

Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.1452 of 1986

(Regular Civil Suit No.1652 of 1984)
of the Court of Munsif, Gorakhpur

Smt. Belasi Devi & Another, legal
representatives of Shri Tirath Prasad.

Plaintiff-Appli-
cants.

Versus

Union of India Defendant-Opposite Party.

Hon. Justice Kamleshwar Nath, V.C.

Regular Civil Suit described above is for
correction of the date of birth of the applicant deceased
plaintiff Tirath Prasad in his record of service with
the defendant-opposite party.

2. Tirath Prasad was a Chargeman Grade 'A' in the
employment of the Railway Administration in the North
Eastern Railway. He entered the service on 2.6.48 and
at that time he appears to have declared his date of
birth as 1.7.30. However, the Department learnt that
for the purposes of his earlier employment in the military
his date of birth had been recorded as 16.10.26. The
Department therefore held an enquiry into the correct
date of birth and asked the deceased plaintiff to
furnish proof thereof. As a result of the enquiry
the applicant's date of birth was found by the Railway
Department to be 16.10.26 and the same was communicated
to the plaintiff by the Chief Commercial Supdt.'s letter
dated 9.3.53. The recorded entry in the service record
was corrected on 16.4.59. It is also stated in the
reply of the opposite party that in Card 'A' maintained

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by the Railway his date of birth was declared to be 16.10.26 by the plaintiff himself on 15.4.59 duly signed alongwith his thumb impressions in token of acceptance of the date of birth recorded in that card.

3. The plaintiff's case however is that in the seniority list issued in 1954 as on 1.4.57 his date of birth has been correctly indicated as 1.7.30. When the Railway served the applicant with a notice on 11.10.82 that his date of birth being 16.10.26 he would retire on 31.10.84, he filed the present Suit on 18.10.84 for re-correction of his date of birth from 16.10.26 to 1.7.30.

4. The stand of the defendant-opposite party is set out in the reply to the plaintiff's application under Order XXXIX Rule 2, Code of Civil Procedure. Shri A.V. Srivastava appearing on behalf of the defendant-opposite party says that that is the stand even now. No rejoinder has been filed to the affidavit in support of those objections.

5. The important feature is that plaintiff-applicant had admittedly entered into military service but the date of 16.10.26 is the date which flows from his admission at the time of commencement of that employment that he was aged 20 years. If his correct date of birth was 1.7.30 he could not have entered into military service on 16.10.46, because at that time he would have been barely 16 years and three months of age while the usual minimum age of entry in Govt. employment

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is 18 years. Again the order of correction of his age has been passed as early as 1953 in the Railway Department against which he does not appear to have sought any redress at that time.

6. I may mention that when this case was taken up for final hearing, no one was present on behalf of the plaintiff-applicant. I have gone through the record with the aid of Shri A.V. Srivastava who appears on behalf of the defendant-opposite party.

7. In view of the facts stated above, it cannot be held that the plaintiff-applicant was entitled to re-correction of his date of birth in the service.

8. The Suit is dismissed. Parties shall bear their costs.

Q/H
Vice Chairman

Dated the 18th Jan., 1990.

RKM