

(11)

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated : This the 11TH day of DECEMBER 2006

Original Application No. 1163 of 2005

Hon'ble Mr. P.K. Chatterji, Member (A)

Kashi Ram, S/o late Hukum Chand, Helper Khalasi (Drawing Section), R/o R-B-Ist, 712-B, Rani Laxmi Nagar, Jhansi.

. . . .Applicant

By Adv: Sri T.S. Pandey, Sri R.P. Tiwari & Sri A. Srivastava.

V E R S U S

1. General Manager, North Central Railways (NCR), Jhansi Division, Allahabad.
2. Divisional Railway Manager, North Central Railways (NCR), Jhansi Division, Jhansi.
3. Senior Divisional Engineer, (Sam) Jhansi.

. . . .Respondents

By Adv: Sri A.K. Pandey

O R D E R

The issue in this ^{OK} involves correction in the date of birth of the applicant who was working as Khalasi in the Railways and retired on 30.09.2005. This date of birth was decided on the basis of the date of birth which was recorded at the time of his entry as 06.07.1945. The applicant has stated that this was not the correct date of birth and this was recorded by the respondents on the basis of medical examination report as it usually happened in the case of Group 'D' employees of the Railways. The

Muhammad

applicant has further stated that he was not aware this was the date of birth recorded in his service book and when he was informed that he would be retired from service on 30.07.2005 by the respondents on some date in 2003, ~~he~~ he was taken by ~~the~~ surprise and, thereafter, he made representations one after another before the respondents for correction of his date of birth as recorded in the service record. However, this was not acceded to by the respondents and he was finally retired from service on 30.09.2005.

2. The applicant has furnished a copy of School Leaving Certificate on which his date of birth is recorded as 30.09.1948 and he has averred that this is the correct date of birth and before retiring him from service, the respondents should have verified the authenticity of this information from sources. However, this was not done and as a result of it he has been retired prematurely.

3. Learned counsel for the respondents has denied the claim of the applicant and he has drawn my attention to paragraphs 4 and 5 of the counter affidavit in which it has been stated that the position taken by the applicant in different representations ^{were} contradictory to each other as in different representations he has mentioned different dates of birth. It showed that he himself was not

muah

sure about his date of birth. Moreover, in the records submitted alongwith the affidavit (Annexure CA 1) his date of birth was shown to be 11.09.1954. By submitting this learned counsel for the respondents asserts that no mistake was committed by the respondents and he was retired correctly as per his date of birth.

4. He has also drawn my attention to the Apex Court decision in case of *State of UP & Others Vs. Shiv Narain Updhayaya [2005 (6) SCC 49]* in which the Apex Court decided that the date of birth should be taken as that recorded in the service book and correction thereof should not be sought thereafter, particularly before retirement of official. Moreover, ^{onus} ~~onus~~ lie on the employee concerned to prove by irrefutable evidence that there was an error in the record of service book. The Court/Tribunal should be ^{cautious} ~~conscious~~ in issuing direction for correction of date of birth in such cases.

5. Against this the learned counsel for the applicant stated that it ^{was} ~~is~~ true that the Apex Court had directed that such request should be made within reasonable time and not at the fag end of service. But in this case the applicant the applicant had started making representations since 2003 and,

muah-

therefore, the decision in this case would not squarely apply to the present OA.

6. I have applied my mind to this matter. The verification of the date of birth and decision on the date of retirement ~~is~~ in relation to the date of birth is an administrative matter. In case of dispute it has to be resolved by the appropriate authority by scrutiny of the different records and there is not much that the Court/Tribunal can contribute in the matter. I cannot altogether set ~~at~~ ^{at} naught the argument put forth by the learned counsel for the respondents that the applicant himself has created confusion in the matter by citing different date of births, but at the same time the plea by the learned counsel for the applicant that at least for once the respondents should try to verify the authenticity of the date of birth recorded in the School Leaving Certificate. ^{seems reasonable} If after examining this they are satisfied that ^{have} stand they have taken is correct the applicant will not ^{have} further grievance. meah

7. For this reason I hereby direct that respondent No. 3 i.e. Senior Divisional Engineer, (Sam) Jhansi will examine afresh the representations of the applicant dated 07.10.2004 and 23.07.2005 only with regard to the date of birth recorded in the School Leaving Certificate and decide the matter afresh and intimate the applicant accordingly. The learned meah

counsel for the applicant has assured that copy of these two representations will be given to the respondents in case they are not found to be on record, within 15 days.

8. This exercise may completed within a period of four months from the date a certified copy of this order and the representations are served on the respondents. With this direction this OA is disposed of. No cost.

Member (A)

/pc/