

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 418 of 1997

Allahabad this the 2nd day of August, 2000

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

Kishan Pal, A/a 47 years, Soen of Late Kalika,
R/o Military Farm, Kanpur.

Applicant

By Advocate Shri K.K. Misra

Versus

1. Union of India through Secretary, Ministry of Defence, Army Headquarter, New Delhi.
2. The Director General, Military Farm, Army Headquarter, C.M.Gs Brach, R.K. Puram, West Block-III, New Delhi.
3. The Director, Military Farm, Headquarter, Central Command, Lucknow.
4. The Officer Incharge, Military Farm, Kanpur.

Respondents

By Advocate Shri Satish Chaturvedi

O R D E R

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

The applicant has come up impugning the order dated 22.7.1995 through which the representation of the applicant for correction of date of birth has been rejected.

See -

2. As per applicant's case, his actual date of birth is 08/7/1950, whereas it has wrongly been recorded as 10.8.1940. In support of his contention, the applicant has mentioned that at the time of joining service in Military Farm, he declared his date of birth as 08.7.1950 on the basis of Panchayat Record. He has also mentioned that his name has been sponsored from the Employment Exchange and prior to his appointment, a letter dated 26.2.1973 was sent by the Officer Incharge in Military Farm Kanpur to the Director, Military Farm, Lucknow (respondent no.3) for his approval for the selection of the applicant, for appointment as Farm Hand, in which the date of birth of the applicant was mentioned as 1950, copy of this letter has been annexed as annexure A-2. It has further been mentioned by the applicant that the respondent no.4 again sent a letter to respondent no.3 for his approval, for selection of several candidates including the applicant in which the date of birth of the applicant has been mentioned as 08.7.1950, copy of which has been annexed as annexure A-3. It has been pleaded on behalf of the applicant that in 1990, that he came to know for the first time that his service book mentions his wrong date of birth as 10.8.1940, for which he moved a representation dated 11.9.90, but the same has been rejected by the impugned order (annexure A-5). To give further strength to his contention, the applicant has filed copy

Seal

of medical certificate issued in August, 1979 mentioning him to be of 29 years at that time, as well as certificate from Nagar Palika, Unnao and copy of Kutumb Register, each mention his date of birth to be 10.7.1950. The applicant has also pleaded that he was appointed in the year 1973 and the age limit to the post was 18-25 years. Incase his date of birth is taken to be of 1940, then he ^{has} ~~could have been~~ of 33 years in the year 1973 and thereby he could not be appointed and, therefore, more probable birth years is 1950, which makes his age 23 years in 1973.

3. The respondents have contested the case and filed counter-reply. It has been contended on behalf of the respondents that the applicant has filed the present petition for correction of date of birth after lapse of 17 years and on this ground only, the C.A. may be dismissed. It has further been contended that as per record in the service book, the date of birth of the applicant is 10th August, 1940, which is duly attested by the then D.D.M.F. Service Card of the applicant also shows his date of birth as 10.8.1940, copy of the Service Book as well as the copy of the Service Card have been annexed as annexures C.A.-1 and C.A.-2 to the counter-reply. In para-12 of the counter-reply, the respondents have come up with a case that initially the petitioner was engaged as casual labour from 1965 to 1973 and therefore, the version that the authority has recorded the date of birth of the applicant erroneously, is not correct. It

See

has been clarified that the petitioner at the time of appointment as casual labour, was of 25 years in 1965 and had his date of birth been of the year 1950, then he ^{is} ~~would have been~~ ^{has} only 15 years old in the year 1965 and thereby could not have been engaged as casual labour. In support of this contention, the photocopy of the Wage Book for the casual labour have been filed, which mentions one of the casual labour as Kishan Pal/Kali Prasad.

4. Heard, the learned counsel for the reival contesting parties and perused the record.

5. In support of his contention, the applicant has filed a letter dated 07.7.73, regarding approval for appointment of the applicant, which has been issued by Col. Dilbagh Singh, Deputy Director, Military Farm. This letter mentions that the applicant should not be more than 25 years of age. The other letter issued by the Officer Incharge, Military Farm, Kanpur is dated 26.2.1973, copy of which has been annexed as annexure A-2, which mentions birth year of the applicant to be of '1950.' Another document issued ~~on~~ 09.3.1973, copy of which is annexure A-3, is regarding selection of the candidates for appointment as Farm Hand. The applicant's name is at ^g serial no.5 and his date of birth has been mentioned as 08.7.1950. Annexure A-4 is another document which is medical certificate

SKM

issued by the Medical Officer of respondents' establishment, according to which the applicant was of 29 years on 10.8.1979. All these documents are that of the respondents and have not been controverted or alleged to be false ^{as per pleading} ~~or wrongly issued~~, in the counter-reply.

6. The respondents have placed reliance on Service Book, Service Card and also on the Seniority Roll of Group 'D' as issued in 1986. In all these record, the date of birth of the applicant has been mentioned as 13.7.1940.

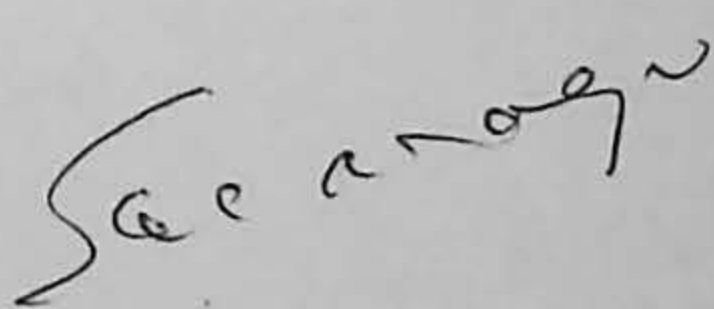
7. On being so requisitioned, the original service record of the applicant has been produced by the learned counsel for the respondents. It is quite apparent from perusal of the Service Book that in column no.6, the date of birth of the applicant ^{was} ~~was~~ originally entered, has been erased, then scored out and thereafter '10th Aug.1940' has been entered. The manipulation is apparent. There is also no mention as to why, under what circumstances and who affected these changes. Likewise perusal of the Service Card shows that originally written date of birth has been erased in first digit of figure of year and some other figure altered into figure '4' and thereafter, there is also manipulation in figures mentioning 'approximate years' and then it has been scored out and 10.8.1940 has been written. The attestation form, which is page 10 of the Service Book, ^{as} produced in the ~~Card~~ ^{Court} and bears the attested photo of the applicant also shows that

San

:: 6 ::

some alteration has been made in the column meant for date of birth. It will also be worth while to mention that the service record of the applicant does not mention that he worked as Casual Labour between 1965 to 1973. Had it been a fact and age relaxation had been allowed to the applicant, there must have been some mention to this effect in the service record. This state of affair in the department controlled by Military Officers is highly condemnable, for which, the authorities shall get it probed through departmental inquiry.

8. From the above, I find that the applicant could establish that his birth year is 1950 and not 1940 as recorded in his service record. The O.A. is allowed accordingly, holding the date of birth of the applicant to be ^{8.7.1950}~~10.8.1950~~. The service record be corrected and superannuation of the applicant be determined accordingly. No order as to costs.


Member (J)

/M.M./