

141

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration No.1402 of 1986 (T)

Mohd. Yaseen Plaintiff-Applicant

Versus

Union of India Defendant-Respondent.

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

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

(Delivered by Hon. D.S. Misra, A.M.)

This is an Original Suit No.51 of 1985 pending in the court of Civil Judge, Dehradun, which has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. In the plaint it is stated that the plaintiff is in the service of defendant in Oak Grove School, Mussoorie since 1951 in the capacity of a khit in the kitchen of the school; that on 23.7.1984 he came to know that he would be retired from service on 31.3.1985 and he submitted an application to the Principal of the school to correct his date of birth as 18.7.1930 and let him continue in service for full term; that on 1.10.1984 he was served with a notice to the effect that he would be attaining the age of superannuation on 31.3.1985 on which date he would retire from service; that the correct date of birth, according to the primary school certificate dated 2.9.1949 is 18.7.1930 and the plaintiff was entitled to continue in service, upto 31.3.1989; that thereafter he filed several representations without any relief from the defendant. The plaintiff/^{has}sought a decree

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to the effect that he was entitled to continue in service on the basis of his date of birth as 18.7.1930. The plaintiff had sought injunction in the lower court but same was rejected.

3. In the reply filed on behalf of defendant it is stated that the plaintiff had submitted an application on 8.6.84 in which he had stated that he would be attaining the age of 58 years on 31.3.1985 but he hopes to continue to serve as diligently as before and sought extension for two years in service; that the plaintiff's claim that he came to know of his retirement age on 23.7.84 was incorrect; that the plaintiff had no right to continue in service after attaining the age of 58 years on 31.3.1985; that the Principal, Oak Grove School served a notice on the plaintiff on 1.10.1984 informing him that he would retire on 31.3.85; that the correct date of birth of the plaintiff is 5.3.27 and he must retire on 31.3.85; and that the plaintiff had no prima facie case.

4. The defendant filed in original letter dt. 8.6.84 of Mohd. Yaseen, plaintiff, addressed to the Principal in which he has stated that on 31.3.85 he would be retiring after serving for 34 years. The plaintiff filed the following documents:

- 1) Original identity card issued by O.G. Central, Mussorie.
- 2) Original certificate dt. 2.9.49 showing the date of birth of Mohd. Yaseen, plaintiff, as 18.7.1930.
- 3) Original notice dated 1.10.1984 informing the plaintiff ~~as 18.7.1930~~ that he would retire on 31.3.1985.
- iv) True copy of the application dated 27.3.84 addressed to the Principal requesting change in his date of birth.
- v) Copy of letter dated 22.9.84 of S.D.M. and Executive Governor of the school directing disposal of the application of the plaintiff for correction of the date of birth.
- vi) Copy of the proceedings of the alleged meeting

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of Lok Adalat held at Dehradun without any date.

At the request of the plaintiff, the defendant filed original Service Record of the plaintiff in which the date of birth of the plaintiff is written as 5.3.1927 and the date of appointment as 5.3.51.

5. We have heard the learned counsel for the parties and perused the records. The learned counsel for the plaintiff contended that in the service record of the plaintiff available as paper no. 27A/1 the date of birth has been written in a different ink and there is overwriting on the date. His contention is that this is manipulation at a later date and is not at all reliable. We have examined this matter. Against the column 'date of birth' the remark is 24 years on the date of appointment and against the column, the date of appointment. The entry is given as 5.3.51. While the entry 5.3.27 appears to be in a different ink. The entry of 24 years on the date of appointment and the date of appointment as 5.3.51 are of the same ink and appear to have been made on 1.3.52 and it bears the signature of the plaintiff in Urdu and has been verified by the Principal, Oak Grove School on 1.3.52. It appears that the school authorities had calculated the date of birth of the plaintiff with reference to the date of appointment and worked it out to be 5.3.1927 on the basis of the fact that the age of the plaintiff on the date of his appointment was accepted as being 24 years. In our opinion the overwriting on the

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date of birth in this paper does not give any benefit to the plaintiff in the matter of date of birth claimed by him. On the other hand the application dt. 8.6.84, paper no. 22A1, signed by the plaintiff, clearly states that the plaintiff was fully aware of the fact that he would be attaining the age of 58 years in March, 1985 and on the ground of good work and health, he sought extension of two years in his service. The contention of the plaintiff that he came to know about his recorded date of birth only on 23.7.84, when he made an application for correction in his date of birth, is incorrect. It is also clear from the record that the subsequent efforts made by the

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plaintiff to file a copy of the School Certificate and make a representation to the officers of the Railway Administration to correct his date of birth was merely an attempt to remain in the employment of the Railway Administration for a longer period.

5. In view of above we are of opinion that the plaintiff has failed to substantiate his claim. Accordingly the suit is dismissed. We make no order as to costs.

A.M.
8/5/87

A.M.

J.M.
2/5/87

J.M.

J.S./8.5.87