

THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

T.A. No. 1466 of 1987.

G.C. Sahgal..... Applicant.

Versus

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

Hon'ble Mr. Justice U.C. Srivastava- V.C.  
Hon'ble Mr. K. Obayya -A.M.

( By Hon'ble Mr. Justice U.C. Srivastava-V.C.)

This is a transferred case under Section 29 of the Administrative Tribunals' Act, 1985. The applicant approached the High Court with a prayer that a mandamus be issued directing the respondents to maintain the correct date of birth as 10.7.1927 and to remove the incorrect date of birth 10.7.1924 and <sup>also</sup> not to retire the applicant before 10.7.1987. The High Court was entertaining the application granted the interim order on 13.7.84, with the result the applicant is allowed to continue ~~remain~~ in service. The said interim order was vacated on 11th of March, 1985, with the result the salary which the applicant got as an employee of the department was recovered from him.

The applicant entered in Military Engineering Service on 1.7.1944 as were man II. According to him his date of birth is 10th July, 1927 and the same has been recorded in the service book, later on it was changed as 10.7.1924 without his knowledge which is also ~~be~~ <sup>in</sup> the evidence on record. The date of birth has been challenged in the manner he is being deprived before attaining the age of superannuation.

2. The respondents have refuted the claim of the applicant and have filed certain documents, which indicates that the applicant <sup>when</sup> ~~was~~ entered into the service or even thereafter, there was no controversy ~~could be~~ raised ~~or~~ <sup>by him</sup>

that the applicant can claim the date of birth as 10.7.1924 as he has signed all such documents.

4. The applicant in F.R. Form no. 10 which was signed by the applicant on 18.12.46, his date of birth ~~xx~~ is shown as 10th July, 1924 and bears the signature of the applicant in confirmation of the same. Page 1 of the Service Book Part II on the 15th of January, 1960, 24th of March, 1965 and the 9th of June, 1971 in confirmation thereof wherein he was confirmed the date of birth as the 10th of July, 1924. The said extract is also on the record. In the service book Part II contains the date of birth by Christian-era as clearly as can be ascertained. Against this in his own hand writing has written in words "10th July one thousand nine hundred & twenty four". i.e. in words. From these documents the respondents have stated that even in the index <sup>extract of</sup> card/which has been filed (Annexure-III) also indicate that this was his date of birth.

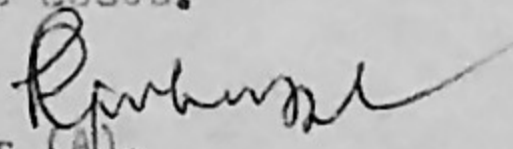
5. In the year 1944 the Photo-stat facility was not existing in India and the allegation of the applicant that the copy was supplied to him in that year does not tally with the service book, held by the respondent.

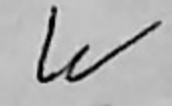
6. The documents on which reliance has been placed, obviously the last document even the representation, the copy of of which has been filed that the respondents have filed two more documents which bears the signatures of the applicant. The document on which reliance has been placed by the applicant, undoubtedly contains cutting, but there are so many documents containing the hand writing and signatures of the applicant regarding the date of birth. No body else <sup>except one</sup> who has been interested in a particular document ~~doubtful~~ <sup>could have in charge of cutting</sup> in order to get the benefit of the same. Merely because the entry has been made doubtful, the benefit of the same is not available.

7. In the rejoinder the applicant has denied the signatures. It is difficult to accept the averments made in the rejoinder.

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This denial has been made earlier and such denial cannot be accepted as the entries were made or signatures were given, no body else would have done it with an idea to do in future. Thus we are of the view that obviously more than sufficient evidence existing in the record which fully proved that the applicant's date of birth was recorded as 24 and not 27 and as such the applicant has been retired correctly. Learned counsel for the applicant contended that under the orders of the High Court the applicant worked for few months and got the salary the same has been recovered from him. <sup>It is</sup> ~~is~~ under the orders of the Court that the applicant has worked for the period mentioned above, the respondents will refund him the amount which has been realized by him. As whatever he was given to him was in view of the services done, but the benefit of the working under the orders of the High Court will not be available to the applicant in any manner including pensionary benefit. As the applicant was entitled to part of the amount which has been paid towards salary to the applicant, only the department will pay the balance. Let it be done within a period of three months. No order as to the costs.

  
Member (A).

  
Vice Chairman.

Dt: Aug 10, 1992.  
(DPS)