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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No.1531(T)of 1986

Jagdish Narain Tiwari

Plaintiff(applicant)

Vs.

Union of India

Defdt/respondent

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

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

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

This is an Original Suit No.725 of 1984 which was pending in the court of Munsif Kanpur and has come on transfer under Section 29 of the Administrative Tribunals Act XIII of 1985.

2.The plaintiff's case is that his date of birth was wrongly recorded as 7.7.26 in the High School certificate and that his correct date of birth is 5.1.1931;that inspite of his various representations to the authorities of Controllerate of Inspection General Stores,Kanpur, his request for correction of date of birth in his service records has not been accepted on the plea that the date of birth recorded in the High School certificate can not be changed;that the plaintiff's request for referring the matter to the Medicald Board for determining his correct age was also not accepted and that he has been retired on July 31,1984.

2.In the written statement filed on behalf of the defendant, it is stated that the date of birth of the plaintiff according to the High School certificate is July 5, 1926 and as per rules it is taken as the correct date of birth of the plaintiff; that the recorded date of birth on the

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basis of the High School certificate is not liable to be altered except in accordance with the rules; that there is no provision for getting the plaintiff medically examined for determining his age, once recorded in the service document on the basis of his High School certificate; that some decades back a daily order was published giving an opportunity to the employees of the Controllerate to check their recorded date of birth and as the plaintiff failed to take advantage of said daily order, he is not entitled to the correction of his date of birth; that the plaintiff applied for the change of date of birth for the first time in December, 83 when a notice was published a year before the plaintiff's retirement intimating to him that he shall be retiring in July, 1984. In the replication filed by the plaintiff, the points mentioned in the plaint were reiterated and it was stated that the correct date of birth of the plaintiff being 5.1.31 he was entitled to continue in the service up to 31.1.1989. The plaintiff filed a birth certificate dt. 6.1.1931 of Kanpur Municipality and a horoscope showing his date of birth as 5.1.1931. The respondent filed service book of the plaintiff and a document in Form X in which the date of birth has been entered as 5th July, 1926. The document in Form X has been signed by the plaintiff on 22.5.57. Similarly page 1 of the service book of the plaintiff signed by him on 23.7.75 contains the entry of date of birth as 5th July, 1926.

3. We have heard the arguments of the learned counsel for the parties and have also perused the documents on record. Learned counsel for the plaintiff contended that the request of the plaintiff for the determination of his age by medical authorities has been rejected without giving any reason by the respondent and that this was against the principles of natural justice. Learned counsel for the defendant contended

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that the request was not in accordance with any rule and that the request was made at a very late stage in December, 1983 when the applicant was due to retire on 31.7.84. We have considered the matter and we find that the plaintiff has failed to indicate any rule or law under which he was entitled to get his age redetermined by medical authorities. We are, therefore, of the opinion that there is no illegality in the rejection of this request of the plaintiff.

4. The second contention of the plaintiff is that the original birth certificate issued by the Kanpur Municipality and the horoscope filed by the plaintiff should be given preference over the date of birth recorded in the High School certificate. Learned counsel for the defendant contended that the plaintiff being a highly educated person and having himself signed the various documents ~~accepting~~ the date of birth recorded in High School certificate, is debarred from claiming a different date of birth on the eve of his retirement of service. We have considered this matter and we find that the plaintiff has failed to explain his conduct in not getting his date of birth corrected at the proper time either before entering into service, or after entering the service. According to the service record, the applicant holds a degree of Master of Science in Mathematics and he can not take the plea that a wrong date of birth was recorded because his father was illiterate. Candidates appearing in the High School examination are required to state their date of birth which is recorded in the High School certificate. Even after the issue of High School certificate, there is a provision for correction in the date of birth on production of sufficient proof in support of the change. Similarly plaintiff could have applied for correction of his date of birth within 5 years of his

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entry in government service. No reasons have been given for the failure of the plaintiff to take suitable steps for the correction of his date of birth earlier than December, 83. Two documents filed by the applicant in support of his contention have also been examined by us. The birth certificate of the Kanpur Municipality is dated 6.1.1931 and the applicant is said to have been born on 5.1.1931. The birth certificate usually does not give the name of the child and it is surprising that the person, who was born on 5.1.31 was also given the name of Jagdish Narain only within a day of the birth. The address given in the birth certificate also does not tally with the address given in the service book of the applicant and the residence of the father in the service book is given in some village Veer Singh Pur of District Kanpur. For the above reasons, we are unable to place any reliance on this document. Similarly the horoscope filed by the applicant does not bear any date, i.e., date of preparation, and it appears to have been prepared at a later date. We are, therefore, unable to place any reliance on this document also.

For the reasons mentioned above, we find no merit in the case of the plaintiff and the same is dismissed without any order as to costs.

Bhama
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A.M.

29/10/87
J. M.