

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 17th day of July, 2001.

Original Application No. 1143 of 1996.

CORAM :-

Hon'ble Mr. SKI Naqvi, J.M.

Maqsood Ali S/o Sri Naushey Ali,  
R/o Quarter No.190, North Eastern Railway Colony,  
Izzatnagar, Bareilly.

(Sri AS Diwaker, Advocate)

..... .Applicant

Versus

1. Union of India through General Manager,  
North Eastern Railway, Gorakhpur.
2. General Manager, North Eastern Railway,  
Gorakhpur,

(Sri Prashant Mathur, Advocate)

..... . Respondents

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By Hon'ble Mr. SKI Naqvi, J.M.

Sri Maqsood Ali entered into service on 29-10-1957. At that time his date of birth was recorded as 01-11-1938 on the <sup>date</sup> list of medical opinion. It was in the year, 1988 that the applicant came to know that a wrong date of birth has been mentioned in his service record where-as the actual date of birth is 12-1-1940. He also avers that at the time when he entered into service, he filed a copy of School Leaving Certificate wherein his date of birth has been mentioned as 12-1-1940. He preferred a representation to get his date of birth corrected but his request could not get favour of competent authority who passed the order on 11-10-1996 mentioning therein that the date of birth of the applicant which is mentioned in the service record to be of 1938 cannot be altered and has been taken as correct and complete, and, therefore he has come up before the

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Tribunal seeking the relief that this order dated 11-10-1996 be quashed and respondents be directed to correct his date of birth as 12-1-1940.

2. Respondents have contested the case, filed counter reply supported the impugned order dated 11-10-1996 with specific mention that the applicant did not file any document in support of his date of birth at that time when he was initially appointed and, therefore, his date of birth has been taken as 01-11-1938 on the basis of medical opinion.

3. Heard Sri AS Diwaker, counsel for the applicant and Sri Prashant Mathur, counsel for the respondents and perused the record.

4. Sri AS Diwaker, counsel for the applicant asserts that when the applicant entered into service, he filed a copy of School Leaving Certificate wherein his date of birth has been mentioned as 12-1-1940 but incorrect date of birth has been mentioned as 01-11-1938. He has also referred to the Rule 225 of the Railway Establishment Rules, where the procedure is provided to record the date of birth under different circumstances and in case of illiterate staff, the date of birth shall be entered in the service record in own handwriting of the employee and in case of illiterate staff the declaration of date of birth shall be recorded by a Senior Railway Servant, witnessed by another Railway Servant. With reference to this Rule, Sri AS Diwaker emphasised that there is no provision to get medical opinion on the point of <sup>date</sup> death of birth. In reply to this position Sri Prashant Mathur mentions that this provision under Rule 225 has come up through amendment and the Rule applicable at the time when the applicant <sup>entered</sup> into service was quite different wherein there was a provision to obtain medical

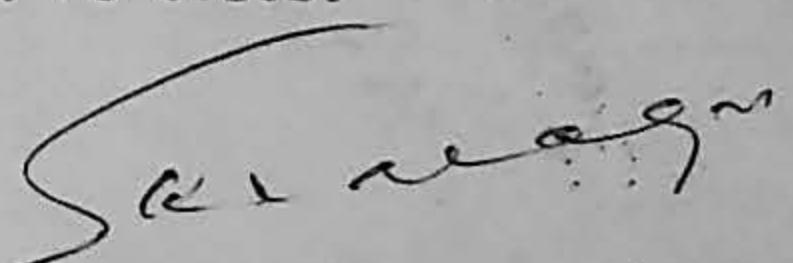
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opinion. Learned counsel for the applicant also emphasised that when the applicant was having document to prove his date of birth, there could be no reason for his having concealed the document and for not having produced it when his date of birth was being recorded.

5. Learned counsel for the respondents referred the copy and extracts of two seniority lists wherein there is mention of date of birth of the applicant to be 01-11-1938. <sup>and as on 1-4-87 and</sup> The seniority as on 1-4-1972 <sup>and</sup> also 1-4-1995 (Annexure-CA2) are said to have been circulated and brought to the notice of concerned employees.

6. Keeping in view the facts and circumstances of the matter it is found that the applicant only woke up in the year 1988 i.e. after about 21 years from the date of inception in service to move for correction in the date of birth that too without any irrebuttable evidence. The Hon'ble Apex Court observed on several occasions that in cases for correction of date of birth at the fag end of retirement be dealt with very cautiously and allowed only where there is clinching irrebuttable evidence which the employee could <sup>produce</sup> not ~~utilise~~ earlier at the right time ~~for acceptable reasons~~.

7. For the above, I do not find any merit in the matter. The OA is dismissed accordingly. No costs.

  
Member (J)

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