

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

A-2  
1

.....  
Original Application No. 1251 of 1987

Sarva Deo Mishra ..... Applicant

Versus

~ of

1. Sr. Superintendent/Posts Office, Gorakhpur.

2. Union of India through Secretary Ministry of Communication, New Delhi. .... Respondents.

Hon'ble Mr. K. Dayya, Member Administrative

Hon'ble Mr. S.N. Prasad, Member Judicial.

( By Hon'ble Mr. S.N. Prasad, Member(J))

The applicant has approached this Tribunal under section 19 of the Administrative Tribunals Act, 1965 with the prayer that the actual date of birth of the applicant is 1.1.1934 as shown in his school leaving certificate and as such his date of birth in all the records including the service book of the applicant <sup>be corrected</sup> accordingly and the application <sup>with</sup> be allowed <sup>all</sup> the consequential benefits.

2. Briefly stated the facts of the case as mentioned in the application of the applicant, inter alia, ~~xxxxxx~~ are that the applicant is Mail Overseer attached to Khajni, P.O. in Gorakhpur Postal Division. He entered the Department as a mail peon on 1.9.1954. The date of birth of the applicant has been shown as 1.1.1920 <sup>in the gradation list</sup> in the service book of the applicant his date of birth was shown as 1.1.1930; but his real date of birth as shown in the School leaving Certificate is 1.1.1934. The Gradation list which was issued by the Inspector of Post Offices Gorakhpur does not bear the date of its issue, but the applicant could have a copy of it in January 1964 when he made a representation to the Inspector of Post Offices Gorakhpur who simply changed it to 1.1.1930. The School



which had been produced by the applicant along with his representation. The applicant made an appeal to the Supdt. Posts Gorakhpur on 1.3.1968, but that remained unattended till 4.9.1987 when the superintendent asked the applicant vide his No. B2/240 dated 4.9.1987 to resubmit a copy of the School Leaving Certificate and to state why he failed to point out the error on 23.3.1953 when his service Book was prepared and he had also signed that Service Book. The applicant immediately complied with the orders of the Superintendent vide his application dated 16.9.1987. It has further been contended that the applicant had to submit a copy of his S.L.C. several times since 1983. The Supdt. however, rejected the claim of the applicant vide his No. B2/240 dated 2.11.1987. Hence applicant has approached this tribunal.

3. Counter-affidavit has been filed by the respondent No.1 with the contentions, inter-alia, that the applicant was appointed as reserve packer with effect from 1.9.1954 and thereafter the applicant worked in the capacity of class IV employee on some other post. The applicant was subsequently promoted to the post of the Postman and he worked as Postman upto 15.3.1985. It has been further stated that the applicant was promoted to the post of O.S. cadre and worked with effect from 16.3.1985 to 31.12.1987. It has further, been stated that the applicant retired on 31.12.1987 after reaching the age of superannuation. Prior to the retirement from his service, the applicant submitted an application dated 17.1.1987 regarding correction of his date of birth as 1.1.1934 instead of 1.1.1930. The case of the applicant was examined by the respondent and on 2.11.1987 his representation was rejected stating therein that his correct date of birth was not 1.1.1934. It has been contd...



A-2  
3

✓ further  
stated that having the date of his birth as 1.1.1934 he ~~could~~  
could not have acquired the employment in the Postal  
department on 16.11.1948 at the age of 15 years only. It  
has further been stated that the date of birth of the  
applicant was corrected as 1.1.1930 in the year 1964 by  
the Inspector of Post-Offices, as per request of the  
applicant. As per the first page of the service record  
of applicant, his date of birth is 1.1.1930 and the  
applicant has signed on 23.3.1953. It has further been  
stated that it is absolutely wrong to allege that the  
applicant had produced any school leaving certificate in  
the year 1964. It has been stated that the applicant has  
shown his date of birth as 1.1.1930 in leave applications  
dated 12.12.1969, 17.6.1969, 31.3.1969, 23.1.1969 which are  
in his own hand writing. In view of the above circumstances  
the application of the applicant is liable to be dismissed  
with cost.

4. We have heard the learned counsel for the  
parties at length and have thoroughly and carefully  
gone through the records of the case.

5. The learned counsel for the applicant while  
drawing our attention to the contents of the application,  
to the contents of the Counter Affidavit and to the papers  
annexed thereto, has argued that the actual date of birth  
of the applicant, as recorded in his School Leaving  
Certificate as 1.1.1934 be deemed to be correct and his  
Service Book and all other records be corrected  
accordingly. He has further argued while drawing



A-2  
4

our attention to Rule 1 of the "Rules for the Recruitment, to posts of Boy Peons, Class IV Servants, Postmen, Village Postmen and Mail Guards in the Indian Posts and Telegraphs Department", has argued that the applicant was initially appointed as Boy Peon as his age, at the time of his appointment as Boy Peon, was not more than 16 years and not less than 14 years as required under Rule 1 of the said Rules; and has further argued that the application of the applicant for correction of his date of birth, according to his School Leaving Certificate was rejected by the authorities concerned invalidly and illegally and as such the application of the applicant should be allowed and his date of birth as 1.1.1934 as recorded in his School Leaving Certificate (Annexure A II to the application) should be deemed as correct one.

6. The learned counsel for the respondents, while drawing our attention to the contents of the application, Counter Affidavit and the papers annexed thereto, has argued that the age of the applicant as recorded in his Service Book 1.1.1930 is <sup>the</sup> correct one; and has further argued that the applicant was initially appointed not as a Boy Peon but as an officiating E.D. Packer, Basantpur on 20.10.1948 temporarily and deeming his <sup>of birth</sup> date as 1.1.1934, hardly, he would have been about 15 years of age and as such not eligible for being appointed as a Class IV ~~xxxx~~ servant, as the minimum age required for appointment





A-23  
5

was not less than 18 years, and this circumstance in itself hits hard the version of the applicant; and has further argued ~~that~~<sup>2</sup> while drawing our attention to the entries appearing in his service book that the applicant had clearly stated his age as 1.1.30 and had also signed the service record on 23.3.1953 accepting his aforesaid date of birth as 1.1.1930 as recorded in his Service Book. He has further argued <sup>above</sup> that in the face of the glaring facts, the age of the applicant as shown in his School Leaving certificate which has been produced by the applicant, as late as in the year 1987, should not in any way be regarded as convincing and correct and as such the application of the applicant should be dismissed.

7. This is significant to point out that a perusal of the entries appearing at the first page of the service book of the applicant (vide Annexure No2 to C.A. 4) clearly shows that the date of birth of the applicant was recorded as 1.1.30 and the applicant has signed the same on 23.3.53.

8. This is also in the fitness of the things to remark that in Ann-exures A-1 to VIII filed by the applicant or in any of the papers on record, the applicant Shri S.D. Mishra has nowhere been shown as Boy Peon; and from the scrutiny of the material on record





A-2  
6

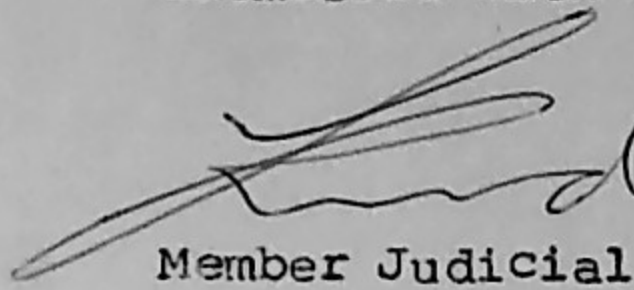
it is apparent that applicant was initially appointed in the year 1948 per order dated ~ as E.D. Packer as 20.10.1948 which shows that the applicant was not below 18 years of age at the time of his appointment; and, had his date of birth been 1.1.34, he would have been hardly about 15 years of age at the time of his appointment, debarring him from appointment in Government service, as minimum age for appointment as E.D. Packer was not less than 18 years of age.

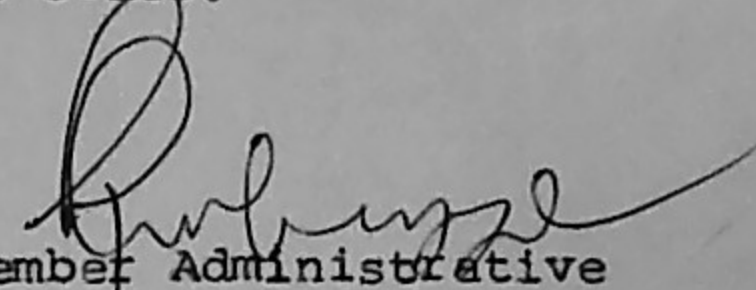
9. This is also significant to point out that a perusal of School Leaving Certificate shows that his date of birth has been recorded as 1.1.34 and this School Leaving Certificate purports to show that the applicant had passed Class IV on 20.5.44 from Junior Basic Vidyalaya, Purva, District Gorakhpur and his name was struck off the register on 20.5.1944. In this context, it is also significant to point out that the first page of the service record of the applicant was signed by him on 23.3.53 accepting his date of birth as 1.1.30 as recorded in his service book; but for the reasons best known to the applicant no objection was raised by him at the time of his signing his service book on 23.3.53. This circumstance also goes a long way in hitting hard the version of the applicant regarding his date of birth as 1.1.34.



A-2  
7

10. Thus, from the foregoing discussions and after scrutinising the entire material on record and keeping in view the circumstances of the case, we have come to the conclusion that the application of the applicant is devoid of merit and force and as such the application of the applicant is hereby dismissed with no order as to costs.

  
Member Judicial

  
Member Administrative

Allahabad Dated: 27.1.92