

DA3

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (T.A.) No. 345 of 1986

Bikam Giri Plaintiff-Applicant.

Versus

Union of India & others ... Defendant-Respondents.

Hon'ble Ajay Johri, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. Ajay Johri A.M.)

This application (Suit No. 181 of 1985) has been received on transfer from the court of Munsif, Moradabad under Section 29 of the Administrative Tribunals Act XIII of 1985. The plaintiff was working at Balawali Station of the Moradabad Division on the Northern Railway. The dispute in this case is regarding the date of birth of the plaintiff. According to him he had submitted a School Leaving Certificate (SLC) at the time of his initial appointment in 1947, when he was 18 years 1 month old and his date of birth should have been recorded as 11.4.1929 on the basis of this certificate, but it was wrongly recorded as 11.4.1927. He came to know of this only when he was received a notice in regard to his retirement on 15.10.1984. He represented against his wrong retirement date but it was not considered. He, therefore, filed this suit praying that he should be retired on 30.4.1987 and not on 30.4.1985.

A3
2

- : 2 :-

2. A written statement has been filed by the defendants before this Tribunal. It has been said in this statement that at the time of employment the plaintiff had declared his date of birth as 11.4.1927. It has been denied that any SLC was submitted by the plaintiff at the time of his appointment. This date of birth has also been accepted by the plaintiff at various time during his employment when he applied for loans in 1969, 1973 and 1978. A representation made by him through the Union in 1982 was also decided against him by the Headquarter Office (HQO).

3. We have heard the learned counsel for the parties and also perused the case file. The contentions raised on behalf of the plaintiff were that his SLC was furnished at the time of employment but wrong entries had been made in the records while these were opposed by the learned counsel for the defendants on the grounds that the plaintiff has been declaring his date of birth as the same as recorded in his Service Record at various times, hence he has no case.

4. In para 17 of the written statement the defendants have said that the plaintiff has concealed the fact that in 1982 he made a representation for the correction of his date of birth through Uttar Railway Mazdoor Union which was decided against him. At that particular time the age of retirement was 55 years. This was later enhanced to 58 years/consequently his date of superannuation was postponed from 30.4.1982 to 30.4.1985. The defendants have

P/3
3

-: 3 :-

filed copies of the correspondence in regard to the representation made by the plaintiff in 1982. In his replication the plaintiff has said that these averments are wrong. According to him, it was wrong to say that his representation was decided and was communicated to the plaintiff. So he has not denied that he made a representation. What he says in replication is that the rejection was not conveyed to him. The copies of communication made with the Union and Station Master which are placed as Annexures '4', '5' and '6' leave no doubt about the fact that some reference was considered regarding correction of the date of birth of the plaintiff in 1982 and the matter was decided in January, 1984. The plaintiff made representation in 1982 and the same was rejected by the authorities. The plaintiff failed to challenge the rejection and, therefore, he should rightly be liable to be deprived of any legal right that might have accrued to him to advance his claim against the defendants for alteration of the date of birth now.

5. In support of his claim that his date of birth is 16.4.1929 the plaintiff has submitted photocopies of some record on the basis of which he was sent for periodical medical examination. When questioned about the ~~authenticity~~³ authenticity of these records where in one case there is interpolation and in one the date of birth is shown as 16.4.1927 the learned counsel for the plaintiff, who had attested them, denied that he has seen the originals. Thus not much reliance can be placed on these records. In any case

AB/29

-: 4 :-

the record that is the basis of these entries is the basic service record and there it is not disputed that in the Service Record the date of birth is entered as 16.4.1929.

6. In case ~~and~~ of illiterate staff or such staff who are not able to give their date of birth but give their age they are assumed to have completed the stated age on the date of attestation and when the year or the year and month of birth are known but not the exact date the first of ~~the month~~ ^{31 July} or the 16th of that month are treated as the date of birth depending on whether the year or year and month of birth are given. The date of birth given and recorded at the time of entering into service is binding and rules ~~lay~~ ^{w to} down that no alteration is ~~ordinarily~~ permitted. However, the General Manager in the case of Groups 'C' & 'D' staff may cause the date of birth ~~be altered~~ be altered. In the plaintiff's case when he agitated his case through the Union in 1982 the case was examined by the HQO and which his request was rejected. SLCs/are issued by schools which are not ~~reputed~~ ^{w of w} do not also carry much weight and, therefore, reliance has to be placed only on the entries in the Service Record and collateral evidence available where entries might have been made in connection with withdrawal of P.F. money etc.. In the plaintiff's case he has withdrawn money from his PF in 1969, 1973 and 1978 and in all these documents his date of birth has been shown as 16.4.1927 and he has signed these applications.

A3
5

-: 5 :-

7. In view of these facts the claim petition of the plaintiff fails. Under the circumstances we dismiss the application (Suit No. 181 of 1985). Parties will bear their own costs.

S. Bhawar

MEMBER (J)

Z. M. R. Shah

MEMBER (A).

Dated: September 26th, 1988.

PG.