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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (TA) No. 1056 of 1986

Gaiyan Lal Saxena Plaintiff-Applicant.

Versus

Union of India Defendant-Respondent.

Hon'ble S. Zaheer Hasan, V.C.
Hon'ble D.S. Misra, A.M.

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

Suit No. 759 of 1984, pending in the court of Munsif City, Kanpur, has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff's case is that on 26.7.1950 he joined as Boy Artisan in the Ordnance Clothing Factory, Shahjahanpur while he was less than 17 years of age. He took training from 26.7.1950 to 25.1.1954 and on 27.1.1954 he was appointed as a regular Emroider. He had passed IXth class and according to School Leaving Certificate his date of birth is 20.12.1933 and he submitted this School Leaving Certificate at the time of appointment, but the Doctor wrongly assessed his age as 23½ years instead of 20½ years, as recorded in his School Leaving Certificate. So in short his date of birth is 20.12.33 as entered in the School Leaving Certificate as well as in High School Certificate of the year 1954, when he passed the ~~exams~~ during his service and since it was wrongly entered in his Service Book that the

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birth of the plaintiff is 26.7.1930, so he seeks a declaration that his date of birth be declared as 20.12.1933 and the same may be corrected by scoring 26.7.1930, as written in the Service Record. It is alleged that in 1966 he happened to look into his Service Book and came to know about the mistake in his date of birth. He made a representation but without any effect. Then in 1981 he made a representation to the Ministry which was rejected. Thereafter he made a representation to the Minister which was also rejected and after that the suit was filed after giving notice under Section 80 of the Code of Civil Procedure.

3. The defence is that the plaintiff did not submit any proof at the time of entry in his service, so the age was written after assessment made by the Doctor. He made the representation for the first time in 1970. He signed the service book on 11.1.1967 and made a declaration on 18.7.1960 that his date of birth was correctly recorded as 26.7.1930. Under the circumstances his representation was rightly rejected and he is not entitled to get the declaration, etc.

4. According to the plaintiff when he entered as Boy Artisan for training, he submitted his School Leaving Certificate in which his date of birth is written as 20.12.1933. This allegation appears to be false because had he submitted this certificate there was no sense in writing that the plaintiff gave his date of birth roughly and the Doctor also estimated the same by appearance, etc. This School Leaving Certificate shows that he (plaintiff) studied in IXth class from 11.7.1949 to 13.5.1950 and in Xth class from 8.7.1950 to

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and thereafter he left on request. This certificate was issued on 30.6.1971. There is a column showing as to whether the date of birth verified from the birth certificate or confirmed by ^{his} parent, etc. There is nothing to suggest that the plaintiff produced any certificate of previous Institution from where he had passed VIIIth class, etc. nor it shows that the age of the plaintiff was verified by the school from any other document. This certificate at page no.29 further do not show that it is a duplicate. As already stated, it was issued on 30.6.1971 and the plaintiff's contention that he filed it in 1950 (even in 1954) appears to be incorrect and have been denied by the defendant. It has been further contended by the plaintiff that he came to know about this incorrectness in his service record in 1966. According to defence, he made the first representation in 1970. On 11.1.1967 the service record was verified by the plaintiff and signed by him in English in which his date of birth is recorded as 26.7.1930, so his allegation that he came to know about the incorrectness in 1966 is false. His service record was prepared on 25.7.1955 and was verified by him on the aforesaid date. In this his date of birth is written as 26.7.1930. The plaintiff claims to have read upto IXth class and he passed the High School examination in 1954. He has signed this record on 25.7.1955. This record is written in English and the plaintiff has signed it in English giving his date of birth by his own hand. Then again we found that on 11.1.1967 he signed the service book in which the date of birth is written as 26.7.1930. On 18.7.1960 the plaintiff gave a declaration to the effect that he had gone through the Service Book

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was satisfied regarding the correctness of his date of birth entered as 26.7.1930. This was done in 1960 and the plaintiff has passed High School in 1954, so it does not stand to reason that on so many occasions he missed the date of birth written in the various papers, referred to above, and signed blindly. According to para 2 of the plaint, the Doctor assessed his age as 23½ years and in fact he was 20½ years old, which means it was done after the training in the year 1954 when he was appointed on regular basis. According to rules if age cannot be verified by documents, the age certified by the medical authorities from appearance at the time of first entertainment in the Establishment, should be taken as correct. So far as High School Certificate is concerned, it relates to the year 1954, i.e. after the training and the regular appointment and as such the plaintiff could mention any date of birth in his application form as it suited him and it will not be safe to rely upon the same in view of the circumstances
regards
mentioned above. As School Leaving Certificate it has already been shown that it was never submitted at the time of entry or after the completion of training and was issued in the year 1971. There is nothing to suggest that it was a duplicate and some original certificate was issued earlier. As such it will be not wise to rely upon this document and order correction of age. It was contended that a Boy Artisan is recruited before he completes 17 years of age and if the date of birth written in the record is taken as correct, the plaintiff was about 20 years of age at that time, so he should not have been sent for training. It may be that he gave his age as about 17 years and due to some mistake, etc.

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was permitted to proceed on training. When the regular Service Book was prepared his date of birth was assessed by the Doctor and the same was accepted by the plaintiff. As already stated, he verified it subsequently and he also gave a declaration that he is satisfied himself about the correctness of his date of birth written in his Service Book.

5. In view of all the above we are of the opinion that no direction can be issued to the defendant to correct the date of birth of the plaintiff, as claimed by him and the application (Suit No 759 of 1984) is dismissed with costs on parties.

Bhama
Member (A).

Z. M.
Vice-Chairman.

Dated: February 25, 1988.

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