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IN CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No.1329(T) of 1986

Tahal Singh

Plaintiff.

Vs.,

Union of India (Rly) Gorakhpur      Defendant.

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

This is an original suit no.1408 of 1983 which was pending in the court of Munsif I Gorakhpur and has come on transfer under section 29 of the A.T.Act XIII of 1985.

2. The plaintiff's case is that he is working as Hammal at the railway station Anand Nagar of N.E.Railway H.Q. at Gorakhpur; that at the time of his entry in railway service his date of birth was written as 20.9.28 and the plaintiff did not declare any other date of his birth; that in the month of June, 1983, he came to know that date of birth of the plaintiff has been written as 20.9/25 in his service record and thereafter he repeatedly requested the concerned officials and D.R. M N.E.Railway Lucknow for correcting the date of birth in his service record, but no satisfactory reply was given by the concerned officials of the defendant; that the plaintiff gave a notice under section 80, Gp.c, on 12.8.83; that the plaintiff filed the suit seeking an injunction restraining the defendant retiring the plaintiff on or before 29.9.86 and declaring that the plaintiff's date of birth <sup>is fixed as</sup> 20.9.28 and he is entitled to work as Hammal in the administration of the defendant. The plaintiff filed copies of various documents including copy of the notice under section 80 c.p.c.. The application for injunction was rejected by the trial court.

3. In the written statement filed by the defendant, it is stated that at the time of appointment, the plaintiff was medically examined on 20.9.51 and the plaintiff had declared his age as 26 years; that the date of birth of the plaintiff was determined in accordance with his declaration and recorded in his service book which bears the thumb impression of the plaintiff. The signature as well as thumb impression of the plaintiff were witnessed by the staff of the personnel office and the same were duly attested by the then ATS(G) who was his controlling officer; that from time to time the seniority lists of the plaintiff were also published clearly mentioning the date of birth of the plaintiff as 20.9.25, but the plaintiff never objected or submitted any representation in respect of the same; that it is wrong to say that the

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plaintiff ever gave any declaration about his date of birth as 20.9.28; that the plaintiff knowing fully well that his date of birth is 20.9.25 and he is at the verge of retirement <sup>had</sup> ~~be~~ moved an application with the administration to employ his son; that the defendants filed copy of the medical report dt. 20.9.51(paper 18 Ga), copy of employees service record (19 Ga), seniority list dated 11.5.81(20 Ga) and seniority list dated 1.5.78 (21 Ga) to support their case that the date of birth of the plaintiff was mentioned in all these documents as being 20.9.25 and that the plaintiff has been retired on 30.9.83 and the suit has become infructuous.

4. In the rejoinder affidavit filed by the plaintiff the authenticity of the documents filed by the defendant was challenged. The plaintiff filed a copy of the voter's list in support of his case.

5. On the date of final hearing of the case, learned counsel for the plaintiff sought permission to file certificate dt. 10.10.1983 of village Pradhan certifying the date of birth of the plaintiff being 20.9.28, a horoscope in original and extract from Kutumb register for the year 1970-71 of Gram Sabha Tinghra in which one Ram Tahal son of Chandra Bali aged about 40 years is also included and these papers were allowed to be placed on the record.

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~~I have~~ <sup>be</sup> heard the arguments of the learned counsel for the parties. The main argument of the learned counsel for the plaintiff is that the plaintiff being an illiterate person did not know the <sup>be</sup> ~~incorrect~~ date of birth, mentioned in his service record. Learned counsel for the defendant contended that the contention of the plaintiff that he was illiterate is not correct and that even on the date of entry in government service he has signed his name in Hindi Language and the plaintiff never made any request for the correction of his date of birth except when he was on the verge of retirement.

7. I have considered the matter and I am of the opinion that no reliance can be placed on the documents filed by the plaintiff on the date of final hearing of the case as these are

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post dated and their authenticity is doubtful. On the other hand the documents filed by the defendants, particularly the entry in his service book bearing thumb impression and signature of the plaintiff and attested by officials and a responsible officer of the railway administration deserves to be relied upon. I am of the opinion that the plaintiff has failed to establish his claim. There is no merit in the suit.

The suit is dismissed without any order as to cost.

DS/M 7.9.87

(D.S.Misra)A.M.

JS/7.9.87.