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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No. 1334 of 1986
(O.S. No. 319 of 1985)

Majid Plaintiff

Versus

Union of India Defendant

Hon. S. Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By Hon. S. Zaheer Hasan, V.C.)

Suit No. 319 of 1985 has been transferred to this Tribunal under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. The plaintiff Majid son of Ismail was appointed as substitute Khalasi on 7.4.1971. On 10.12.1980 he received a chargesheet with the allegations that while obtaining appointment as Khalasi he wrongly gave his date of birth as 16.5.48. In fact his date of birth was 7.11.1936 as entered in his service record in the Remount Training School had & Depot where he worked as Sais, Choukidar etc. and therefore by fraudulent means he obtained appointment which he could not get being over age. The plaintiff denied the charges and claimed certain copies of the documents which were not supplied to him. It is further alleged that they could not prove that the

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plaintiff was the same man who was appointed in the Remount Training School & Depot and in any case the punishment was excessive. So it was prayed that the order of his removal dated 15.12.82 be quashed.

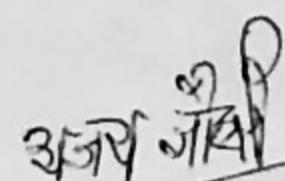
3. The defence is that the plaintiff moved an application for appointment in the defendant's department in which he gave his date of birth as 16.5.1948. He also produced a School Leaving Certificate dated 25.6.1965 in which the same date of birth was given. A complaint was made in 1980 against the plaintiff. After enquiry it came out that in 1960 the plaintiff was appointed as Sais in Remount Training School & Depot and subsequently he was posted as Chowkidar to some other place. ~~so~~ He resigned in 1971. In the military service record of the plaintiff the date of birth is written as 7.11.1936 and as such the plaintiff could not be appointed being over age on 7.4.1971. So he concealed his real date of birth and falsely asserted that he was born on 16.5.1948 and in this manner he obtained his appointment on 7.4.1971 as substitute Khalasi.

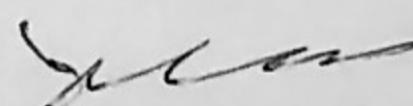
4. The plaintiff has been punished after holding departmental enquiry in proper manner. We do not sit in appeal against the findings of the disciplinary authority and those findings cannot be disturbed unless the same are perverse, based on no evidence

or on evidence it should not have been taken into consideration or on extraneous matters. The Enquiry Officer has given good reasons for coming to conclusion that the School Leaving Certificate produced by the plaintiff at the time of entry in defendant's service was bogus. It was asserted before the Enquiry Officer that the plaintiff could only write his name in Hindi. On the other hand it was asserted that he had read in the school which was not a recognised one. The original record was summoned but the school authorities pleaded ~~that he was~~ ~~there~~ damage. At the time of his entry in service he moved an application in which the plaintiff gave his date of birth as 16.5.1948 and he did not mention his educational qualification. The Enquiry Officer has further given good reasons for holding that the plaintiff was the same person who was employed in the Remount Training School & Depot. In the beginning the plaintiff denied that he had worked in the Remount Training School & Depot. His version was that he was a private servant of the officer in the Army on a monthly wages of Rs. 100/-. He further stated that when he was transferred he resigned. The plaintiff ultimately had ^{to} ~~concede~~ that private employees are not transferred nor question of any resignation arises. At the fag end it was admitted as stated in the Enquiry Officer's report that ~~the plaintiff admitted~~ that he had worked

in the Remount Training School & Depot and had resigned when he was transferred. The identification mark mentioned in the service record of the plaintiff tally with the same entered in the Army service record. So there is no question of mistaken identity and the finding of the Enquiry Officer on this score is not perverse etc. A copy of the service record of the plaintiff in the Army shows that he was born on 7.11.1936 and he was appointed there on 8.11.1960 and he resigned on 15.4.71. As already stated the plaintiff admitted that he was in the Army in Remount Training School & Depot and when he was transferred he resigned. It was contended that the misconduct took place in 1971 and the action was started in 1980 so it was time barred. There is no question of any limitation in such cases. A complaint was filed and after enquiry it was found that the plaintiff cheated the Department and obtained his appointment by making false allegation regarding his date of birth. It was also argued that the plaintiff should have been examined by some medical expert. There was hardly any occasion to do so in view of the facts and circumstances mentioned above. It was further contended that the complainant ^{Wheat & a witness} ~~stated~~ that the plaintiff had committed fraud was not examined and ultimately Mustafa complainant had to admit that his complaint was false. This witness was not mentioned in the chargesheet and it was not necessary

for the Department to examine him. The plaintiff could have been examined in defence if he had considered it necessary to do so. In view of the above, we hold that the findings of the Enquiry Officer are neither perverse nor illegal and we do not find any good reason to interfere with the same. As regards quantum of punishment it would suffice to say that in view of nature of the fraud he was rightly removed from service. It was also contended that he was convicted by a Magistrate in Saharanpur on 15.11.1956 with one year rigorous imprisonment in a theft case. However this was not mentioned in the charge memo. We do not find any force in this petition which is hereby dismissed with costs on parties.


Member (A)


Vice Chairman

Dated the 31 Jan., 1988

RKM