

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.505 of 2004.

Monday, this the 17th day of May, 2004.

Hon'ble Mrs. Meera Chhibber, J.M.

Karam Deo,
S/o Mahavir,
R/o Manas Nagar Colony,
Mughalsarai,
District - Varanasi.

.....Applicant.

(By Advocate : - Shri S.K. Dey
Shri S.K. Mishra)

Versus

1. Union of India,
through the General Manager,
E.C. Railway, Hajipur, Bihar.

2. The Divisional Railway Manager,
E.C. Railway, Mughalsarai,
District - Varanasi.

3. The Assistant Engineer (1)
E.C. Railway, Mughalsarai,
District - Varanasi.

.....Respondents.

(By Advocate : Shri K.P. Singh)

ORDER

By this O.A. applicant has sought quashing of the order dated 26.8.2003 (Page-7) and 13.1.2004 (page-8) whereby a speaking order was issued pursuant to directions given by this Tribunal in its order dated 28.11.2003 in OA No.1451/2003 (page-14).

2. In the said order competent authority has explained that in casual labour card his date of birth is clearly

....2.



mentioned as 26.11.1943 which is duly thumb impressed by him and as per first medical memo also dated 23.8.1984, the ADMO (Line) has shown his age to be 40 years as on 23.8.1984. He has further explained that before regular appointment in Grade 'D' person declares his date of birth and once it is recorded in service book it is not to be changed later on unless it is proved on the basis of documentary proof like matriculation certificate or municipal date of birth certificate etc. that ~~it~~ ^{date of birth} ~~has~~ ^{been} recorded wrongly due to clerical mistake. There is no overwriting in his casual labour card and moreover he never produced any documentary official proof to show his ^{date of birth} ~~it~~ has been wrongly recorded therefore the representation is disposed off as it calls for no change.

3. Applicant has challenged this order on the ground that he was engaged as casual labour on 13.3.1972 when his age was shown to be of 24 years at that time. He was regularised w.e.f. 1.1.1981 as such his age of superannuation should be March 2008 instead of 30.11.2003.

4. He has submitted that certain official has manipulated the casual labour card by writing his ^{date of birth} ~~it~~ as 26.11.1993 without any basis. He came to know about ~~it~~ when order of retirement was issued on 26.8.2003 stating therein that he would be retiring w.e.f. 30.11.2003. It was served on him on 5.10.2003. He immediately gave representation on 15.10.2003 but since that was not being decided, he filed O.A. which was disposed off by giving direction to the respondents to decide his representation. By the impugned order applicant's representation was decided. It is this order which has been challenged in this O.A.

5. The only ground taken by applicant is that in his labour service card, his age was shown to be 24 years as ^{on} ~~to~~ 13.3.1972 but perusal of Annexure-I shows that there is no date given on the said document and age is written to be 24 years approximately. In his representation however he ~~was~~ stated that in 1972 he was 18 years of age therefore applicant is himself not sure about his date of birth. Even now he has not produced either his municipality date of birth certificate or High Schools certificate to show his actual date of birth. Even on casual labour card 24 years is written to be approximately so that can not be taken to be the proof of his age.

6. Even otherwise it is at the time of screening and regularisation that ~~A~~DMO has written his age to be 40 years as on 23.8.1994 which also makes his date of birth also against this entry therefore I am satisfied that at this stage after his retirement applicant cannot ask for changing his date of birth. *that too without any documentary proof. E*

7. Hon'ble Supreme Court has repeatedly held that requests made by individual for change of birth^{ah} the verge of retirement should not be entertained. In J.T. 2001 (4) SC 129 in the case of Hindustan Leavers Ltd. Vs. S.M. Jatav it was held by Hon'ble Supreme Court that dispute regarding change of date of birth at fag end of career cannot be raised by an individual similar in 1996 (2) SLR 5.16 in the case of Union of India V/ Ram Sila Sharma it was held by Hon'ble Supreme Court that request for change of date of birth at belate

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stage cannot be entertained. In that case request was made after 25 years Tribunal had direct the respondents to consider correction. It was held by Hon'ble Supreme Court that the direction given by Tribunal is perse illegal.

8. In the latest judgment given by Hon'ble Supreme Court reported in 2003 SCC (L&S) 908 it has been held by Hon'ble Supreme Court that request of extension of service on the ground of date of birth should normally not be entertained by Tribunal at the verge of retirement and ^{onus is} ~~onus~~ is on the employee to prove by adducing evidence to show that date of birth recorded is wrong. It was further held that service book was signed by applicant therefore the recorded date of birth cannot be said to be wrong.

9. If the present facts are seen in the light of above judgment, applicant had also put his thumb impression in his causal labour card where his date of birth has been distinctly shown to be 26.11.1943 and he has also put his thumb impression and ⁱⁿ his service book without raising his objection therefore it is not open to him to challenge his date of birth at the verge of his retirement. Even now applicant has not produced any substantive proof, I therefore do not find any merit in the OA the same is accordingly dismissed at admission stage itself with no order as to costs.

MEMBER (J)

shukla/-