

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

* * *

Allahabad : Dated this 4th day of August 1998

Original Application No. 433 of 1996

District : Pauri Garhwal

CORAM :-

Hon'ble Mr. S.K. Agrawal, J.M.

Bhawan Singh
S/o Shri Gopal Singh Rawat
R/o Village-Tachhwar Patti,
Jaintulayum, Distt-Pauri Garhwal.

(Sri Rakesh Verma, Advocate)

.....Applicant

Versus

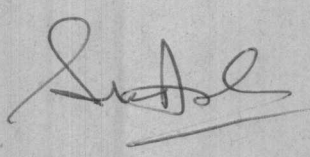
1. Union of India through Secretary,
Ministry of Communication,
New Delhi.
2. The Post Master General U.P.,
West Region (West),
Dehradun.
3. The Superintendent of Post Offices,
Pauri Division, Pauri.
(Km. Sachna Srivastava, Advocate)

.....Respondents

ORDER

BY Hon'ble Mr. S.K. Agrawal, J.M.

In this OA under Section 19 of the Administrative Tribunals Act, the applicant has made a prayer for correction of date of birth entered into the service record.

- 
2. In brief, the facts of the case as stated by the applicant are that the applicant are that the applicant was initially appointed as Extra Departmental Packer, Patisan Post Office w.e.1-5-1964 vide the appointment order dated 7-5-1964 issued by the Inspector of Post Offices, Patisan Sub Division, Pauri. Thereafter, the applicant was

promoted to the post of Mail Overseer w.e.f. 1-6-1994. It is submitted that the applicant is a Class IV pass and as per the transfer certificate bearing no. 61 dated 22-5-1952 the date of birth of the applicant recorded therein is 16-7-1940, and the applicant at the time of initial appointment submitted the aforesaid certificate in respect of his date of birth. Later on in the month of December, 1967, the applicant at the time of inspection of his service record found that his date of birth was wrongly recorded as 01-5-1938 instead of 16-7-1940. The applicant submitted his grievance and he was further directed to submit the aforesaid School Leaving Certificate by the order dated 26-12-1967. A copy of the said order is at Annexure-A-5. The petitioner in pursuance of the aforesaid order submitted the School Leaving Certificate on 30-12-1967 to the respondents under receipt, which is at Annexure-A-5 itself. It is submitted that the applicant was under the bonafide belief thereafter that his date of birth had been corrected and recorded as 16-7-1940 but again he was directed to inspect the service record in the month of February 1968, he again found that the same date of birth which was wrongly entered into his service record i.e. 1-5-1938 and thus the petitioner immediately preferred a representation dated 6-2-1968 to the respondents for correction of his date of birth as 16-7-1940. A copy of representation is at Annexure-A-6. Thereafter, he preferred another representation dated 15-1-1969, a copy of which is at Annexure-A-7 and followed by further representations dated 30-12-1971, 3.8.1974, 3.12.1993 and 2.11.1995, which are at Annexures-A-8, A-9, A-10, A-11 and A-12. But none of the representations have been replied to the applicant nor any action was taken and

respondent no.3 in an arbitrary manner decided the representations preferred by the applicant only at the fag end of his service and thereafter issued an order dated 11-3-1996 for retiring the applicant from service on 30-4-1996 afternoon on attaining the age of superannuation in view of the date of birth recorded in service record i.e. 1-5-1938. The applicant also preferred representation to respondent no.3 under receipt of 25-3-1996 but with no result. It is submitted that the impugned orders dated 12-12-1995 and 11-3-1996 are illegal and arbitrary and the date of birth recorded in service record as 1-5-1938 is wrong. It is, therefore, submitted that the order dated 12-12-1995 passed by the respondent no.3 rejecting the application of the applicant dated 2-11-1995 for correction of date of birth be quashed and also the order dated 11-3-1996 passed by respondent no.3 retiring the applicant from service w.e.f. 30-4-1996 and respondents no.2 and 3 be directed to correct the date of birth of the applicant as 16-7-1940 with all consequential benefits.

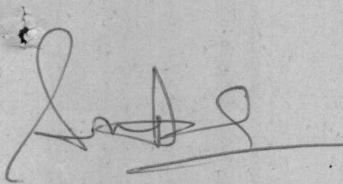
3. That counter affidavit has been filed in this case.

It is stated in the counter that the applicant was appointed w.e.f. 1-5-1964 and was absorbed on permanent basis w.e.f. 28-1-1967. His service book was prepared on 5-2-1968 wherein his date of birth was shown as 1-5-1938. The first page of the Service Book was duly signed by the applicant on 5-2-1968, 29-4-1974 and on 16-6-1993 and on the basis of the date of birth recorded in the service book, the order of retirement dated 11-3-1996 was issued by the respondent no.3 and the applicant was retired w.e.f. 30-4-1996. It is submitted that at the time of appointment, the applicant has not

produced transfer certificated dated 22-5-1952 otherwise the date of birth 1-5-1938 would not have been recorded in his Service Book. It is also submitted that this date of birth was admitted by the petitioner. If the authority had recorded wrong date of birth, the applicant should not have signed the first page of the service book but he signed the service book on 5-2-1968, 29-4-1974 and 16-6-1993. It is submitted that the service book of the applicant was prepared only on the basis of documents produced by the applicant at the time of initial appointment and the entry of date of birth in the service book was confirmed thrice by the applicant after making his signatures. It has also been submitted that the applicant did not file representation and no such representations are available in office record except the representation dated 2-11-1995. It has also been submitted that the applicant was retired w.e.f. 30-4-1996. Accordingly, the impugned date of birth was recorded in the service book and the applicant has failed to make out any case for correction of date of birth. Therefore, on the basis of the averments made in the counter affidavit, learned lawyer for the respondents have requested to dismiss this application.

4. Heard learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record. It is not disputed that the applicant was appointed as Extra Departmental Packer w.e.f. 1-5-1964 vice appointment order dated 5-7-1964. From the perusal of the pleadings of the parties, it cannot be established that the applicant filed transfer certificate dated 22-5-1952 at the time of his appointment. The applicant failed to establish the fact that he made representations after representations

as mentioned in his application. According to Rule 56 of FRSR Part II, the date of birth shall be determined with respect to the date of birth declared by the Govt. servant at the time of appointment and accepted by the appropriate authority on production, as far as possible, of confirmatory documentary evidence such as High School or Higher Secondary or Secondary School Certificate or extracts from Birth Register. The date of birth so declared by the Government servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this note. An alteration of date of birth of a Government servant can be made, with the sanction of the Ministry or Department of the Central Government or the Comptroller and Auditor-General in regard to persons serving in the Indian Audit and Accounts Department, or an Administrator of a Union Territory under which the Government servant is serving, if:-

- 
- (a) a request in this regard is made within five years of his entry into Government service;
 - (b) it is clearly established that a genuine bona fide mistake has occurred; and
 - (c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service.

5. According to this Rule, the date of birth can only be corrected with a period of five years from the date of appointment. In WDI Vs. Harnam Singh 1993, SCC (L&S) Page 375, the Hon'ble Apex Court has turned down request of the applicant for change in the date of birth.

6. In the counter affidavit, there is a specific denial on behalf of the respondents that no such transfer certificate was submitted by the applicant at the time of appointment and it has been made very specific that the date of birth of the applicant was recorded in the service book as per the declaration made by the applicant. In the Annexure-CA-1, which is the copy of the service record, it is very much evident that the applicant has admitted date of birth as 1-5-1938 by signing on 5-2-1968, 19-6-1979 and 16-6-1993 and the same has been attested by the competent authority at that time. Now by filing this OA, he seeks correction of date of birth at the fag end of his service career, which cannot be allowed. More over, details of the representations, which the applicant has given in this OA, the respondents have denied specifically not to have received those representations. Therefore, on the basis of the averments made in the pleadings by both the parties, it cannot be established that the applicant brought the fact for correction of his date of birth within the period of five years to the notice of the respondents but it appears that at the fag end of his service career, the applicant has made this attempt to file this OA for correction of date of birth. I am, therefore, of the considered opinion that the applicant fails to make out the case for correction of date of birth on the basis of transfer certificate dated 22-5-1952.

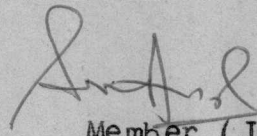
7. Therefore, this OA is devoid of any merit and is liable

[Handwritten signature]
3/8/98

- 7 -

to be dismissed.

7. I, therefore, dismiss this OA with no order
as to costs.


Member (J) 5/8/28

Dube/