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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Application T.A. No. 359 of 1987

Hari Mohan Sinha Petitioner

vs.

The Union of India & others..... Respondents.

Hon.D.S. Misra- AM

This is an original Writ Petition No.10287 of 1987 which has come on transfer Under section 29 of the Administrative Tribunals Act NO.XIII of 1985. The petitioner had sought a direction to opposite parties no.2 and 3 not to retire him on 31.12.1979 and to correct his date of birth in his Service Book and also issue of a direction to opposite party no.4 to correct the date of birth in his High School Certificate.

2. The admitted facts of the case are that the petitioner entered the service under respondent nos. 1 to 3 as an Inspector, Central Excise and Customs on 27.4.1946 ; that the date of birth as entered in the Service Book of the petitioner on the basis of date of birth as entered in the High School Certificate is 1.1.1922 ; that in accordance with the date of birth shown and entered in the service book, the petitioner was due to retire on 31.12.1979 ; that the petitioner applied to the Collector,

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Central Excise, Allahabad for correction of the date of birth on 14.5.1979 and the same was rejected vide order dated 1.8.1979 (copy Annexure-IV); that the petitioner preferred an appeal to the Secretary Central Board of Excise and Customs, New Delhi alongwith a copy of an affidavit duly sworn by Sri Radhey Mohan Sinha, Advocate, Katra, Allahabad; that this representation has also been rejected vide order dated 20.12.1979(Copy Annexure-CA-1).

3. I have heard the learned counsel for the parties. The petitioner has based his claim on the basis of a certificate dated 30.4.1979 of the Head Master, Primary School, Katra, Allahabad in which the petitioner's date of birth is shown as 1.4.1928. He has also filed a copy of the Horoscope indicating the date of birth as 1.4.1928. It has been stated on behalf of respondent nos. 1 to 3 that the application for correction of date of birth was filed after the petitioner had served the department for more than 33 years. They had considered the application in accordance with the instructions of the Government of India on the subject and they were satisfied that there was no Clerical error in recording the date of birth in the service Book and the date of birth recorded in the Service Book was the same as mentioned in the High School Certificate produced by the petitioner at the time of his appointment in service. I have considered the contention of the petitioner that the Primary School Certificate coupled with Horoscope should be relied upon in preference to a wrong date of birth mentioned in the

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High School Certificate. The petitioner also made an application to respondent no.3 to correct the date of birth in the High School Certificate according to the new evidence produced by him, but the same was rejected. I am of the opinion that the date of birth in the High School Certificate is a more reliable documents than the date of birth mentioned in the Horoscope, in the affidavit filed by Sri Radhey Shyam Sinha, Advocate and the primary school certificate dated 30.4.1979, all of which appear to have been obtained after the petitioner had served under the Union of India for more than 33 years. The three criteria which have to be followed in deciding cases of change of date of birth have been succinctly indicated in Note 5 below F.R. 56 as quoted below:-

- (a): a request in this regard is made within five years of his entry into Government service;
- (b): it is clearly established that a genuine bonafide mistake has occurred; and
- (c): the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service."

4. I find that none of the three criteria prescribed above has met in the case of the petitioner. He did not

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move the authorities within five years of joining service and he has also not given any satisfactory explanation about the alleged error in the date of birth mentioned in his High School Certificate.

5. For the reasons mentioned above, I find no merit in the petition and dismiss the same. There will be no order as to costs.

Bhme
MEMBER(A) 9/8/80

Dt/0 -8-1980/
Shahid.