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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

Transfer Application no. 1259 of 1986

Jharkhandey Singh

... Plaintiff

Versus

Central Government, through Secretary
New Delhi and others

... Defendants

Hon'ble D.S.Misra-AM

Hon'ble G.S.Sharma-JM

(Delivered by Hon'ble D.S.Misra)

This is an original suit no. 564 of 1983 instituted in the court of Munsif(City) Varanasi which has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff's case is that he was appointed ^{E.D.B} Post Master, Branch Post Office Murdaha District Varanasi by the Superintendent of Post Office, Varanasi, w.e.f. 27.2.1973; that the date of birth of the plaintiff was 18.8.1927; that the Sr. Superintendent of Post Offices, Varanasi (defdt. no.2) had become angry with the plaintiff and ^{be} had been threatening to retire him from service even though the plaintiff would be completing 65 years of age on 18.8.1992 and was entitled to continue to work as Post Master Murdaha, Varanasi. The plaintiff sought a decree or direction to the defendants not to retire him from service before attaining the age of 65 years. The plaint was amended with the permission of the court and Sri Gopal Ram, Inspector Post Offices, was impleaded

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as defendant no.3. In the amended plaint, it was stated that the defendant no.3 had demanded a sum of Rs.3000/-from the plaintiff and his failure to do so had resulted in developing enmity with the plaintiff; The plaintiff also filed an application for grant of an ad interim stay which was rejected by the learned trial court and the order was upheld in appeal. In the reply to the application for interim relief filed by the defendants, it was stated that the date of birth of the plaintiff was ascertained from the application given by the plaintiff seeking appointment with which a copy of the school certificate was also filed and the date of birth mentioned therein was 18.7.1918; that the contention of the plaintiff that his date of birth is 18.8.1927 was wrong; that the plaintiff had been retired from service w.e.f.17.7.1983 on attaining the age of 65 years.

3. The plaintiff has filed a horoscope in original in which the date of birth of the applicant is entered as 18.8.1927. He has also filed photo copy of a School Leaving Certificate signed by Sri Sarvajeet Ram, Head Master, School Murdaha District Varanasi on 15.8.1973 in which the date of birth of the applicant is given as 18.8.1927. This certificate states that the plaintiff joined the school on 15.5.1931 and left it on 25.5.1936 after passing Class IV. The plaintiff's claim is that this certificate was filed by him at the time of filing an application with the defendants for obtaining employment. The defendants filed photo copy of the application

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dt. 10.2.1973, which is signed by the plaintiff as well as by Sri Achhaibar Misra, Pradhan Gram Sabha, Murdaha. In this application, it is stated that the certificate of age is enclosed with the application. The photo copy of the certificate, mentioned above, filed by the defendants is signed by Lalji Singh, Head Master, Junior High School Lohta, District Varanasi in which the date of birth is given as 18.7.1918 and this has been issued on 10.2.73. In this certificate the date of admission in the school is 15.5.1931 and the date of leaving the school is 25.5.36 and the reasons for leaving the school is continuous absence. This letter also states that the applicant had passed Class-V on 2.7.1932.

4. On the date of argument, learned counsel for the parties sought permission to file some papers in support of their contentions. The plaintiff filed copy of a letter dated 19.1.1987 issued by the District Branch Office, L.I.C., Bhawani Market Varanasi in which it is stated that in the Policy No. 8106087 issued to Sri Jharkhandey Singh, son of Satya Narain Singh the date of birth is 18.8.27 in their record. Another paper filed by the plaintiff is a photo copy of a certificate dated 26.5.80 of the Head Master Junior High School Lohta Varanasi in which it is stated that Junior High School Lohta was established in the year 1958. Yet another paper filed by the plaintiff is a photo copy of a note signed by the Inspector of Post Offices, in which it is stated that Sri Mahendra Lal should pay Rs. 2000/- as discussed with Sri Shanker Rai. Another photo copy said to have been signed by Inspector

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of Post Offices North Sector, Varanasi, states that Sri Jharkhandey Singh is informed that he should pay Rs.3000/- immediately otherwise he will be retired on the basis of forged certificate. The plaintiff has also filed photo copy of Family Register, issued by the Village Panchayat Officer in which Jharkhandey Singh son of Satya Narain is said to have been born in the year 1927. The plaintiff has filed a medical certificate dated 20.9.1983 of the C.M.O., Varanasi, in which it is stated that according to his general appearance and body development Sri Jharkhandey Singh son of Satya Narain is about 58 years of age.

5. The defendants filed the following papers:

- i) Photo Stat copy of Sr. Supdt. of Post Offices, Varanasi letter no. H-2/270 dt. 3.2.1973, addressed to Sri Jharkhandey Singh, Murdaha Bazar (Ayar) Vsi. (Sl.38)
- ii) Photo stat copy of office note dt. 13/15.2.1973 regarding appointment of EDBPM Murdaha Bzr. (Srl.41).
- iii) Photo stat copy of office note dt. 20.2.1973 regarding appointment of EDBPM Murdaha Bazar (Sl.51)
- iv) Photo stat copy of list of candidates for appointment as EDBPM Murdaha Bazar Vnsi (Sl.57)
- v) Attested copy of Sr. Supdt. of Post Offices Vsi letter no. H-2/270, dt. 2.3.73 addressed to the Post Master General U.P. Circle Lucknow (Sl.62)
- vi) Photo Stat copy of list of candidates for appointment as EDBPM Murdaha Bazar Vsi (Sl.61).

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5. We have heard learned counsel for the parties. Learned counsel for the plaintiff contended that the certificate dated 15.8.1973 filed by him was the correct certificate and in this certificate the date of birth of the applicant is mentioned as 18.8.1927 and this should be accepted. Learned counsel for the defendants contended that the plaintiff had filed ^a certificate dated 10.2.1973 which has been filed by the defendants. We have considered these contentions. The plaintiff has not contested the photo copy of the application dated 10.2.1973 filed by the defendants. The date of issue of the certificate filed by the plaintiff is dated 15.8.1973. If the plaintiff made the application on 10.2.1973, he could not have filed ^a certificate issued on 15.8.1973. In the application dated 10.2.1973, the plaintiff has stated that his qualification was Urdu Middle which means that he had passed Middle Examination ^{which} used to be equivalent to Class VII. In the Photo ~~copy~~ copy of office note dated 20.2.1973 regarding, appointment of EDBPM Murdaha Bazar, it is stated that Sri Jharkhandey Singh had produced the educational certificate showing his date of birth as 18.7.1918. In the photo copy of the list of candidate for appointment as EDBPM Murdaha Bazar, Varanasi, it is stated that the age of Sri Jharkhandey Singh is given as 54½ years recording his date of birth as 18.7.1918 and the educational qualification as having passed Class V. This fact of the applicant as having passed Class V tallies with the remark contained in the Photo copy of the certificate dated 10.2.1973 filed by the

defendants,.

6. We have considered the contentions of both the parties and we are of the opinion that the photo copy of the note signed by the Inspector of Post Offices stating the demand of Rs.3000/- from the plaintiff and the threat to retire him from service in the event of non-compliance is not at all reliable. Similarly the certificate dated 19.1.1987 of the District Branch Office L.I.C. is also not a conclusive evidence as the date of birth given by the applicant in the application for insurance is usually accepted by the *life* Insurance Corporation without verifying its correctness on the basis of documents. In any case this can not be considered a satisfactory evidence in support of the claim on the plaintiff. The other certificate filed by the plaintiff including the Kundali is not a reliable evidence. We are of the opinion that documents filed by the defendants and the certificate dated 10.2.1973 are more reliable than papers filed by the plaintiff. We accordingly reject the contention of the plaintiff and dismiss his suit without any order as to costs.

Shree 5.3.87 } *Indira*
A.M. J.M. 5/3/87

Dt. 5.3.1986.

J Singh.