

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1096 of 1996

Allahabad this the 07th day of November, 2000

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

Jokhu Lal S/o Shri Ram Deo, R/o Village Dadari,
P.O. Naini, Tehsil Karchhana, District Allahabad.

Applicant

By Advocates Shri P.C. Srivastava
Shri Rakesh Verma

Versus

1. Union of India through the Secretary,
Ministry of Defence, New Delhi.
2. The Commandant, Central Ordinance Depot,
Chheoki, Naini, Allahabad.
3. The Personnel Officer(Civilian), Central
Ordinance Depot, Chheoki, Naini, Allahabad.

Respondents

By Advocate Shri S.C. Tripathi

O R D E R (Oral)

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

Shri Jokhu Lal-applicant has come up
before this Tribunal for correction of date of
birth and has prayed that the impugned order of
April, 1996 be quashed and it be held that actual
date of birth of the applicant is 06.2.1945 and
not 02.5.1938, and applicant be permitted to continue

in the job till the actual date of superannuation. As per case of the applicant, he joined ~~in~~ service in the respondents establishment as Mazdoor w.e.f. 02.5.1963. At the time of his appointment, he did not file any document in support of his date of birth and when in the year 1964, he came to know that his date of birth ^{has} ~~have~~ wrongly been recorded in the service record as 02.5.1938 instead of 06.2.45 he immediately made representation alongwith copy of School Leaving certificate, which mentions his date of birth as 06.2.1945. The applicant kept silent assuming that the records ^{must} have been corrected according to his request, but it was a surprise to him when he got his identity card in the year 1995, in which he was mentioned as ~~1938~~1942 born and thereafter he made a representation on 12.1.1996, which was rejected vide impugned order on the ground "that as per rule, request for change of date of birth is acceptable within the period of 5 years from entry in service on production of justified documents and the applicant has moved after a gap of about 12 years, therefore, his request for change of date of birth was turned down." Now he has come up impugning this order.

2. 9 The respondents have contested the case and assailed the claim of petitioner on several grounds including the ground of delayed move ~~error~~ for correction and also that the applicant failed to produce any authentic document in support of his contention.

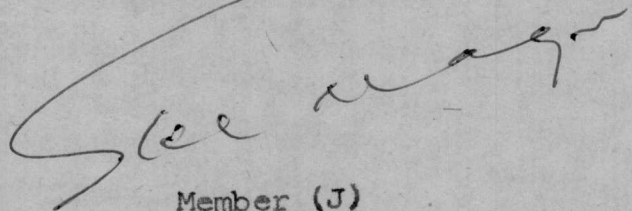
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3. ~~It is quite evident~~ Heard, the learned counsel for the parties and perused the record.

4. It is quite evident from perusal of impugned order that the request of the applicant could not be acceded for having moved beyond the period of 5 years as prescribed under rules. During the course of arguments, there was a reference that a limit of time of five years was inserted in the F.R. by Notification No.19017/7/79 Estt.dated 30.11.79 and it has been argued on behalf of the applicant that the ^{Case} ~~matter~~ of the applicant relates to a date much earlier from this provision inserted vide Notification dated 30.11.1979, therefore, this Provision is not applicable in the case of the applicant. Shri Tripathi, learned counsel for the respondents vehemently argues that in the counter-reply it has been properly explained that the rejection of the claim of the applicant was not solely based for not having moved within limit of time, but the other factors were also taken into consideration.

5. From the above, it is found that the ground for rejection of claim of the applicant for correction of date of birth, as mentioned in the impugned order, is, that the prayer for correction ^{has} ~~have~~ been made beyond the period of 5 years and, therefore, it was ~~retu~~ returned down. The legal position is quite clear that the grounds taken in the impugned order can be explained and elaborated through the pleadings, but the pleadings.

cannot supplement the ground to the same and, therefore, this impugned order cannot be sustained, which is quashed accordingly. However, the respondents are at liberty to re-examine the case and pass fresh order, but not beyond the period of 6 months. It is further directed that the applicant be paid the retiral benefits for undisputed period within a period of 3 months, and if not paid within this period, the respondents will be liable to pay interest at the rate of 12%. The O.A. is disposed of accordingly with the above observation. No order as to costs.


Member (J)

/M.M./