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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 93/93

DECIDED ON : 13.4.93

Munne Khan

... Applicant

Vs.

General Manager, Central
Railway & Ors.

... Respondents

CORAM :

THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri S. K. Bisaria, Counsel for Applicant
Shri H. K. Gangwani, Counsel for Respondents

JUDGMENT

The applicant, since retired as Coach Attendant, Central Railway, has assailed the date of birth recorded in the service record as 1.2.1935 while the correct date of birth according to the applicant is 1.2.1937. On the basis of the recorded date of birth, the applicant retired on 28.2.1993 as Coach Attendant. The applicant made a representation on 15.6.1992 to the Divisional Personnel Officer, Central Railway, Jhansi and thereafter gave a legal notice through an advocate on 28.9.1992. The applicant has not been given any reply but was made to retire on 28.2.1993. Before his retirement, the applicant filed the present O.A. on 12.1.1993 in which he has claimed the grant of the relief that a direction be issued to the respondents to make necessary corrections in the date of birth of the applicant as 1.2.1937 for all purposes. The applicant also prayed for the grant of interim relief but the same was not granted.

2. The respondents contested the application and stated that the applicant at the time of joining as casual labour in the year 1955 himself declared his date of birth as 9.2.1935; that

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the applicant has signed the said service record and cannot be said to be an illiterate person; that the applicant was subsequently promoted as Coach Attendant w.e.f. 7.7.1977 and not from March, 1972, as alleged by the applicant (Annexure R-I). It is, therefore, stated that the applicant has no case on the basis of the certificate issued by the Municipal Authorities on 15.5.1992. This certificate shows that the applicant has registered with the municipal authorities on 2.5.1992 having registration No. 1296/92 and that it is clearly an afterthought.

3. I have heard the learned counsel for the parties at length and perused the record. The respondents along with their reply have furnished a photocopy of the service sheet which is not disputed by the applicant. This service sheet clearly goes to show that the applicant has signed his name and, therefore, cannot be said to be illiterate. The applicant continued to serve the Railways and it was only in the month of June, 1992, i.e., about eight months before his date of retirement that he made a representation on the basis of the Municipal Board's certificate. This certificate in itself does not inspire confidence inasmuch as the registration No. is 1296/92 dated 2.5.1992. It was issued only on 15.2.1992. The dispute in the matter had already arisen when the applicant had asserted his correct date of birth as 1.2.1937. Thus, no reliance can be placed on a document which has come into existence just only eight months before the retirement of the applicant.

4. The learned counsel for the applicant argued that the respondents should have entered into a fact finding inquiry regarding the date of birth of the applicant. It is further argued that the respondents have violated the principles of natural justice in not giving a hearing to the applicant to establish that his correct date of birth is February, 1937 and

not February, 1935. I have perused the reply filed by the respondents and the respondents have clearly stated that the document on the basis of which the applicant wanted to press for the correction of his date of birth was got registered with the Municipal Board on 2.5.1992. This is not an old document and is an afterthought. On the face of it, this document does not appear to be convincing. In the case of Executive Engineer, Bhadrak (R&D) vs. Rangadhar Malik : JT 1992 (5) SC 365 the Hon'ble Supreme Court has held that the date of birth recorded in the service record and accepted by the incumbent cannot be challenged after a long efflux of time. In the present case also, the applicant joined the Railways some time in 1955 and continued to serve and later was promoted as Coach Attendant in 1977, but he never during all these years till June, 1992 represented regarding the wrong entry of date of birth in his service record. If the respondents had not entered into an inquiry, then no fault can be found with them in a case of present nature. The learned counsel for the respondents has also referred to another decision given by the Principal Bench in O.A. No. 1789/90 decided on 26.2.1993 (Shri Des Raj vs. Union Of India) and in that case also the applicant desired change in the date of birth. That was not allowed on the basis of the above reported decision of the Hon'ble Supreme Court and a number of decisions referred to therein. The facts of the decision in OA-237/91 dt. 10.7.91 are different and that judgment is based on date of birth recorded in school leaving certificate.

5. I, therefore, find no merit in the present application and the same is dismissed leaving the parties to bear their own costs.

J. P. Sharma
(J. P. Sharma) 134/93
Member (J)