

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

....
T.A. No. 1318 of 1987
(U.P. No. 2939 of 1984)

Gotai Applicant-petitioner.

Versus

Union of India and another Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant who worked as 'Casual Labour' in the Railway till 1973 was medically examined by the Divisional Medical Officer on 31.5.1973 and after his report of fitness, the applicant was appointed on 7.8.1975 as 'Gangman' in a regular vacancy. The case of the applicant is that when he received the notice telling him that he is to retire on 31.5.1984 on attaining the age of superannuation, the applicant was an illiterate person and he learnt that he was going to be retired after 8 years of service. With the result that he will be deprived of pensionary and other benefits, and according to him, his age was not correctly recorded and the Railway Doctor who medically examined him mentioned his age as 30 years and according to the notice, his age at that time be 41 years.

2. The applicant's grievance is that no opportunity of hearing was given to him and the Doctor's report was by-passed in such a manner. The respondents have justified their action stating that the applicant's date of birth was mentioned as has been given by him and has put his thumb impression and also he was absorbed in service. He was referred ~~only~~ to doctor ^{only} for finding out as to whether he was medically fit or not and not for ascertaining the age and the doctor wrongly assessed his age to be 30 years and mentioned it although the same was not required and he has been retired as per his age mentioned in the service.

record which was duly acknowledged and for which no efforts were made by him for correction of his age. The grievance of the applicant is that he being an illiterate person was put in ignorance of para-145 of the Railway Establishment Code by the railway administration itself and he was never apprised of the date earlier, as such he could not get an opportunity to get it corrected. It has not been pleaded by the Railway Administration that in between any occasion arose, for apprising the applicant his date of birth in the service record, and when a doubt and dispute has been raised by the applicant which got support from the Railway Doctor's certificate who may have gone out of his way under the impression that it was his duty also to find out as to what was his approximate age then it became the duty of the railway administration to examine the matter and make enquiry. There being some evidence in favour of the applicant, not only of ignorance but positive evidence regarding his age.

2. Accordingly, this application deserves to be allowed in part and the respondents are directed to hold an enquiry regarding the correct age of the applicant associating the applicant with the enquiry. In case, the respondents come to the conclusion that his age was incorrectly recorded the same may be corrected and the benefit of the same may be given to him. The enquiry shall be concluded within a period of 6 months. The respondents shall hold the enquiry some times in the month of January, 1992 and the first notice to the applicant to appear before the authority to hold the enquiry shall be given in that month. The application is disposed of with the above observations. Parties to bear their own costs.

Janayogi
Member(A)

JK
Vice-Chairman

Dt. 26.11.1991
(n.u.)