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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No. 1152 (T) of 1986

Kaloo Ram

plaintiff
applicant.

Versus
Secretary Ministry of Defence
and others.

Defendants
Respondents.

Hon'ble D.S.Misra, A.M.

Hon'ble G.S.Sharma, J.M.

(By Hon'ble D.S.Misra)

This is an original suit no. 260 of 1984 which was pending in the court of Munsif(City) Kanpur and has come on transfer under Section 29 of the A.T.Act XIII of 1985.

2. The plaintiff's case is that while working in the Small Arms Factory Kanpur in the month of January, 1983 he was informed by the office of the factory that the plaintiff has to retire on 28.2.1984; that on inquiry in the office of the factory, the plaintiff found out that his date of birth, which is 1.3.1934 has been changed by cutting and over writing the year from 1934 to 1924 and this cutting is quite visible in the record; that the plaintiff obtained a certificate from Primary School Kurshwan Second Mandal, Kanpur which clearly shows the date of birth of the plaintiff as 1.1.1934; that the plaintiff sent a legal notice on 18.2.1983 to the Secretary, Ministry of Central Government, New Delhi (defendant no.1) to correct the date of birth from 1.1.1924 to 1.1.1934 but no response has yet been received and the plaintiff filed the present suit; that during the pendency of the suit, the defendants have retired the plaintiff on 24.2.1984.

be The plaintiff has sought direction to the defendants to take

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the plaintiff in their service as the legal servant/employee of the Union of India till 28.2.1994.

3. In the reply filed on behalf of the defendants it is stated that according to the service record, maintained by the factory the plaintiff had declared his age as 30 years before the Medical Officer at the time of recruitment and that as no documentary proof of age was produced by the plaintiff, the Medical Officer had assessed his age as 40 years from appearance on 4.2.1964 and accordingly the plaintiff's age had been recorded as 42.1924; that while filling the workman record of service, the plaintiff had declared his educational qualification as read upto Class IV but no documentary evidence was produced by him at that time; that the plaintiff had initialed in the service book against column provided for entry of age in token of the correct entry in the service book; that no cutting or over writing had been done in the service book of the plaintiff as alleged by him in the plaint; that the plaintiff had not submitted any application for amendment in the recorded date of birth in the service record; that the plaintiff was superannuated from service w.e.f 29.2.84 on attaining the age of 60 years as per government order dated 1.3.1984 and the allegations to the contrary are false and baseless.

4. The plaintiff filed various documents including copy of the notice under Section 80 CPC and the /leaving certificate dated 20.7.73 issued by the Head Master Basic Primary School Kurshwan, Second, Nagar MahaPalika Kanpur. The respondents filed the original service book of the plaintiff and copy of the order dated 1.3.84 retiring the applicant from service and the order dated 11.10.1982 containing the names of employees who would be retiring from service on

reaching the age of 60 years during the year 1984.

5. We have heard the arguments of the learned counsel for the parties and have carefully perused the documents on record. On page 4 of the service book against the entry 'date of birth' by Christian Erra the entry recorded is 42.1924 and there is the signature of Kalloo Ram. Against entry 11 titled signature of the government servant ,again there is a signature of Kalloo Ram. One Sri M.L.Vohra A.M(A) had signed on 12.10.1969 as head of the office attesting the above mentioned entries. From the above entries in the service book, the first contention of the plaintiff that the date of birth originally recorded in the service book had been changed from 1.1.1934 to 1.1.1924, is found to be incorrect. The second contention of the applicant is that he had declared his age as 30 years and not as 40 years at the time of entry in government service, has to be examined with reference to the entry in the medical examination report. The service book also contains a separate sheet containing workman's record of service containing the medical examination report signed on 42.1964 in which various details of weight, complexion, height, eyes, identification marks of the plaintiff, etc. are given. It is also stated that the plaintiff had declared his age as 30 years but by appearance he is 40 years. It has been contended on behalf of the plaintiff that the date of birth recorded by the Medical Officer in 1964 by mere appearance of the plaintiff is not at all reliable and that the certificate dated 20.7.73 of the Head Master, Basic Primary School, filed by the plaintiff is more reliable.

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6 Learned counsel for the defendants contested this claim and contended that the date of birth recorded in the service book of the plaintiff at the time of his entry in government service was in accordance with the instructions of the Railway Board contained in para 225 of the Railway Establishment Code Vol. I 5th Edition 1985. It is also contended that at the time of entry in government service, the applicant did not produce any certificate regarding his date of birth and the age at the time of entry in government service as assessed by the Medical Officer was accepted by the plaintiff as is evident from the fact that he himself ^{has} signed against the entry of date of birth as being 42.1924. It is argued that the plaintiff having accepted this fact is debarred from taking the plea on the basis of the school certificate dated 20.7.73 filed by him in this court.

7 Learned counsel for the plaintiff cited the observations of the Hon'ble Supreme Court in **State of Orissa V. Dr. Miss Bina Pani Dei and others, A.I.R. 1969, S.C., 1269**. The point considered in the above mentioned case was the matter of compulsory retirement based on certain disputed date of birth and the petitioner was not given the report of the Medical Officer, who conducted an inquiry into the correct date of birth. It was held that the order violates the principles of natural justice. In our opinion, the matter under our consideration is not similar as the defendants have denied receipt of any application for correction of date of birth before his retirement from service. It is not the contention of the plaintiff that he had filed any documentary evidence before the defendants regarding his date of birth before his retirement from service. We are of the opinion that there

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has been no default on the part of the defendants in not making corrections in the date of birth of the plaintiff. We are also of the opinion that the school leaving certificate produced by the plaintiff is not more reliable than the entry in the service book which is duly attested by the plaintiff, himself and the plaintiff has failed to establish his claim.

For the reasons mentioned above, there is no merit in the suit and the same is dismissed without any order as to costs.

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19.2.88
A.M.

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J.M.

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