

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the day 28 April, 1997.

ORIGINAL APPLICATION NO. 162 OF 1996.

CORAM : Hon'ble Dr. R.K. Saxena, Member-J

Suraj Bhan Sharma, S/o Shri R.S. Sharma,
aged about 60 years, R/o Village and Post
(Mohabbatpura), District-Aligarh.

(By Advocate Shri O.P. Gupta) Applicant.

Versus

1. Assistant Superintendent of Post Offices,
Sub Division, Hathras (Aligarh) 204101.

2. Senior Superintendent of Post Offices,
Aligarh Division, Aligarh.

3. Union of India through Secretary,
Ministry of Communication,
Government of India, New Delhi.

..... Respondents

(By Advocate Km. Sachana Srivastava)

ORDER (OBAL)

By Hon'ble Dr. R.K. Saxena, Member (J)

1. Shri Suraj Bhan Sharma has filed this Original Application seeking a direction that the respondents be directed to treat the applicant as E.D.B.P.M working continuously on the post till the age of superannuation which is 1.5.2006. It is further prayed that the date

of birth of the applicant which is 1.5.1941, should not be changed without giving an opportunity to the applicant. The first

2. The brief facts of the case are that the applicant was appointed as Extra-Departmental Branch Post-Master in 1969. His contention is that at the time of entry in service, he had disclosed his age ^{as} 1.5.1941 but it was wrongly written by the respondents in some documents as 20.1.1931 and in some of the papers the date was shown as 1.4.1941. It is stated that because of some political influence, the enquiry was held to determine the correct date of birth of the applicant. The Enquiry Officer, however, collected some evidence and gave report that the applicant's date of birth was 1.7.1935 and the same be deemed to be correct. The notice of retirement was prepared on 27.9.1995 and it appears that the applicant was informed that he shall cease to work on 19.1.1996 from noon. Hence this O.A is filed. The respondents have contested the case on the ground that the correct date of birth which was given by the applicant at the time of entry in service, was 20.1.1931 and, accordingly, the applicant was directed to superannuate from noon of 19.1.1996. It has been stated that the date of birth as 1.5.1941 shown by the applicant, is not correct and similarly the age as 1.7.1935 given by the departmental enquiry officer, was also

not correct. The applicant filed the rejoinder reiterating the facts which were mentioned in the Original Application.

3. We have heard Shri O.P. Gupta counsel for the applicant and Km. Sadhana Srivastava counsel for the respondents and perused the material on record.

4. The main question for the consideration is as to what is the correct date of birth which was recorded in the papers or documents or otherwise. The retirement of the applicant is dependant on the correct ascertainment of the date of birth. There is no dispute that the retirement age of Extra Departmental Branch Postmaster is 65 years. The contention of the learned counsel for the respondents is that the applicant had given an application for appointment on 30.1.1969 and in this application the date of birth which was recorded, was 20.1.1931. This document has been disputed by the learned counsel for the applicant on the ground that some other date was previously written and it was struck off by writing in a different ink as 20.1.1931. There is no doubt that after striking off the earlier date of birth which cannot be deciphered, was written as 20.1.1931. The argument on behalf of the respondents is that nobody else was interested

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in writing, the age of the applicant at the time when the application was moved. The contention of the learned counsel for the applicant, on the other hand, is that the date can be changed subsequently and, therefore, it cannot decisively be said that the applicant himself had changed the date. In order to controvert this contention, my attention has been drawn towards the statement which was prepared at the time of selection of the candidates. There were five candidates whose details were noted on a paper which is attached in the personal file of the applicant. It appears from the perusal of this document that it was prepared on 20.2.1969. The first name is of the applicant Suraj Bhan Sharma. His date of birth has been clearly written as 20.1.1931. Other information such as qualification, income, father's name and address were also given. There is no over-writing or cutting anywhere on this paper. The document (the comparative chart) could not be later than 10.2.1969. Thus, it is clear that at the time of making an application by this applicant, the date of birth was 20.1.1931. Thus, it cannot be said that the change in date of birth on the application which was moved on 30.1.1969, was made by anybody else than the applicant himself. The mere change in colour of ink will also not mean that somebody else had the hand in doing this. Moreover, I do not find any reason as to why somebody else should be behind this change of the date of birth.

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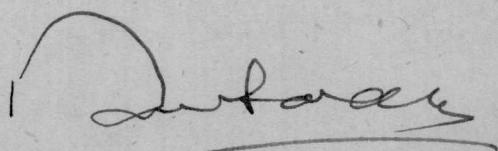
5. Now definitely the question arises if this was the correct date of birth given by the applicant himself and recorded in the papers which were initially prepared. If it is so, there was no need to make any enquiry and to obtain the opinion of Chief Medical Officer or to obtain the supportive evidence from the school where the applicant was educated. The contention of the learned counsel for the applicant is that some person of a political party was behind him, and he wanted the applicant to lose the job. If anybody else had animosity with the applicant then he could have started doing things right from the year 1969. I am, therefore, not convinced with this argument that the applicant has been made a prey of some conspiracy. Since some complaint was made and the enquiry started and the report of which has been brought on record by the respondents, does not lead to the conclusion that correct date was not written at the time of enquiry in service. As regards the report of the enquiry, it may be said that that was a letter of recommendation to change the date to 1.7.1935. So far as, the entry of date of birth as 1.5.1941 is concerned, some papers which were prepared at the time of inspection or at some such other occasions ~~which were prepared~~ ^{such as} ~~at the time of~~ inspection or at some such other occasions which were not closely connected with the entry of a person in service, have been shown to me. It has also been argued that the Head Master of the school where the applicant was educated, may issue any certificate indicating

any year of the birth of the applicant. In this connection one such certificate has been brought on record by the respondents in which the date of birth was shown as 20.1.1931 whereas another certificate was brought on record by the applicant through rejoinder affidavit in which this date was shown as 7.6.1932. The learned counsel for the applicant perhaps missed the points of distinction between the two certificates. The certificate (Annexure-CA-6) is in the name of Suraj Bhan who entered in the school on 2.7.1943 and left the same school on 31.7.1943 whereas the certificate (Annexure-RA-1) is in the name of Surya Bhan who entered in the school 23.10.1940 and left the said school on 15.5.1941. It is, therefore, clear that these two certificates do not relate to one and the same candidate. We should not be misguided by the name which too is different. One is Suraj Bhan while other is Surya Bhan. Thus, the certificate which has been relied upon by the applicant loses its weight.

6. The question of date of birth given in the papers at the time of entry in service, was considered by the Lordship of the Supreme Court in the case Burn Standard Co. Ltd. and others Versus Shri Dinabandhu Majumdar and others JT 1995 (4) SC 23. In this case, it was clearly laid down that a person who was taken into service would be required by his employer to declare his correct date of birth and support the same by production of an appropriate certificate or document. Even where the persons

so appointed should show certificates or documents in proof of their date of birth, they would be required to put thumb impressions or authentication or to declare their age or dates of birth. Their lordships further observed that correction of date of birth should not be allowed at the fag end of service. When the ratio of this case is made applicable in the facts of the Original Application before me, I find that it is fully applicable. The applicant while moving application on 30.1.1969, had shown the date of birth as 20.1.1931 and he has put his signatures in the application. Thus, it was a declaration made by the applicant. This date was not disputed till he was given a notice about his date of superannuation. In these circumstances, even if any enquiry was made about the correction in date of birth or any different date of birth as 1.5.1941 being found written in any other documents, it becomes immaterial.

6. On consideration of the facts and circumstances of the case, I come to the conclusion that the date of birth of the applicant was 20.1.1931 and he was rightly and legally asked to superannuate in the noon of 19.1.1996. The Original Application, therefore, fails. It is stands dismissed. No order as to costs.



MEMBER (J)

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