

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 25 of 1996

Allahabad this the 05th day of July, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Dwariak Prasad S/o Shri Ram Naresh, R/o J.55-H
Defence Colony, Golaghat Cantt. Kanpur, Ticket
No.102/MF Ordnance Equipment Factory, Kanpur.

By Advocates Shri Avnish Tripathi Applicant
Shri B. Ram

Versus

1. Union of India through its Secretary, Ministry
of Defence, South Block, New Delhi.
2. Additional Director General, Ordnance Equipment
Factory, (O.E.F.Gr.) Gr.G.T. Road, Kanpur.
3. General Manager, Ordnance Equipment Factory,
Kanpur.
4. Works Manager/Personal Ordnance Equipment
Factory, Kanpur.

Respondents

By Advocate Shri Amit Sthalekar

O_R_D_E_R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Dwariak Prasad joined as unskilled
labour in Ordnance Equipment Factory, Kanpur on
20.2.1963 and after getting due promotions, he
retired on attaining his age of superannuation,
computed on the basis of his date of birth as
recorded in his service record i.e. 19.02.1938.

The applicant has a grievance that his superannuation

has been wrongly calculated ^{as} ~~because~~ his correct date of birth is 16.01.1940~~1~~ and, therefore, he has come up for consequential directions to the respondents.

2. The respondents have contested the case, filed counter-reply with the specific mention that at the time when the applicant initially joined the service, he did not submit any document in support of his date of birth, therefore, his date of birth was reckoned on the basis of opinion of Medical Officer, according to which it was 19.02.1938. It has also been contended that at the time of entry in his service record on 12.07.1968, the applicant signed the service book wherein his date of birth was mentioned as 19.02.1938 and ^{he} did not raise any objection at that time. It has also been pleaded on behalf of the respondents that no correction in ~~date~~ date of birth is, possible, ^{under-verify} after lapse of five years from date of entry ⁱⁿ the records.

3. Heard counsel for the parties and perused the record.

4. Shri A. Tripathi, learned counsel for the applicant mentions that at the time ^{for} when he joined the service, he submitted copy of School Leaving Certificate and when he found his date of birth has wrongly been mentioned, he again submitted another copy of School Leaving Certificate in the year 1973, wherein there is clear mention

that the date of birth of the applicant is 16.1.41. In support of his contention he referred (1990)14 A.T.C.15 Ram Krishna Gupta Vs. Union of India, wherein the move to get the date of birth corrected beyond the period of five years was allowed to be considered. He has referred another case 'Sihanderbeg Mirza Vs. U.O.I. (1990)14 A.T.C. page 20' to give strength to his submission that School Leaving Certificate stand on better footing while ^{assessing} ~~assuming~~ its ^{evidentiary} ~~confidential~~ value in comparison to medical certificate. On the point of limitation of five years period, he has referred (1991) 16 A.T.C.801 in O.A.No.404 of 1990 decided by Madras Bench of the Tribunal on 27.11.90. He has also referred ^{a case of} the Calcutta Bench of High Court wherein it has been held that alteration of date of birth beyond the prescribed time limit can be allowed in accordance with circumstances of the matter.

5. In his reply, Shri Amit Sthalekar, learned counsel for the respondents took me through the law handed down by Hon'ble Apex Court in Harnam Singh's case (A.I.R. 1993 S.C. 1367) and also a decision in (1997) S.C.C. page 647 U.O.I. Vs. C. Ramaswamy & Ors.

6. On going through the referred law, it is found that there is no absolute bar to consider the request beyond the period of five years, but it is open only in exceptional circumstances, where there is allegation of interpolation or the applicant succeeds to show that he immediately moved for

correction after he came to know that incorrect date of birth has been entered into his service record, but at the same time no correction or alteration in the date of birth shall ordinarily be allowed, particularly at the fag end of retirement.

7. With the above legal position in view, the facts and circumstances of the present matter are examined. The applicant alleges that at the time when he initially joined the service and his service record was being prepared, he submitted the copy of School Leaving Certificate, which contains his correct date of birth, but without taking notice of it his date of birth has been entered on the basis of opinion by the Medical Officer and when he came to know that his date of birth has not been entered in accordance with entry in his School Leaving certificate, he submitted another application alongwith another copy of School Leaving certificate in the year 1973. This contention from the side of the applicant does not find support from copies of record as brought through the pleadings from either side. Annexure C.A.-2 is copy of first page of the service record of the applicant prepared on 12.07.1968, which bears the date of birth of the applicant as 19.02.1938 and on that very date the applicant signed this document, and mentioned therein the date as 12.07.1968, therefore, it cannot be said that he was not in know of entry regarding date of birth in his service record.

There is another document filed as annexure ⁶C.A. which is 'Record Card', which is used as 'Identity Card' and bears the photo and left thumb print of the applicant and his said to have been issued on 07.09.66. It also mentions the date of birth of the applicant as 19.02.1939. No doubt, it is not a document, which may be used as evidence to show the date of birth, but at the same time it indicates that the applicant had a knowledge at that point of time that his recorded date of birth is 19.02.1938. Another 'Record Card' issued on 22.4.1983 also mentions the same date of birth of 1938, which clearly goes to indicate that the applicant had the knowledge right from initial stage that his recorded date of birth is of the year 1938, but he woke up to agitate against it through his representation dated 06.04.93. The applicant has claimed that he moved a representation in 1973 but that has been denied from the side of the respondents. Even if it is assumed that he moved application in 1973 as claimed by him, he again kept silent for 20 years *upto 1993 when he moved representation on 6.4.93.*

8. Keeping in view the above position, I do not find any good reason for any direction, as prayed for. The O.A. is dismissed accordingly. No order as to costs.

See above

Member (J)

/M.M./