

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 927 OF 2001

ALLAHABAD THIS 30th DAY OF May 2003 8
30.5.03,

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Jokhu Lal son of Shri Ram Deo,
r/o Village Dadari, Post Office Naini,
Tehsil- Karchhana,
District- Allahabad.

.....Applicant

(By Advocate : Shri A. Srivastava)

V E R S U S

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 R. Sharma)

O R D E R

By this O.A. applicant has challenged the order dated 04.06.2001 whereby his request to change/alter/correct the date of birth from 02.05.1938 to 06.02.1945¹ has been rejected. He has further sought a direction to respondent No.2 to correct his date of birth from 02.05.1938 to 06.02.1945 and to permit the applicant to continue on his job till the age of superannuation as per rules. He has further sought a direction to the respondent No.2 & 3 to make an enquiry through the Boys Junior High School C.O.D. Chheoki, Allahabad with regard

to date of birth entered in the School.

2. It is submitted by the applicant that applicant was initially appointed as Mazdoor w.e.f. 02.05.1963 and since then he has been working as a permanent regular employee. He is 7th class passed from Boys Junior High School, Central Ordinance Depot, Chheoki (Annexure-2) which shows that applicant had passed class 7th on 14.05.1960 but left the school on 31.07.1960 for non payment of fee. In the said certificate his date of birth is shown as 06.02.1945 but at the time of initial engagement respondents did not verify the date of birth of the applicant but on their own record his date of birth as to 02.05.1938 on their own presumption even though he was studied in the school, which was run and controlled by the respondents themselves

3. On 16.03.1964 i.e. well within 5 years applicant came to know that his date of birth has wrongly ^{been} recorded in the service record, therefore, he immediately gave a representation and requested that his date of birth may be corrected and recorded as 06.02.1945 on the basis of School Leaving Certificate. The said representation was duly forwarded but no order was passed thereon, therefore, applicant was under bonafide impression that his date of birth must have been corrected as 06.02.1945 instead of 02.05.1938. It was at the time an Identity Card was issued to him that he came to know that his date of birth has ^{been} entered as 01.06.1942. Therefore, he again submitted a representation on 12.01.1996 followed by reminder dt. 02.02.1996 (Annexure-6). The request of applicant was however, rejected by the respondent No.3 by issuing order dated



17.04.1996(Annexure-7) and applicant was retired on 31.05.1998 treating his date of birth is 02.05.1938. Therefore, being aggrieved he filed an O.A. in the Tribunal bearing No. 1096/96. The O.A. was contested by the respondents which was ultimately decided by this Tribunal on 07.11.2000 whereby the order dated 17.04.1996 was quashed by observing that the provision barring the alteration of date of birth after 5 years from the entry of service would not apply to the case of applicant. Respondents were however, given liberty to re-examine the case of the applicant and pass fresh orders (Annexure-8).

4. It is submitted by the applicant that he served the order dated 07.11.2000 on respondent No.3 on 02.12.2000 and 15.12.2000 requesting them once again to correct his date of birth (Annexure-9). Respondent No.3 however, once again rejected the claim of applicant once again on the same ground of delayed request of alteration without examining the genuineness of the School Leaving Certificate vide order dated 04.06.2001(Annexure-1). It is this order, which has been challenged by the applicant on the ground that once Tribunal had recorded that it cannot be said to be a case where applicant had applied after delay. The same could not have been again rejected on the same ground and when Tribunal had given liberty to the respondents, they were expected to decide the correctness of School Leaving Certificate and decide his case on merits.

5. Respondents on the other hand have contested this O.A. by stating that at the time of his initial engagement applicant did not produced any educational qualification and his date of birth regarding his date of birth was determined as 02.05.1938 on the basis of Medical Examination as assessed by the Medical Officer. They have further submitted that applicant applied for alteration of his date of birth by furnishing educational certificate after a lapse of 21 years from the date of his joining in the instant department. They also refer to O.M. dated 30.11.1979 in which it was specifically mentioned that the person may claim for alteration of the date of birth within 5 years from the date of entry in the service but since he did not claim within 5 years therefore, his claim was rightly rejected by the authorities on 05.11.1985. The representation given by him in the year 1996 was rejected by the official respondents vide letter dated 17.04.1996 on the ground that he had not made his request for alteration of his date of birth within 5 years from the date of entry in service. Moreover, all the employees came into the service during the year 1963 and 1964 were given opportunity by means of daily order part-I published for information of all concerned for change of date of birth in case they so desired but applicant did not apply for alteration. They have referred to daily order part-I No.59 dated 23.05.1965 and have also submitted that date of birth of applicant is recorded in his service record as 02.05.1938 based on employment list/statement/Medical



Fitness and attestation form filled by him. The attestation form is also annexed as CA-I. Moreover, applicant also signed his service documents every year during the year 1963-64-65 and 1966 but no objection was raised by the applicant regarding the correction of his date of birth. Service documents are annexed as Annexure CA-2. Moreover, in the attestation form applicant neither shown his educational qualification nor the name of his institution, as such the order passed by the respondents on 17.04.1996 is in order. They have thus submitted that the O.A. may be dismissed with costs.

6. I have heard both the counsel and perused the pleadings as well.

7. Perusal of the order dated 07.11.2000 shows that only ground taken by the respondents while rejecting the claim of the applicant was that he had applied after delay and though they had tried to explain the other points in the CA but they did not find any mention in the impugned order. Therefore, Tribunal had given liberty to the respondents to re-examine the case and pass fresh orders. It was also held by the Tribunal that O.M. dated 30.11.1997 would not apply in the present case. Grievance of the applicant is that the respondents could not have rejected the claim once again on the same ground which was rejected by the Tribunal namely that of delay and once the matter was remitted back they were supposed to be verified the correctness of the educational certificate produced by the applicant. I have seen the

annexures filed by the respondents which shows that applicant himself had signed the attestation form as back as on 02.08.1963 and he had himself stated that his date of birth to be 02.05.1938 and his age was shown to be 25 years. This document was duly signed by the applicant and he had certified that the information given is correct and complete to the best of knowledge and belief. Similarly in daily order part-2 issued on 02.05.1963 applicant's date of birth was shown to be 02.05.1938 at serial No.35. Similarly number of other documents which shows that applicant had duly signed his service book from time to time wherein his date of birth is shown to be 02.05.1938. According to applicant he was 7th passed and if that be so he should not have signed these documents and should have raised objection even at that time when these documents were prepared or were signed by him. As per applicant's own case he came to know about his date of birth in the year 1964 and he states to have given a representation immediately thereafter. Therefore, if the respondents had not corrected his date of birth he ought to have challenged the same immediately thereafter but applicant did not make any effort to get his date of birth corrected by filing an O.A. He filed first O.A. in the year 1996. The Tribunal had given liberty to the respondents to re-examine the case and pass fresh orders. Respondents re-examined the whole case and once again rejected the claim of applicant by issuing a detailed order, wherein it is stated that at the time of appointment



applicant did not produce any document to show his actual date of birth. Accordingly his date of birth was fixed as assessed by the Medical Officer, which was entered in the service book and duly signed by the applicant himself and since his request for alteration for date of birth was received only in the year 1985 i.e. almost 12 years after his enrolment, therefore his claim for change of date of birth from 02.05.1938 to 06.02.1945 was rejected. Respondents have shown an evidence with their counter which clarifies that applicant had been signing the service record from time to time without making any protest in normal course. He was retired in 1998 on the basis of date of birth recorded in his service book, whereas he filed the case only in the year 1996 that means at the fag end of his career. Hon'ble Supreme Court has repeatedly that requests for change in the date of birth cannot be entertained if they are made at the fag end of the career. In the instant case, admittedly as per applicant's own case, he had come to know about recorded date of birth in the year 1964 itself, therefore, if he was serious about it, he ought to have taken steps in time to get his date of birth altered. In fact applicant cannot be held by saying that he came to know about his date of birth later on because he has himself signed attestation form. He had shown his date of birth to be 02.05.1938, therefore, it can not be held by now saying that actual date of birth was not 02.05.1938 but was 06.02.1945.

8. Respondents counsel relied on AIR Supreme Court Page-2452

There are ~~re~~ many any number of judgments given by Hon'ble Supreme Court on the point of correction in the date of birth wherein it is clearly laid down that requests for change in date of birth can not be entertained at the fag end of career and in this case since applicant had admittedly filed the case only 2 years before his date of superannuation, naturally this case would be covered by the various judgments given by Hon'ble Supreme Court. The respondents have also relied on the circulars issued by their department which would also be relevant and have to be kept in mind while deciding such requests. Since, the decision taken by the respondents is within the law laid down by Hon'ble Supreme Court and as per their own circulars, I find no illegality in the orders passed by respondents. The O.A. is, therefore, dismissed with no order as to costs.



MEMBER (J)

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