

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 3RD DAY OF JANUARY, 2001

Original Application No.870 of 1997

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C

Pandey Ramesh Chandra, S/o  
Sri Pandey Hanuman Prasad, R/o Mohalla  
Sheikhpur, District Gorakhpur.

... Applicant

(By Adv: Shri Anil Kumar)

Versus

1. Union of India through General Manager(P)  
North Eastern Railway, Gorakhpur.
2. Financial Advisor & Chief Accounts Officer  
Administration N.E.Railway, Gorakhpur
3. Secretary, Madhyamik Shiksha Parishad  
Allahabad, U.P. Board of High School  
& Intermediate Education, U.P.  
Allahabad.)

... Respondents

(By Adv: Shri K.P.Singh)

O R D E R (Oral)

(By Hon.Mr.Justice R.R.K.Trivedi,V.C.)

By this application u/s 19 of A.T.Act 1985 the applicant has challenged the orders dated 16.4.1995(Annexure A1) and 17.4.1997(Annexure A2 to the application) by which his request to correct the date of birth in service record has been refused. According to service record the date of birth of the applicant is 20.7.1941 which admittedly has also been shown in High school certificate. The applicant made a representation in 1966 to change the date of birth from 20.7.1941 to 4.8.1943. A Reliance has been placed on a School Leaving certificate which has been filed as (Annexure A3 to the application). The applicant had passed High school examination in the year 1957. This Tribunal after hearing parties vide order dated 10.11.2000 directed the respondent no.3 to produce the original application for of the applicant through which he was allowed to appear in the High school examination in 1957. On 6.12.2000 Shri K.P. Singh made statement that record pertaining to the High School examination 1957 has been weeded out. Today, he has filed an affidavit to this effect.

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The learned counsel for the applicant, however, submitted that the stand taken by the respondent no.3 is contradictory. If the record was weeded out, then how could they mention the date of birth in paragraphs 8, 11 & 15 of the affidavit filed by Km. Achala Khanna. Learned counsel for the applicant has also submitted that under rule 145(3) of Railway Establishment Code Vol-I the application for correction of date of birth should be decided in case of non-gazetted Railway servants by General Manager, but in this case application of the applicant has been decided by subordinate authority to the General Manager, ~~by~~ <sup>on</sup> this ground the impugned orders are liable to be quashed. Learned counsel for the applicant has placed reliance on the School Leaving certificate (Annexure A3) and has submitted ~~That~~ <sup>that</sup> the correct date of birth is 4.8.1943 and the respondents ~~are~~ <sup>be</sup> directed to correct the service record. Reliance has also been placed on the judgment of this Tribunal in OA 792/90.

I have carefully considered the submissions of the learned counsel for the parties. In view of the stand taken by the respondent no.3 that record pertaining to the <sup>High School</sup> examination of 1957 is not available, The claim of the applicant for change of the date of birth in service record, has to be seen on the basis of the School Leaving certificate filed as (Annexure A3). A close scrutiny of the certificate shows that he was admitted in class VI on 8.7.1950. With the date of birth 4.8.1943 the applicant would have been only 6 years 11 months and 4 days old on 8.7.1950 on which date, he claims admission in class VI. It is wholly improbable that a boy of 6 years 11 months old could be a student of class VI. Thus, the School Leaving certificate <sup>can not be termed a reliable evidence for changing date of birth</sup> relied on by the applicant ~~may be mentioned~~ in the service record. The date of birth has been mentioned on the basis of the High school certificate which the applicant passed in = 1957. As there is no relevant and convincing material for ~~conducting~~ <sup>deciding</sup> the date of birth, the question as to whether the

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order was passed by General Manager or by some Authority subordinate to him is not required to be gone into.

For the reasons stated above, this application has no merit and is accordingly rejected. There will be no order as to costs.

  
VICE CHAIRMAN

Dated: January 3rd, 2001.

Uv-