

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLD. BENCH,
ALLAHABAD

DATED :- ALLD. ON THIS 19/11 DAY OF DECEMBER, 1997

CORAM :- HON'BLE MR.D.S.BAWEJA, MEMBER (A)

ORIGINAL APPLICATION NO. 87 OF 1996

Lal Bachcha Singh S/o Shri Dwarika Singh,
R/o Village & Post-Budhaun
District Ballia (UP).

.... Applicant

C / A :- Shri Y.P.L. Srivastava

Versus

- (1) Union of India through the Ministry of
Communications, New Delhi.
- (2) Chief Post Master General, U.P.,
Lucknow.
- (3) Superintendent of Post Offices,
District Ballia (UP).

.... Respondents

C / R :- Shri N.B.Singh

O R D E R
(By Hon'ble Mr.D.S.Baweja, Member(A))

This application has been filed with a prayer to quash the impugned order dated 10.01.96 retiring the applicant six years before from the date of superannuation on 31.01.96 while the applicant is due for retirement in the year 2002 as per his date of birth and also to allow the applicant to continue in the service till the final decision of the Original Application.

(2) The applicant was appointed as Branch Post Master, Budhaun, District Ballia on 17.06.68. Vide order dtd. 10.01.96, the applicant was advised that he will stand retired from 31.01.96 based on the date of birth recorded as 01.02.31. The main grievance of the applicant ^{is} that his recorded date of birth is 01.03.37 and, therefore, he is being retired earlier than the due date. Being aggrieved, the present application has been filed on 24.01.96.

(3) The applicant by documentary evidence to support his contentions has brought on record a copy of the School Transfer Certificate issued by Ratsar Inter College, Ratsar, Ballia (UP), a copy of the inspection report of the Post Offices held on 12.08.93 and a copy of gradation list wherein the date of birth of the applicant has been shown as 01.02.37.

(4) The respondents through Counter Affidavit ^{ve} have strongly contested the claim of the applicant. The respondents first filed a short counter reply against the Interim Stay ~~/granted initially and not extended subsequently.~~ which was ~~/~~ This was followed by the detailed counter reply. The respondents have submitted that as per the Service record maintained for the applicant, the date of birth is recorded as 01.02.31. The date of birth has been recorded in words as well as in figures and the applicant has signed below the entry. The applicant has also made thumb and finger impressions on the Service Record as a token of acceptance of the entries. In view of this, the applicant has been correctly retired on the due date i.e. 31.01.96. As regards the gradation list, the respondents admit that the date of birth has been shown as 01.02.37. However, it is contended that this was a typing mistake and when this error was detected by the Post Master, Rasra, he reported the matter to the concerned office on 28.12.95. Thereafter the Service Record was verified and action was taken to retire the applicant on the due date as per the recorded date of birth. As regards School Transfer Certificate, the respondents have further submitted that the same is a forged document. The mater was

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referred to the Principal, Ratsar Inter College, Ratsar, Ballia (UP). The Principal has advised in writing that there was no Institution known as Ratsar Inter College, Ratsar, District Ballia before 1951 and the name of the Institution was A.K. Higher Secondary School, Ratsar, Ballia. The Principal has also intimated that registration number 158 does not belong to the applicant and it belongs to one Sri Kashi Nath Singh. The Principal has also stated that the Transfer Certificate submitted by the applicant does not contain his signature and it has not been also issued from his College. Based on these facts brought out in the Counter Reply, the respondents plead that none of the grounds taken by the applicant are sustainable and the application deserves to be dismissed.

(5) The applicant had been allowed several opportunities to file Rejoinder Affidavit for the short counter reply as well as for the main counter reply but the applicant chose not to file any rejoinder reply. In view of this, an order was passed to restrain the applicant from filing the rejoinder reply.

(6) The learned counsel for the applicant has been either seeking adjournment or not being present on several dates and in view of this, an order on 20.11.97 was passed providing that if on the next date learned counsel for the applicant is not present, the matter shall be heard and decided based on the pleadings on record. However, on the next date i.e. 05.12.97 learned counsel for the applicant was not present. No request for adjournment had also been made. In view of this, I proceeded to hear the matter and the arguments of Shri A. Mohiley, brief holder to Shri N.B. Singh, learned counsel for the respondents were heard. The matter is being decided based on the pleadings of the applicant on record through ^{the} Original Application.

(7) The respondents have brought on record a copy of the Service Book giving the details of entries made at the time of appointment alongwith short counter reply. I have carefully gone

through the entries and note that the date of birth has been indicated as 01.02.31 and the applicant has also signed the Service Book. The entries have also been verified by the Inspector of Post Offices on 15.12.1969. Since the applicant has chosen not to file any rejoinder reply, there is no reason to doubt the authenticity of the record of the Service Book produced by the respondents. The applicant has claimed that his date of birth is 01.02.37 on the support of three documents brought on record at A-2, A-3 & A-4. The document at A-2 is an extract of the Gradation list wherein the date of birth has been indicated as 01.02.37. Although this document does not contain any heading as to when the Gradation List was issued but the respondents have admitted date of birth being recorded as 01.02.37 in the Gradation List. However, respondents have contested that this was a typographical error and when the same was detected, necessary action was taken to verify the original record from the Service Book. Since there is no refutation from the applicant, the explanation furnished by the respondents is to be taken as valid. The second document is School Transfer Certificate. The respondents have contested the genuineness of this document as brought out earlier. The respondents have brought on record the copy of the letter from the Principal, Ratsar Inter College, Ratsar, Ballia, to whom the reference was made for verifying the authenticity of the School Transfer Certificate submitted by the applicant. I have carefully gone through the submissions made by the respondents and the document brought on record and inclined to accept the contentions of the respondents that document furnished by the applicant said to be his School Transfer Certificate, is not genuine and, therefore, the same cannot be relied upon as a documentary evidence in support of his contentions. The third document is a copy of the inspection report of the inspection carried out by the Inspector, Sub Post Offices on 12.08.93. It is noted that the date of birth of the applicant has been shown as 01.02.37. The respondents have contested this document stating that the date of retirement has to be calculated from the Service Record and not from any other document. I agree with the contentions of the respondents as any date indicated in the Inspection Report cannot be taken as a

proof for the date of birth as the Inspection Report does not indicate that the date of birth has been recorded after checking the Service Book. It is quite likely that date of birth has been recorded as given by the applicant himself during the inspection. Therefore, this documents cannot be of any relevance in claiming the date of birth as 01.02.37 in the face of the Service Book with the original entries being available.

(8) In view of the above circumstances, I fail to find any merit in the claim of the applicant. The application deserves to be dismissed and is accordingly dismissed. No order as to costs.

S. Banerjee
MEMBER (A)

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