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CENTRAL ADMINISTRATIVE TRIBUNAL,

ALLAHABAD.

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Registration O.A.No. 755 of 1986

Ram Dawar . . . vs. . . . General Manager, Diesal Locomotive Works, Varanasi and others.

Hon. Justice Shri S. Zaheer Hasan, Vice Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for direction to the respondents to correct applicants date of birth as 5.7.1938 instead of 3.11.1928.

Applicant Ram Dawar was appointed as casual peon in the Diesal Locomotive Works, Varanasi on 1.3.1963. He was confirmed on 18.11.1966. In January 1986 the applicant saw his seniority list and came to know that his date of birth was ~~sown~~ <sup>given</sup> in it as 3.11.1928. It should have been as 5.7.1938 as mentioned in his School Leaving Certificate and the Kutumb Register. On 5.2.1986 he moved a representation for correction of his date of birth attaching copies of Kutumb Register and the School Leaving Certificate. On 17.11.1986 his representation was rejected. Hence this application.

Respondents' case is that the applicant was initially appointed on 1.3.1963 as casual peon and was absorbed permanently with effect from 18.11.1966. At the time of his engagement as casual peon his age was recorded

as 28 years on 1.3.1963. When he was being permanently absorbed he produced a certificate from the Gram Pradhan showing that he was born on 5.7.1938. He failed to produce any satisfactory evidence in proof of his age. The Railway Doctor assessed his age on 3.11.1966 as 38 years. The applicant was advised in writing, vide letter dated 16.11.66 that the Medical Officer assessed his age as 38 years on 3.11.1966 and accordingly his date of birth was being entered as 3.11.1928 and if he had anything to say in this connection he should indicate the same and in case he accepts the said date of birth he should sign the acknowledgement attached. In the acknowledgement the applicant intimated that his date of birth as assessed by the Medical Officer was accepted by him without any reservation. He signed the said acknowledgement photocopy of which is annexed as Annexure II to the reply. Thereafter applicant's service record was prepared, photocopy of which is annexed as Annexure-III to the reply, in which the applicant signed in English as well thumb marked. It is also evident from the first page of the service book that at the time of his appointment as temporary peon in the grade of Rs. 70-85 applicant's upper age limit was waived by the Chief Machanical Engineer, D.L.W. Varanasi.

Applicant's contention ~~is~~ that he came to know about the incorrect date of birth in his service record in January, 1986 has no force because, as stated above, he was informed on 16.11.1966 that his date of birth was being recorded as 3.11.1928 and he could indicate if he had any objection. The applicant accepted that date of birth without

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reservation or qualification and signed the acknowledgement.

The dates of birth of all employees in D.L.W. are printed in computarised regular pay slips supplied to every employee every month and the applicant was no exception to it. The seniority lists depicting dates of birth are also issued from time to time inviting representations against errors etc. After putting in more than 19 years of service as permanent peon the applicant made representation for the first time in February 1986 while he was due to retire in November 1986. The applicant claims to have studied up to 5th class and also signs official documents in English. However, in this connection an inquiry was made from the School concerned, and the Principal of that Institution replied on 7.11.1986 that the T.C. No. 54 did not relate to the applicant and was not issued by the College. Of course, on 17.11.1986 a second certificate was issued indicating applicant's date of birth as 5.7.1938. The applicant was ensured with L.I.C. and there he has shown his date of birth as 12.1.1940. The General Manager gave a personal hearing to the applicant and he took the following circumstances and facts into consideration:

At the time of his appointment the applicant did not produce any School certificate to prove his age though he claims to have studied in school. The age was assessed by the Medical Officer and the applicant was asked to indicate his acknowledgement which he did and signed. The computarised pay slips are issued from time to time and also seniority lists are circulated. The investigation report does not verify the authenticity of the School certificate. The date

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of birth was recorded as 12.1.1940 in L.I.C. records. As per service Card for casual labour prepared in 1963 applicant's age was recorded as 28 years which would mean that he was born in 1935. So taking into consideration all these facts the prayer for alteration of date of birth was rejected.

The date of birth of the applicant recorded in the service records is 3.11.1928. The applicant claims that he was born on 5.7.1938 and in proof of the same he has filed a School Leaving Certificate and a copy of the Kutumb Register. In this connection it has also been contended that the applicant was born in 1928. He was 35 years of age at the time of his initial appointment in 1963 and as such an over-age person could not be appointed. In the first page of the service book of the applicant it is mentioned that at the time of his appointment as temporary peon in the grade of Rs.70-85 his upper age limit was waived by the Chief Machenical Engineer, D.L.W., Varanasi. So, we are left with the School Leaving Certificate and the Kutumb Register.

The applicant was appointed as casual peon on 1.3.1963 and at that time he gave his age roughly as 28 years which means that he was born in 1935. Then again when he was appointed on 18.11.1966 as permanent peon, his age was assesed as 38 years which the applicant accepted in writing as correct. In the L.I.C. record applicant's date of birth is written as 12.1.1940. So, at three different stages three different dates of birth were given.

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The applicant claims to be in possession of the School Leaving Certificate (Annexure-II to the application) from 6.8.1967. On 16.11.1966 a notice was issued to him to show cause why his date of birth should not be recorded as 3.11.28 according to the medical assessment. The applicant claims to be literate and alleged to have read in school up to 5th class. So, he should have contested that notice and informed the authorities that he would file copy of the School certificate subsequently. In any case, when he obtained the School Leaving Certificate on 6.8.1967, he should have then moved the authorities for correction of his date of birth. From the acknowledgement dated 16.11.66 (Annexure-II to the Reply) the applicant knew that his date of birth was 3.11.1928; so he has wrongly asserted that for the first time he came to know about his date of birth in January 1986. In the first page of the service book the applicant has signed in English and also thumb marked it. In this record also his date of birth is written as 3.11.1928. Computerised regular salary slips are issued and the seniority lists are circulated in which dates of birth of the employees are given. So, applicant's contention that he came to know in January 1986 that wrong date of birth was written in his service record is false. As already stated, he was due to retire on 30.11.1986 and he started making representation from 5.2.1986. The School Leaving Certificate (Annexure-II to the Application) is dated 6.8.67, the number on it is 11093. This certificate, as referred to above, was with the applicant from 1967 and should have been produced much earlier if he intended to get his age corrected. The Principal has written that this certificate was not issued by him. In a subsequent letter dated 17th November, 1986 it has been stated that No. 1093 relates to the applicant and his date of birth was 5.7.1938. This

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certificate shows that the applicant joined the School on 1.7.1947 and left it on 4.1.1948 and his name was struck off due to three days' absence. It is not known whether the applicant read in any other earlier class prior to his admission in 5th class. The applicant has not stated that he started his educational career by joining 5th class straight away. <sup>To repeat</sup> ~~Applicant's~~ age was assessed by the Medical Officer. He was asked to show cause and thereafter he accepted that age as correct. He signed the service book wherein the same age is recorded. In seniority lists and Cards issued from time to time age of the employees are recorded and circulated. The delayed action on the part of the applicant has already been discussed. So, in view of the circumstances mentioned above I hold that the applicant has failed to establish by any cogent and reliable evidence that his date of birth was 5.7.1938 and I do not find any good ground to direct the authorities to alter the age entered in the service record and accepted by the applicant.

As regards the entries in the Kutumb register, it is based on the information supplied by some member of the family and in view of peculiar circumstances detailed above, it will not be safe to rely upon the same.

In the result, this application is dismissed with costs on parties.

July 24, 1987.

R.Pr./

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VICE CHAIRMAN