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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

T.A.No. 901/86

(O.S. No. 86/84)

Ganesh Shanker Shukla Applicant

Versus

Union of India and others... Respondents.

Hon'ble Mr. Maharaj Din, J.M.

(By Hon'ble Mr. Maharaj Din, J.M.)

This T.A. has been received on transfer as the plaintiff filed the suit in the court of Munsif City, Kanpur seeking relief for correction of his date of birth in the service record.

2. The relevant facts as given in the plaint are that the applicant was appointed as tailor (Darzi) 'C' on 20.11.61 at Ordnance Clothing Factory, Shahjahanpur. The applicant did not produce any document regarding his date of birth at the time when he entered in the service. It is stated that the applicant ^{gave} out his age as 19 years but the factory authorities (Doctor) were of the view that he was 24 years of age consequently his date of birth in the service record was recorded as 14.10.1937. The applicant subsequently obtained the copy of the scholar register and transfer certificate from Shyam Lal Inter College, Nawabganj Unnao where he was educated and in these documents the date of birth of the applicant was recorded as 15.10.1943. The applicant on the basis of these documents submitted representation for correction of his age. But the same was turned down, so the applicant has come up before the Tribunal claiming the relief that his date of birth be declared to be 15.10.1943 and direction be issued to the respondents to correct the date of birth in the service record of the applicant.

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3. The respondents filed reply and resisted the claim of the applicant on the ground that the date of birth of the applicant was not recorded arbitrarily as alleged. The applicant himself ^{gave} ~~gab~~ out his age as 24 years and he did not disclose that he was 19 years of age at the time when he entered in the service of the Factory.

4. I have heard the learned counsel for the parties and carefully perused the record. Admittedly the applicant did not produce any document regarding his date of birth at the time when he entered ⁱⁿ the employment of the Factory and in the absence of any documentary evidence in support of his date of birth at the time of initial appointment his date of birth was calculated as 14.10.1937. The applicant agreed with the report of the Medical Officer who assessed that he was 24 years of age on 14.10.1961 when he entered in the employment. On transfer from Ordnance Clothing Factory, Shahjahanpur the applicant was working in Ordnance Parachute Factory, Kanpur and was posted as Examiner skilled since 5.10.1964.

5. The Ministry of Home Affairs has circulated Notification No. 19017/7/79-Estt (A) dated 30.11.79 regarding change of recorded date of birth under which it has been directed that the change in the recorded date of birth can only be accepted on fulfilment of following conditions/circumstances -

- (a) A request in this regard is ^{is} made within five years of his entry into Government service.
- (b) It is clearly established that a genuine bonafide mistake has occurred and
- (c) The date of birth so altered would not make ^{him} ~~his~~ ineligible to appear in any school or University or U.P.S.C. Examination in which he has appeared or for entry into Govern

service on the date on which he first appeared at such examination or on the date on ⁴ which he entered Government service.

6. In response to Factory order no. 187 dated 14.8.75 inviting the attention of the employees to get their date of birth corrected in case it was some how wrongly recorded, the applicant applied on 21.11.75 to General Manager of the Ordnance Parachute Factory for correcting his date of birth as 15.10.1943. The applicant in support filed copy of scholar register/ transfer certificate claiming his correct date of birth as 15.10.1943. The applicant has, however, not filed the original extract of scholar register/ School leaving certificate. The applicant was asked vide letter No. CF 744/LB dated 24.10.78 to submit the details of his educational qualification upto V Class with documentary evidence and also to produce original certificate. The applicant in response to said letter submitted application dated 27.10.78 expressing his inability to produce the original certificate as the same were not in his possession. The matter was referred to Educational Authorities for verification about the correctness of the copies of Scholar Register/ School Leaving Certificate, the Educational Authorities had only confirmed the recognition of the Institution but the correctness of the entries of the certificate filed by the applicant ^{was not} ~~was~~ not confirmed. In these circumstances I am of the view that the respondents were justified in not accepting the assertion of the applicant about change of his date of birth in the service record. The respondents have produced the service record of the applicant and in the identity card his date of birth is entered as 14.10.1937. This identity

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is duly signed in English by the applicant and he thereby acknowledged the correctness of the entries made therein. The applicant now cannot resile from his assertion which he made at the time of entering in the employment particularly when no genuine proof based on documentary evidence is available.

7. It has been contended on behalf of the applicant that in response to the Factory order FO. No. 187 dated 14.10.75 two more employees of the Factory namely Sone Lal and Suraj Prakash had also submitted the application for change of their recorded date of birth and their request about change of date of birth in the service record was accepted. Therefore, it is urged that the applicant who is similarly situated has been discriminated and which is clear violation of the Article 14 and 16 of the Constitution of India.

8. As regards Sone Lal he submitted application dated 21.11.75 along with certificate of Junior High School passed in the year 1954 for correction of his date of birth as 9.4.1935 instead of 6.11.1934. His date of birth was wrongly entered by clerical mistake as he also indicated his date of birth as 9.4.1935 in PVR form. Thus his request was acceted as per rules and his recorded date of birth was corrected. Similarly Suraj Prakash also submitted application on 15.9.1975 in response to OPF, FO No. 187 dated 14.8.75 along with original certificate of School Leaving in which his date of birth was entered as 4.5.1940 instead of 19.1.1938. His certificate was sent to Educational Authorities for verification and on receipt of satisfactory verification² from the District Basic Shiksha Adhikari, Kanpur his case was referred to CEF Head Quarders, Kanpur which was also considered satisfactory² by the Head

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Quarters, Kanpur and as per orders of the Additional Director General of Ordnance Factory/ OEF Head Quarters dated 1.9.79. The date of birth of Suraj Prakash had been amended as 4.5.1940.

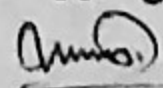
9. In case of the applicant the Educational Authorities have only verified the recognition of the Institution but they have not verified the entries of the copy of the certificate submitted by him so the applicant's case is different than the cases of the above two employees and while refusing to accept the request of the applicant about correction of date of birth on the basis of any verified entry of the scholar register the respondents have not done any illegality nor violated the provisions of Article 14 and 16 of the Constitution of India. The applicant had joined the service in the year 1961 and filed a suit in the court of Munsif seeking alteration in the date of birth at the fag end of his service career. In case of Dharampal Vs. Union of India (1989 (11) ATC 236 the Delhi Bench of the Tribunal dismissed the application holding that it suffers from laches of delay despite of the fact that the change of the date of birth was sought on the basis of matriculation certificate. The same view was taken by this Bench in O.A. No. 1182/91 Sri Jagroop Vs. Union of India and others decided on 18.2.1992. The Jabalpur Bench of the Tribunal in the case of Ghase Lal Vs. Union of (1988 (6) ATC 224 rejected the application about change of date of birth observing that the date of birth was recorded on an employee's own declaration and accepted by him, he is stopped from challenging it. The Calcutta Bench of the Tribunal in the case of Sarju Prasad Vs. Union

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of India and others (1989 (9) A. the prayer for change of date of birth on that change was desired at the fag end of service career.

10. The learned counsel for the applicant relied on ATR 1987 (1) CAT 441 Sri Heera Lal Vs. Union of India and others decided by the Principal Bench of Delhi in which it was held: Rule 79(2) of the General Financial Rules, cannot stand in the way of applicant getting the entry in the service record corrected. In the above cited case of the applicant the correction of the entry in the service record was allowed on the basis of the verification of the School record. In the present case the respondents on receiving the application for correction of age of the applicant made every effort to verify the authenticity of the copies of the certificates submitted in support of the application by the applicant but the same were not verified by the Educational Authorities. The applicant also failed to produce the original certificate even on demand. So the ruling cited by the learned counsel for the applicant is not applicable to the facts of the present case.

11. In view of the discussion made above I find that the application is devoid of merit and it is hereby dismissed with no order as to costs.


11.11.92
Member (J)

Dated: Allahabad
11th Nov., 1992

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