

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,

ALLAHABAD

Dated Allahabad this...14<sup>th</sup> 14<sup>th</sup> day of May...1996

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

Hon'ble Mr D.S.Baweja, Member (A)

ORIGINATION APPLICATION No. 286 OF 1996

Pyare Lal son of Sri Munshi,

resident of village Tiwaripur, Jajmau,

District Kanpur

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Applicant

(By Advocate Sri Avinash Tripathi )

Versus

1. Union of India through its secretary

Ministry of Defence, South Block,

New Delhi

2. Additional Director General,

Ordinance Equipment Factory (O.E.F. Gr .)

G.T. Road, Kanpur

3. General Manager,

Ordinance Equipment Factory,

Kanpur

4. Works Manager / Personnel,

Ordinance Equipment Factory,

Kanpur

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Respondents

(By Advocate Sri

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ORDER

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

This O.A. has been filed by Piarey Lal with the relief that the directions be given to the Respondents to correct the date of birth and to quash the impugned orders dated 19.10.93 and 10.6.94 whereby the representations made by the applicant were rejected. Further direction is also sought for quashment of notice dated 9.12.95 whereby the applicant is going to be retired on 30.6.1996.

2. The brief facts of the case are that the applicant entered in the service under the Respondents in the year 1963-64. His date of birth was 4.10.40 but it was recorded as 10.6.36 on the basis of the endorsement made by the Doctor. It is said that the applicant came to know of this fact only in the month of January 1993 and he, therefore, moved representation about the correction of the date of birth. It was rejected. He, therefore, gave another representation which was also rejected, hence this O.A. was filed challenging the notice of retirement. Actually it was a case of correction of date of birth in the guise of challenging the notice of retirement.

3. We have heard Sri Avinasth Tripathi, counsel for applicant at the stage of admission. We have also gone through the papers which have been filed as Annexures to the O.A.

4. The applicant admitted to have entered into service in 1963-64 and at the time of entry of service, no certificate indicating either the educational qualification or date of birth, was produced by him. His date of birth was, therefore, recorded as 10.6.36 as was assessed by the Medical Officer at that time. A reading of Annexure A-2 which is the order of rejection of the representation made by the applicant on 22.4.93, also indicates that the applicant was never sure as to what was his correct date of birth because he had disclosed



about the applicant himself to have born in 1935 when the report of the Police was sought. The photostat copy of a certificate in which age was recorded as 4.10.40 was also recorded. The date of birth was recorded in the service book as 10.6.36 and was shown to the applicant on 4.12.67 where the applicant had put his signatures. It is well established that whatever age is recorded in the service book, shall be deemed final for all purposes. This view was taken by their Lords of Supreme Court in the case of *Burn Standard Company Limited and Others Versus Deen Bandhu Majumdar and another* J.T.1995 (4) S.C. 23. Their Lordship held that when a person was taken into service on appointment, he was required by his employer to declare his correct date of birth and support the same by production of appropriate certificate or document, if any. It was further held that when the person was appointed and failed to produce the certificate or document in proof of date of birth, he would be required to affix thumb impression or signatures in authentication of his declared age or date of birth. Their Lordships were also of the view that when on the basis of such declaration made or certificate produced by the employee, an entry is made of his date of birth in his "Service and Leave Record" to be opened, that would amount of acceptance by the employer of such date of birth, as correct be it Government or its instrumentality.

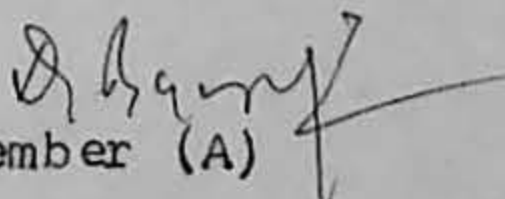
5. It is also decided by their Lordship<sup>of</sup> Supreme Court in case of *U.O.I. Versus Harnam Singh* (1993) 2 S.C.C. 162 that the employee if he found incorrectness in the date of birth, he should get it corrected within a reasonable period of time. In this connection, reference to the Office Memorandum in which five years period was given, was considered and the same was found reasonable. The same view was stressed by their Lordship in the case of *Secretary and Commissioner Home Department and others*

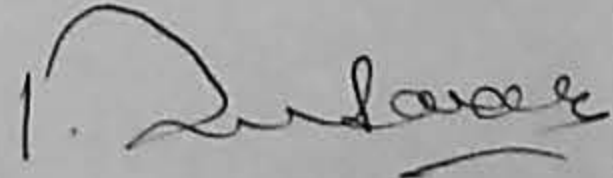


Versus R. Kirubakaran 1994 S.C.C. (L & S) 449. It is, therefore, quite clear that correction of date of birth can be sought only with<sup>in</sup> a reasonable period time. Seeking correction of date of birth after 28 years of service was not held reasonable in Collector of Madras and another Versus K.Rajamanickam 1995 (1) SCALE 237. In view of this legal position, the present case in which the correction of date of birth is sought after 30 years is not maintainable.

6. The learned counsel for the applicant, however, relied on the cases K.U. Jain Versus U.O.I. and others (1989) 11 A.T.C. 365, Thaneshwar Baruah Versus U.I.O. and others (1990) 12 A.T.C. 804 and Ram Briksh Gupta Versus U.O.I. and others (1990) 14 A.T.C. 15. In these cases the correction of date of birth as held to be carried out even at the fag end of service. This case is in direct conflict with the Law laid down by Their Lordship of Supreme Court as pointed out earlier. Undoubtedly the correction in date of birth can be sought by an employee but within a reasonable period of time and that reasonable period was held five years. The correction after 28 years was not held justified. Thus the case Law cited by the counsel for applicant is not applicable and is not based on the correct principle of Law.

7. On the consideration of all these facts, circumstances and the legal position, we are of the view that the C.A. is not maintainable. It is, therefore, dismissed.

  
Member (A)

  
Member (J)