

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA No.648/93

Date of decision:28.5.93

Smt.Radha Rani Ray ...
versus

Applicant

Union of India
through
Secretary,
Ministry of Health
New Delhi & ors. ..

Respondents

CORAM:THE HON'BLE SH.I.K.RASGOTRA, MEMBER(A)
THE HON'BLE MR.J.P.SHARMA, MEMBER(J)

For the Applicant ... Sh.M.L.Ohri, Counsel.

For the Respondents ... Sh.P.P.Khurana, Counsel.

1. Whether local reporters may be allowed to see the judgement? *No*
2. Whether to be referred to the reporter? *Yes*

J.P.Sharma
(J.P.SHARMA)

MEMBER(J)

I.K.Rasgotra
(I.K.RASGOTRA)

MEMBER(A)

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JUDGEMENT

(BY HON'BLE SH.J.P.SHARMA, MEMBER(J)

The applicant is aggrieved by the order dated 17.2.93 passed by the Additional Director, C.G.H.S.New Delhi rejecting her request for correction of date of birth. Her case is that she was born on 25.3.1938 in Village Jalma, Distt. Khulna now in Bangladesh where she studied in Jalma Chakrakhali Khulna High School and left the school on 31st December, 1950. In May, 1970 she migrated from East Pakistan and reported at Mana Camp, Raipur (Madhya Pradesh). She was granted Indian citizenship by the Additional Collector, Raipur vide letter dated 12.9.73 (Annexure - A-4) and in that also her age at that time is shown as 35 years. When she migrated to India, she joined as Ayah on 17.9.70 in the office of the Chief Medical Officer, Mana Camp, Raipur (Annexure A-5). Her contention is that at the time of employemnt in 1970 she had given her date of birth as 30.5.1932 instead of her actual date of birth, namely, 25.3.38 and the mistake had occurred because at the time of migration to India in May, 1970 she left her belongings including

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school leaving certificate behind in Bangladesh.

In 1974, the office of the Chief Medical Officer, Raipur asked her to furnish certificate in support of her age and she submitted that certificate as is evident from an endorsement in the Memorandum dated 10.4.74 issued by the office of the Chief Medical Officer, Mana Camp.

It bears an endorsement "received true and initialled on 27.4.74. However, she was transferred as Female Attendant in the C.G.H.S Wing of the Director General of Health Services with effect from 27.9.76. Since the date of birth of the applicant was not correctly recorded in the service record she submitted a representation dated 8.9.89 to the Administrative Officer, C.G.H.S., New Delhi. She was informed by the letter dated 14.12.89 by the Administrative Officer, C.G.H.S. (Annexure A-9) that her request could not be acceded to. Aggrieved by that order, she made another representation on 13.12.91 requesting for change in her date of birth in the service record. Without waiting the result of the said representation, she filed OA No.1176/92 praying for a direction to the respondents to make a change in the service record regarding the date of her birth as 25.3.1938. That OA was disposed of by the Principal Bench on 10.9.92 with a direction to the respondents to dispose of the representation of the applicant and then decide the case regarding the change of date of birth. The respondents vide impugned order dated 17.2.93 again rejected the request of the applicant and hence the present application has been filed for the relief to correct the date of birth.

birth of the applicant in the service record to 25.3.38 and to quash the order of retirement of the applicant with effect from 31.5.92 by the order dated 12.5.92.

3. The respondents have contested this OA and stated that the representation of the applicant has been decided in terms of the directions issued by the Tribunal in its judgement dated 10.9.92 and the present OA does not lie. The reply of rejection of the representation for correction of date of birth has been communicated to the applicant by the impugned order dated 17.2.93. ^{that} The applicant has no case and she has also retired from service. The applicant at the time of her appointment had herself given her date of birth as 3.5.1932 and also signed the service sheet as well as attestation form(Annexures R-1 & R-2). It is further stated that as per records received from Chief Medical Officer, Mana Camp, the date of birth of the applicant is 3.5.1932 and not 25.3.38. The contention of the applicant is an after thought and the date of birth has been rightly entered and needs no change.

4. We have heard the learned counsel for the parties at length and perused the record carefully. The change in date of birth is pressed by the learned counsel for the applicant on the ground that the applicant has migrated from erstwhile Bangladesh and took her earlier education in the Jalma Chakrakhali High School and studied there upto 8th class and left that school on 31.12.50. In support of this contention a certificate of the Head Master of that school

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dated 31.1.71(Annexure A-3) has been produced.

The certificate in Mana Camp dated 12.9.73

showing her age as 35 years and another

certificate dated 25.2.92 (Annexure A-12)

issued by the Head Master, Jalma Chakrakhali

High School have been pressed by the learned

counsel for the applicant. A perusal of these

certificates goes to show that at the time

of her initial appointment in the office of

the Chief Medical Officer Mana Camp she had

her educational qualification as Class VI ^{shown} _{pass} ^{class}

and her date of birth is recorded as 3.5.32.

In the attestation form also the date of birth

given is 3.5.32 and age as 38 years and 3

months. The date ^{of entry} entered in the school in Jalma

Distt. Khulna is shown as 1947 and the date

of leaving the institution is shown as 1955

and she is shown as class VI passed. The

attestation form is also signed by the applicant

on 23.10.70. She has also appended a certificate

regarding the correctness of the information

filled up in the said attestation form. In

the year 1970 there was no controversy about

the date of birth and the applicant herself

had given her age as 38 years and the date

of birth as 3.5.32. The certificates now being

relied upon in material respects differ from

the entries in the attestation form filled

by the applicant. The date of leaving the school

is shown as 31.12.50 and education qualification

is shown as class VIII passed in the certificates

issued by the Head Master filed as Annexures

A-3 & A-12 to OA. While in the attestation

form filled up by the applicant in the year

1970 for getting employment in Mana Camp as

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as Aiya the date of leaving the school is shown as 1955 and the educational qualification as Class VI. No extract of the scholar's register has been filed which could reveal as to when the applicant entered ^{the} ~~inter~~ the institution, at what age and in which of the classes she had regularly studied and the year of passing that class for promotion to the next higher class. These certificates, therefore, cannot be said to be reliable evidence to be acted upon on the face of the entries in the service record which were made at the instance of the applicant herself. The applicant signs in English and cannot be said to be an illiterate lady. Thus, these certificates cannot by itself said to be sufficient to rebut the genuineness of the entry of the date of birth in the service record.

5. The applicant has filed earlier OA 1176/92 ² which was disposed of with the direction to the respondents to consider the case of the applicant in the light of the aforesaid evidence. ⁱⁿ It appears that/ the impugned order dated 17.2.93 no detailed reasons have been given to reject the representation of the applicant regarding the correction of her date of birth. However, the documents relied upon by the applicant regarding correction of her date of birth in the service record have been duly considered on the basis of the averments made in the OA and the arguments advanced during the course of hearing and the only conclusion that could be drawn is that the applicant has no case for getting her date of birth corrected in the service record. A conclusion that could

be drawn from the analysis and appreciation of the documents relied upon by the applicant cannot be other than what had been arrived at by the respondents while rejecting the representation of the applicant.

6. Another aspect of the matter is that the applicant has assailed the entry in the date of birth after a considerable period. Her allegation that she had moved for correction of date of birth in 1974 is not substantiated. In the case of **EXECUTIVE ENGINEER, BHADRAK (R&B) DIVISION, ORISSA & ORS. VS. RANGADHAR MALLIK (JT 1992(5) SC 364)**, a similar matter of correction of date of birth was considered on the basis of the horoscope which was entered in the service record and accepted by the respondent Sh. Rangadhar Mallik. He prayed for correction of his date of birth by making a representation in 1986 from 27.11.28 to 27.11.38. The matter came up before the Central Administrative Tribunal who remanded the case to the respondents for consideration. The respondents considered the matter and rejected the representation. The petitioner was still aggrieved that he was not given personal hearing. However, the Hon'ble Supreme Court allowed the appeal of the Executive Engineer, Bhadrak and struck down the order of the Tribunal.

7. The case of the applicant is that at the time of entry in service at Mana Camp as

Aiya she had annexed a copy of the school leaving certificate (Annexure A-6). Thus the entry made in the service record cannot be said to be arbitrary. Every entry in the service record, particularly the date of birth is scrutinised and if definite evidence of date of birth is not available then secondary evidence of date of birth like medical examination, affidavit etc. of the concerned applicant is called for. In the present case, the entry was made in the service record on the basis of the evidence furnished by the applicant. Thus, it cannot be said that the entry in the service record has been made arbitrarily or without any justification. When the entry is made in such a manner, then it cannot be said to be in any way calling for interference as held by the Hon'ble Supreme Court in the case of **GOVERNMENT OF ANDHRA PRADESH VS. HAYAGREW SARMA (1990(2) SCC 682).**

7. In view of the above facts and circumstances, we find that the OA is devoid of any merit and is dismissed leaving the parties to bear their own costs.

J. P. Sharma
(J. P. SHARMA)
MEMBER (J) 28.5.93

I. K. Rasgotra
(I. K. RASGOTRA)
MEMBER (A) 28.5.93

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