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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Registration No. 552(T) of 1986

(Original Suit No. 1168 of 1981 of Munsif's
Court, Gorakhpur)

Dharmraj ...

...

APPLICANT
(Plaintiff)

versus

General Manager, N.E.R.,
Gorakhpur, and others ...

RESPONDENTS
(Defendants)

Hon. Justice S.Zaheer Hasan, Vice Chairman
Hon. A.Johri, Member (A).

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

Suit No. 1168 of 1981 pending in the
Court of Munsif, Gorakhpur, has been transferred
to this Tribunal under section 29 of the
Administrative Tribunals Act (No. 13 of 1985).

The plaintiff was appointed as
Distributor in the North-Eastern Railway Press
on 30.3.1948. At that time his medical examina-
tion was done on 27.3.1948, and the doctor gave
his age roughly as 24 years. The plaintiff
himself declared his date of birth as 31.1.1923.
The same date was recorded in his service records.
He was promoted on 27.3.1953. The plaintiff's
case is that he passed his High School examina-
tion in 1952, and in the High School certificate
his date of birth is written as 1.1.1931. He
made various representations without any effect.
Ultimately he filed the present suit on

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20.10.1981 after serving notice under section 80, Code of Civil Procedure, with a prayer that it may be declared that his date of birth is 1.1.1931 and not 31.1.1923.

The defence case is that at the time of entering service the plaintiff gave his date of birth as 31.1.1923. The doctor also gave a rough estimate about his age. He was promoted in 1953 and at that time the plaintiff gave his date of birth as 31.1.1923, and the same was written in 'B' Card. The plaintiff passed his High School examination in 1952. So he knew about the date of birth recorded in his service record and he never protested. Seniority lists were issued in 1965, 1969 and 1973, in which his date of birth was written as 31.1.1923. The plaintiff passed his High School examination after entering the service, and under the circumstances his date of birth cannot be changed.

The main point to be seen is as to whether the plaintiff was born on 31.1.1923 or on 1.1.1931. He retired on 31.1.1981 according to the date of birth recorded in the service record (31.1.1923). When the plaintiff entered the service on 30.3.1948 as Distributor, he gave his date of birth as 31.1.1923, which has to be preferred over the rough estimate of 24 years given by the doctor on 27.3.1948, that is to say, before his appointment. In B card the plaintiff's

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date of birth is written as 31.1.1923. It is not a case in which the plaintiff passed his High School Examination before entering service. He did the same after entering the service. When the plaintiff was promoted in 1953 he gave his date of birth as 31.1.1923. In the plaint it is admitted that on 27.3.1953 he was promoted, and at that time the doctor gave his date of birth as 27.3.1924 (rough estimate). At that time he knew that his date of birth, according to him, was 1.1.1931, and, therefore, he should have protested that 27.3.1924 was wrongly given as his date of birth by the doctor. In spite of all that he kept silence and he never moved for correction of his date of birth. For the first time he applied for correction of his date of birth in 1979 and 1980 and he retired in 1981.

The plaintiff's case is that at the time he joined the service he gave his date of birth as 1.1.1931, but it was written as 31.1.1923.

It does not stand to reason that in spite of the fact that the plaintiff gave his date of birth as 1.1.1931, the official concerned knowingly recorded the date of birth as 31.1.1923. The plaintiff's representation dated 29.11.1980 was rejected on 16.1.1981. He retired on 31.1.1981, and this suit was filed on 20.10.1981.

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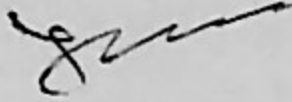
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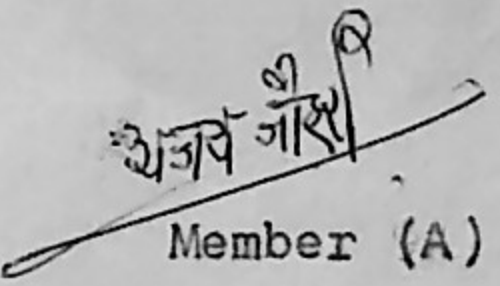
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It may be added that if the date of birth of the plaintiff as entered in the High School certificate (i.e., 1.1.1931) is taken to be correct, the plaintiff would have been about 17 years and 2 months old when he joined the service on 30.3.1948 as a Distributor.

The plaintiff has failed to prove by any cogent evidence that his date of birth as recorded in the service record is wrong and that, ~~in fact~~ ^{in fact} he was born on 1.1.1931.

The suit is dismissed with costs on parties.


Vice Chairman


Member (A)

December 16th, 1986.

AAK