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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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Registration O.A. No. 467 of 1987

Kedar Nath Tiwari Applicant.

Versus

Union of India and others Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon'ble Mr. K. Obayya, Member (A)

(By Hon'ble Mr. K. Obayya, Member (A))

This application under Section 19 of the Administrative Tribunals Act, 1985 is for correction of date of birth and to extend the applicant's service till 31.5.1993 by setting aside the order retiring him from service w.e.f. 31.5.1987 (Annexure-A 2).

2. The applicant was an employee of the Postal Department as 'EDBPM' Takiya (Bhagalpur) District Deoria for more than 34 years from 1953 to 1987 after which he was retired from service w.e.f. 31.5.1987 on attaining 65 years of age. The contention of the applicant is that he submitted his school leaving certificate to the department in 1953 at the time of joining service indicating his date of birth as 31.5.1928 and according to this certificate, his superannuation after completion of 65 years of age would fall on 31.5.1993 and not earlier. The respondents relied on the 'Kutumb Register' to determine his date of birth ignoring the entry in the school certificate. The applicant alleges that the action of the respondents is arbitrary and illegal and his retirement order was given without any notice or opportunity to him.

3. The stand taken by the respondents in their counter is that the applicant did not file any certificate or produce any evidence in respect of his age. He was

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repeatedly asked to produce the certificate or any other document in evidence of his age but he failed to comply with the instructions of the department, consequently, the matter was enquired into in the village, the Kutumb register was verified and the name of the applicant was found in the Kutumb Register indicating his date of birth as 1.6.1922. A certificate to this effect was issued by Gram Panchayat Adhikari. On the basis of this certificate, the applicant was retired on 31.5.1987 as he has completed 65 years of age. The applicant was given opportunity from time to time to produce documents or other evidence in support of his claim to establish his date of birth but he could not do so. The certificate issued by the Gram Panchayat Adhikari was also pointed out to him to come up with any representation against the entry made in the Kutumb Register. The applicant made no representation whatsoever. Even after the retirement order dated 12.5.1987 was served on him, he did not represent to the authorities against the date mentioned in the retirement order. Regarding the school certificate, their contention is that it is not genuine as it would appear to be improbable that the applicant passed 4th standard in such a short time as 4 years. In any case, no school certificate was produced before them.

4. We have heard the counsel of the parties. The case of the respondents as set out in paras-14,16,17 & 20 of their counter is that the applicant failed to produce any certificate or document about his date of birth, and consequently, they were left with no alternative but to ascertain the information from the Kutumb Register, in which there was an entry of the applicant's birth date, which was

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adopted for official purposes, and the applicant did not represent against this date, till his retirement. They did not rely on the school certificate, as ^{it} did not appear to be genuine and it appeared to have been fabricated. The allegation that the certificate was obtained by unfair means has been hotly denied by the applicant and in paras 8,9 & 13 of the rejoinder, the applicant has reiterated his case that School Leaving certificate was produced by him at the time of joining service and that he produced the certificate again in response to the letter of the respondents on 12.5.1987 but it was discorded without assigning any reason or giving opportunity to the applicant. We have carefully examined the school leaving certificate, a copy of which is available as Annexure-1 to the application. The entries indicate the date of birth of the applicant as 31.5.1928 and that he left the school on 31.5.1938 and certificate was issued to him on 15.6.1938.

5. In the background of rival contentions, it would appear to us, that initially when the applicant was appointed in 1953, particulars of his age, qualifications, property, place of residence etc. should have been recorded or stated in the application submitted by the applicant. It is inconceivable that he was appointed without verifying whether he satisfied the rules regarding age, qualifications etc, even granting that the appointment was not in the regular department but as 'ED BPM' and rules are different for appointment Extra Departmental Staff.

6. The applicant has served the department for more than 3 decades, and he should have been aware of the fact that the department was making enquiries about his date of birth in the village and should have represented

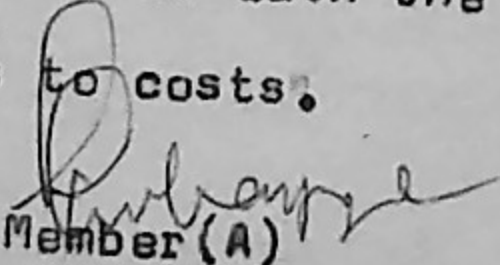
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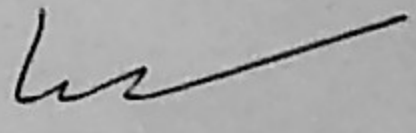
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that the information is already available in the school certificate submitted by him to the department. Taking the facts and circumstances of the case, we consider that an enquiry about the school certificate would be appropriate before it is rejected as fabricated. Accordingly, we direct the respondents to enquire into the matter to find out whether the certificate issued was genuine and correct. In case the certificate is established to have been issued by the competent authorities and the entries are correct, the applicant should be reinstated in service and benefit of service given till 31.5.1993, in which ^{case} the applicant will not be entitled for any back wages. We further direct the respondents that the applicant be associated with the enquiry and the applicant should cooperate with the department for completion of enquiry, which should be completed within 3 months from the date of receipt of a copy of this order. The application is disposed of with the above directions without any order as to costs.


Member (A)


Vice-Chairman

Dated: 18.11.1991

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