

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Registration No. 177 of 1986.

(O.A.)

B.M.Srivastava APPLICANT
versus
Union of India and others ... RESPONDENTS

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

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

This is an application under section 19 of the Administrative Tribunals Act (No. 13 of 1985), for quashing the order dated 2.2.1984 and for passing an order ^{of} ~~regarding~~ correcting the date of birth of the applicant as 1.5.1929 instead of 1.5.1925.

The applicant was appointed as a Porter on 1.5.1947, and no proof of age was taken at that time. He was born on 1.5.1929, as entered in the Junior High School transfer certificate. When he came to know about the wrong entry of date of birth in 1982, he made a representation on 31.7.1982, and he was asked to file fresh proof. Photocopy of the Scholar's Register was filed. Some enquiry was made, and the prayer to change the date of birth was rejected on 2.2.1984. Hence this application in this Tribunal.

The defence case is that on the

applicant's own assertion at the time of entry in the service his date of birth was written as 1.5.1925, and there is no good ground to change it to 1.5.1929.

The main question is as to whether the applicant was born on 1.5.1925 or on 1.5.1929.

In the service record the applicant's date of birth is written as 1.5.1925. The applicant moved an application for correction of his date of birth on 24.9.1983, on which he was informed on 19.11.1983 to submit proof of his age. The applicant filed a copy of the Scholar's Register in which 1.5.1929 is written as his date of birth. One officer was deputed to make an enquiry, and he reported that no such school existed. Thereafter some senior officer was deputed to make enquiry, and ultimately on 2.2.1984 the applicant's representation was rejected.

On the other side the applicant has filed a transfer certificate in which his date of birth is written as 1.5.1929, and the affidavit of the Head Master dated 17.10.1986 in which he has stated that he was Head Master of C.P. Public Junior High School at Agra in 1946 and the applicant was his student and he issued the Transfer Certificate on 5.7.1946. He further stated that in 1946 a theft was committed and the record of that year is not available. We

wonder that this Head Master remembers that the applicant was his student in 1946. The Transfer Certificate was issued on 5.7.1946, and the representation was made in 1982, when the applicant was to retire in 1983. The Transfer Certificate shows that it was signed by the Head Master of C.P. Public Junior High School, Agra, on 5.7.1946, and the applicant was a student of 6th class from 10.7.1944 to May, 1985, and he was in 7th class from 1.7.1945 to 30.5.1946, when he left ~~per entry in his T.C.~~ the school. He was appointed on 1.5.1947, and this certificate shows that he was in the 7th class upto 30.5.1946.

The applicant was born on 1st of May, and it is rather an unhappy coincidence that he joined the service also on 1st of May. It is further an unhappy coincidence that he came to know about this incorrectness a little before his retirement, though the Transfer Certificate was in his possession in the year 1946. In this context it may be added that the Head Master has stated that there was a theft and the records of 1946 were stolen. His memory is definitely "admirable" on this score.

First a junior officer was deputed to enquire about the certificate, and he reported, as admitted in the application, that there was no such school. Then a senior officer was appointed, and ultimately the Department rejected the representation.

M It was contended that when the applicant gave his date of birth at the time of joining, the Department should have verified the same.

10/12/86

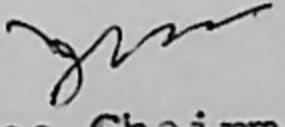
(D)

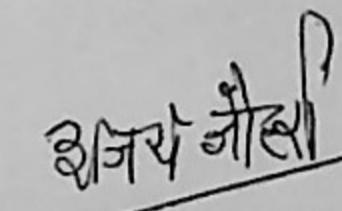
-4-

Non-verification is not penal to the extent that the date of birth as recorded should be considered as incorrect. Normally the date of birth as given by the person concerned is entered in the service book. The same has been done in this case.

Under the circumstances referred to above, no reliance can be placed on the Transfer Certificate filed by the applicant. The applicant has failed to prove by any cogent evidence that the date of birth as recorded in the service record is incorrect.

The application is dismissed with costs on parties.


Vice Chairman


Member (A)

December 11, 1986.

AAK