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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

✓ TA 871/87.....

(Writ Petition No. 6072 of 1981)

Gulam RasoolApplicant

Versus

Union of India and others.Respondents

Hon'ble Mr. D.K. Agarwal, Member (Judicial)

Hon'ble Mr. K. Obayya, Member (Administrative)

(By Hon'ble Mr. D.K. Agarwal, J.M.)

1. The Petition Instituted in the High Court on transfer to Tribunal Under Section 29 of the Administrative Tribunal Act 1985 has been registered as Transfer Application No. 871 of 1987.

2. The petitioner seeks alteration in the date of birth. The facts, in short, are that the petitioner entered in the service on 12.6.1947 and gave a declaration about his date of birth as 1.1.1924. Thereafter he represented only 6.10.1981 vide Annexure I to the Writ Petition seeking alteration of date of birth from 1.1.1924 to 1.12.1929 on the basis of an extract of "Parivar Register", the representation was rejected by the Administration vide order dated 6.12.1981 (Annexure II to the Writ Petition). Therefore, the present Writ Petition was filed in High Court on 15.12.1981.

3. The respondents have disputed the claim of the petitioner. It has been contended by them that the petitioner is bound by the date of birth as recorded in the service record. It has also pleaded by the respondent that the date of birth of the petitioner was reflected on the seniority

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list published in the years 1969, 1972, 1975, 1978, they have also pleaded that the extract of "Parivar Register" obtained by the petitioner on 3.10.1981 does not indicate the date of birth of the petitioner. But it only indicates the age of the petitioner. Thus there is no substantive proof about the date of birth of the petitioner except the one as declared by him at the time of entry to service.

4. The petitioner has also raised a plea by way of amendment of the pleadings that Sri Abdul Shakoor was the elder brother of the petitioner and his date of birth was recorded as 20.1.1924 in the records of the Railway Administration and that taking into account the fact that the date of birth of his elder brother was recorded as 20.1.1924, his date of birth could not have been 1.1.1924. The respondents have pleaded in para 5 of the Counter Affidavit that Abdul Shakoor was employed as Driver (C) of Loco Shed Charbagh who has retired from service on 31.1.1982 ; that there is no proof in the records for the Railway Administration that the said Abdul Shakoor was the elder brother of the petitioner namely Gulam Rasool. Another fact in this regard which is a matter of fact may also be mentioned. The petitioner had made a representation on 16.10.1981 which does not contain the allegation that Abdul Shakoor was the elder brother of the petitioner.

5. We have heard learned counsel for the petitioner as well as the respondents. The legal position is that if a person seeks alteration in

date of birth at the fag end of his service career, the same is ordinarily not acceded to. In the instant case, the applicant entered in the service on ^{w 12.6.47} ~~1952~~. The request for change of the date of birth was made for the first time on ^{v 16.X.81} ~~20.2.1980~~. In the case of Dharampal Vs. Union of India¹, the Delhi Bench of the Tribunal dismissed the petition as barred under doctrine of laches and delay, despite the fact that the change in the date of birth was sought on the basis matriculation certificate. The pre-dominant reason was that a person who joined service in 1950 and was to retire in 1987, wanted alteration in the date of birth at the fag end of his service career. Jabalpur Bench of the Tribunal in the case Ghasite Lal Vs. Union of India² rejected ~~in~~ the claim for changing of date of birth on the ground that when the date of birth was recorded on an employee's own declaration and accepted by him, he is estopped from changing it. The Calcutta Bench of the Tribunal, in the case of Saryu Prasad Vs. Union of India³ rejected the claim for change in the date of birth on the ground that the change was desired at the fag end of service career after receiving notice of retirement. In the case of O.S.Bajpayee Vs. Union of India⁴ the Delhi Bench of Tribunal, laid down the rule that an entry in the service book about the date of birth renders an element of inviolability to it. Thus, taking into account, the decisions and the facts of the present case, we are of the opinion that change in date of birth

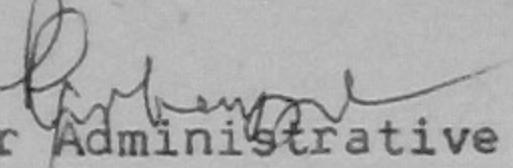
1. (1989) 11 ATC 236
2. (1988) 6 ATC 224
3. (1989) 9 ATC 93
4. (1989) 9 ATC 540

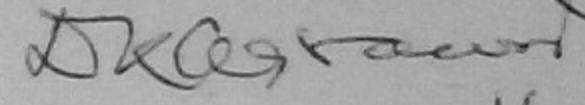
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On a ground

in the instant case has been rightly refused.

6. In the result this petition is liable to be dismissed ^{and} ~~but~~ it is accordingly dismissed without any order as to cost.


Member Administrative


Member Judicial 16.12.91

Allahabad, 16th December, 1991

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