birth mentioned in the school leaving certificate is shown as 1.1.1964 and his name, as Krishna Pal. In the Attestation Form filled up by him on 24.1.1984, he indicated his name as 'Krishan Kumar' and his date of birth as 1.1.1961 and age as 23 years. The original

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school leaving certificate produced by him was withdrawn on 21.1.1984 on the pretext of obtaining a duplicate certificate. This original school leaving certificate has not been produced by him despite repeated reminders and he has taken the stand that this particular certificate has been lost by him. Instead, he submitted another school leaving certificate which showed his name as Krishan Kumar and his father's name as Raj Pal. He was asked to submit Employment Exchange Card and in response, he replied that it had been lost. From the above, it is evident that any reasonable man would have suspicion about the identity of the person because Krishan Pal and Krishan Kumar with father's name as Raju Singh and Raj Pal, respectively, go to show two different persons. The heavy burden lay on the applicant to convince the respondents and merely filing of an affidavit would not be sufficient. It is also because of the fact that only these persons who are sponsored by the Employment Exchange, can be appointed and the Government could have only accepted the records pertaining to Krishna Pal. Here, not only the name of the applicant varies, but also his father's name is different on the two occasions, as mentioned above, i.e., at one time when he was engaged as a daily-wager, and the other time, when necessary details were asked for his regularisation in January, 1984.

2. We have also considered the genuineness of the school leaving certificate which is filed along with the

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application. This school leaving certificate does not show in which class the applicant entered the institution and which class he passed in the subsequent years till he left the institution in April, 1976. His stay in the institution appears to be from July, 1973 to April, 1976. It means, he entered the institution some time in Class VI, but that is only a calculation. Where the applicant studied earlier, has not been disclosed. Thus, this school leaving certificate also does not give a correct picture regarding the identity of the applicant.

3. The date of birth is very material while entering the service. Although in the case of the applicant, whether it is 1961 or 1964, would not make any difference except that if his age is 19 years on 4.1.1984, as also supported by medical certificate filed by him certifying his age as 19 years, then in 1980, he was a minor, when he was engaged as a daily-wager. The furnishing of false information or supersession of any factual information is in itself a disqualification and renders the person concerned unfit for employment. If the school leaving certificate submitted earlier showed his date of birth as 1.1.1964 and that submitted subsequently, showing his date of birth as 1.1.1961 and father's name as Raj Pal, it is evident that the respondents have correctly assessed

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the case of the applicant and have come to the conclusion that ^{it} ~~he~~ is not in a justifiable and convincing manner, established his date of birth.

4. In view of the above discussion, we do not find any reason to interfere with the order, denying employment to the applicant annexed to the counter (Annexure I). The application is, therefore, devoid of merit and is dismissed. The parties to bear their own costs.

N. K. Verma
(N. K. Verma)
Member (A)

J. P. Sharma
(J. P. Sharma) 13/8/93
Member (J)

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J. P. Sharma
13.8.93