

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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HON. SHRI R.K. AHOOJA, MEMBER(A)

O.A. NO. 1352/1993

NEW DELHI, THIS 9TH DAY OF APRIL, 1997

SHRI NAND LAL VERMA
Head Clerk (Operating)
under Sr. Station Manager
Northern Railway
Delhi

C/o Sh. B.S. Mainee
Advocate
240 Jagriti Enclave
Delhi-92

..APPLICANT

(By Advocate - Shri B.S. Mainee)

VERSUS

UNION OF INDIA, through

1. The General Manager (P)
Northern Railway
Headquarters
Baroda House
New Delhi
2. The Div. Railway Manager
Northern Railway
State Entry Road
New Delhi
3. The Sr. Station Manager
Northern Railway
New Delhi

..RESPONDENTS

(By Advocate - Shri P.S. Mahendru)

ORDER (ORAL)

The applicant was appointed in the Delhi Division of Northern Railway as Carriage and Wagon Khalasi on 1.7.54. He claims that at that time, he was 16 years of age. He also claims to have submitted an affidavit in support of his date of birth since being a migrant from West-Pakistan

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he did not have any school or municipal certificates to establish his date of birth. He states that in terms of a letter dated 15.1.1993, the respondent No.2 decided that the employees should be asked to sign on the first page of service book every five years to avoid any discrepancy. As a result of this direction, he checked his service record whereupon he discovered that his date of birth had been wrongly recorded as 1.7.1935 instead of 1.7.1938. He made a representation to have this corrected. The same representation was forwarded by the Senior Station Manager on 7.5.93. His wife also submitted a representation to the Minister for Railways on 3.5.1993. He was thereafter directed to attend the office of DRM with necessary documents. The Divisional Personnel Officer was, according to the applicant, fully satisfied but no reply was given. He filed another representation which was forwarded to the General Manager (P), Northern Railway, New Delhi. The applicant states that the respondents have not yet decided upon the representation and are instead going to retire him w.e.f. 30.6.93. He has therefore sought a direction to respondents to alter his date of birth as 1.7.38 and to retire him w.e.f. 30.6.1996.

2. The respondents in reply state that the applicant a literate person has signed the entries in his service book. The date of birth entered in his service book is 1.7.1935. The applicant had taken benefit of this date of birth to obtain entry into service. He cannot now therefore claim that his date of birth was 1.7.38. Any correction or alteration in service record has to be done within five years of joining service and this could have been done by the applicant as per the existing instructions only upto 30.7.73.

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4. I have heard the counsel on both sides. The ld. counsel for the applicant, Shri B.S. Mainee, submits that the applicant had no opportunity to learn that a mistake had been made in the service records until he was given an opportunity to inspect the record in 1993. Thereafter, he made a representation which was duly considered and the Divisional Personnel Officer was also satisfied about his claim. Since he was not competent to decide the matter, the representation was forwarded to the competent authority which to date has not decided the matter. Shri Mahendru, counsel for the respondents, points out that the service records bear the signatures of the applicant in token of its verification. The date of birth is correctly entered and needs no correction or alteration. The applicant, if his date of birth is taken as in 1938, would have been only 16 years of age when he initially joined the service. He also cited various decisions of the Supreme Court to show that it is now the law that the court of the Tribunal at a belated stage cannot entertain a claim for correction of date of birth entered in the service records.

5. I have carefully considered the arguments and pleadings on both sides and have also seen the records. I have also gone through the service record of the applicant. The first page of the service record bears an entry regarding the date of birth of the applicant as 1.7.1935. It also bears his signatures. The Supreme Court has also held in a number of cases including UOI VS. HARNAM SINGH 1993(2) SCC 162, VISHAKAPATNAM DOCK LABOUR BOARD VS. UOI and UOI VS. RAM SAHA SHARMA SCSLJ 1996(1), PP.548 and 552 respectively that a government servant must take steps for correction of his date of birth within five years of the date of notification and applications made for correction after 25 years

of service cannot be allowed. In this case also, the applicant joined service in 1954 and made representation for correction only in 1993, that is, after a lapse of nearly 38 years. In terms of the afore-cited judgements of the Hon. Supreme Court, there is no scope whatsoever for correction of date of birth. The mere fact that a representation was made and no reply to that was finally communicated to the applicant does not imply that he had a right to continue in service even after the date of superannuation as per the service record. In the facts and circumstances of the case, the O.A. being without merit is dismissed. No costs.

R.K. Ahooja
(R.K. AHOOJA)
MEMBER (A)

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