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(Reserved)(Bench No.2)

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD.

Registration No. 97 of 1986

S.K.David vs. Union of India and others.

Hon'ble S.Zaheer Hasan, Vice Chairman.

Hon'ble Ajay Johri, Member(A).

(Delivered by Hon. S.Zaheer Hasan, V.C.)

On 17.2.1986 S.K. David, Shunter Grade 'B' Northern Railway, filed this application under Section 19 of the Administrative Tribunals Act (No.13 of 1985) against the Union of India and others, for correction of the date of birth as recorded in his service record and to enter the correct age of the applicant as mentioned in the Scholars Register and the T.C.Form, and also to cancel the order dated 4.11.1985 regarding the retirement of the applicant.

The applicant was appointed as Fireman Grade 'C' on 12.5.1965. In the service record his date of birth was recorded as 14.2.1928. According to him he was born on 12.2.1946 as per school leaving certificate issued by the School in which he studied from 6th Class to 8th Class from 10.8.1957 to 11.7.1960 when his name was removed. At that time he was studying in 9th Class. So, the notice dated 4.11.1985 informing the applicant that he would retire on 28.2.1986 was bad in law. The applicant claims that this notice should be ignored and the date of birth be corrected on the basis of the entry made in school leaving certificate. It may be added that according to the service record the applicant was born on 14.2.1928 and he completed

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58 years of age on 14.2.1986. So, he was made to retire by the end of February 1986.

1 The defence is that vide order dated 12.5.1965 the applicant was re-appointed as Second Fireman in Grade 'C' and previously the applicant was appointed as a cleaner in 1945 and was promoted in the year 1947. Thereafter he was removed from service. On 17.2.1965 the applicant moved an application before the Divisional Superintendent, Northern Railway with the allegations that he was appointed in 1945 and then removed in 1947 for no fault on his part, and therefore, he should be given employment. His date of birth was correctly recorded in the service record.

The simple point for consideration before us is as to whether the applicant was born on 14.2.1928, as recorded in his service record, or on 12.2.1946, as mentioned in his Transfer Certificate from a school in which he studied from 6th Class to 8th Class from 1957 to 1960. To support his contention that his date of birth is 12.2.1946 the applicant has filed the aforesaid Transfer Certificate (Annexure-A to the application) in which the date of birth is recorded as 12.2.1946, and it is specifically mentioned that on 10.8.1957 he entered in 6th Class and he left on 11.7.1960 while he was studying in 9th Class. On the other side, in the service record applicant's date of birth is written as 24.2.1928. According to his own showing the applicant was in service from 1945 to 1947 as Cleaner etc. Thereafter he was discharged from service and he was again appointed on 12.5.1965 as Fireman after having moved an application dated 17.2.1965 for the job. This application dated 17.2.1965 moved by the applicant was supported by a letter by some M.P. recommending his case. It appears that the applicant was removed from first service in the year 1947 and was re-employed on 12.5.1965. With the

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application for the job dated 17.2.1965 a declaration is attached which is dated 12.5.1965. It is in the own handwriting of the applicant in which the date of birth has been shown by him as 14.2.1928 which is entered in the service record. In the letter written by the M.P., filed by the respondents as Annexure-III to the reply, it is mentioned that the applicant was appointed as Cleaner in 1945 and then he was removed wrongly on 14.10.1949. In the own application of the applicant dated 17.2.1965 it is also mentioned that he was appointed as Cleaner in 1945 and was promoted as Fireman in 1947 and due to his absence he was removed from service. So, if the applicant was appointed in 1945, then treating his date of birth as 12.2.1946, as claimed by him, the applicant entered in service when he was not even born. If the Transfer Certificate is correct, the applicant was in School from 1957 to 1960 and he studied in Class 6th to Class 8th.

In view of the above, we hold that the applicant has failed to establish by any cogent evidence that his date of birth recorded in the service record is wrong. His allegation that he was born on 12.2.1946 is clearly absurd.

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

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October 21, 1986.

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Vice Chairman.

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Member (A).