

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1567/93

Date of decision: 30.07.1993.

Shri Sher Singh

...Petitioner

Versus

Union of India through the
Director General of Health
Services, Nirman Bhawan,
New Delhi & Others

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri S.M. Garg, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

Heard the learned counsel for the petitioner. The petitioner joined the office of the respondents on 22.3.1959 and is presently working as Laboratory Assistant. At the time of joining the service his date of birth was recorded as 15.7.1935 on the basis of date of birth mentioned in the School Leaving Certificate. He is due for retirement on superannuation on 31st July, 1993. He has filed this O.A. on 26.7.1993 praying for correction of date of birth from 15.7.1935 to 1.1.1938. The petitioner claims that he was not aware even till 1992 whether his correct date of birth had been recorded at the time of his birth in the office of the Registrar, Births and Deaths. When he discussed the matter with his elder brother, he came to know that his date of birth is in 1938 and that it was registered with Registrar of Births and Deaths. He obtained the copy of the extract from the records of the Births and Deaths Register according to which his date of birth is 1.1.1938 and not 15.7.1935, as recorded in his service records and the School Leaving Certificate. It would be seen from the above that petitioner had slept over the matter since 1959 for almost two and a half decades. Therefore, the matter

is highly belated and is barred under Section 21 of the Administrative Tribunals Act, 1985. The Hon'ble Supreme Court in Union of India v. Harnam Singh reported in JT 1993 (3) SC 711 has held:-

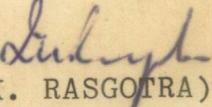
"...the date of birth recorded at the time of entry of the respondent into service as 20th May 1934 had continued to exist, unchallenged between 1956 and September 1991, for almost three and a half decades. The respondent had the occasion to see his service book on numerous occasions. He signed the service book at different places at different points of time. Never did he object to the recorded entry. The same date of birth was also reflected in the seniority lists of LDC and UDC, which the respondent had admittedly seen, as there is nothing on the record to show that he had no occasion to see the same. He remained silent and did not seek the alteration of the date of birth till September 1991, just a few months prior to the date of his superannuation. Inordinate and unexplained delay or laches on the part of the respondent to seek the necessary correction would in any case have justified the refusal of relief to him. Even if the respondent had sought correction of the date of birth within five years after 1979, the earlier delay would not have non-suited him but he did not seek correction of the date of birth during the period of five years after the incorporation of Note 5 to FR 56 in 1979 either. His inaction for all this period of about thirty five years from the date of joining

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service, therefore, precludes him from showing that the entry of his date of birth in service record was not correct."

In view of the law declared by the Hon'ble Supreme Court, we do not find any merit in this Application. We are of the opinion that the inordinate delay is not explained in a reasonable manner nor is the explanation to our satisfaction. Accordingly the O.A. is dismissed at the admission stage itself.


(B.S. HEGDE)
MEMBER(J)


(I.K. RASGOTRA)
MEMBER(A)

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