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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

D.A. No. 910/87.

Suraj Deo Malla :::::: Applicant

Vs.

Union of India &
Others. :::::: Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, A.M.

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

The applicant was appointed as Basic Fitter in the pay scale of Rs. 35-60 on 19-6-54 and posted at Allahabad under Electrical Charge-man, Mau Junction. Thereafter he earned certain promotions. He also passed departmental examination. On 28-9-1964 a charge-sheet was issued to the applicant for major penalty. But the said charge-sheet was cancelled because of some technical flaw and another charge-sheet was issued. An Enquiry Officer was appointed and the Enquiry Officer submitted his report against the applicant. The charge against the applicant was that he declared his date of birth as 2-11-1931 and the same was recorded by him in 'A' Card in words as well as in figures under his clear signature. On 15-9-64 the applicant made an application for permission to appear in the High School Examination of the year 1965 to be conducted by UP Board. Along with the said application for permission the applicant submitted a true copy of Vernacular final examination certificate issued by the department of Public Instruction, United Provinces, to indicate the fact that he had passed the Vernacular final examination in March, 1942. In the said

certificate his date of birth was mentioned as 15-1-1928. Thus he concealed his correct date of birth to have a longer period of service which is not admissible to him according to his correct date of birth. He tried to cheat the department by concealing the correct date of birth. The Enquiry Officer's report was against the applicant. A punishment of 'censure' was only given to the applicant. Vide order dated 7-8-86 the applicant was retired from service w.e.f. that date though according to the records he should have been retired in the month of January, 1986. The applicant filed an appeal against the same, but no relief was given to him and ultimately he has come before the Tribunal praying that the order dated 7-8-86 by which the applicant was retired may be set aside. The said order states that the applicant has attained the age of superannuation in January, 1986, but by mistake he was allowed to continue and as such he should be retired with effect from that very date.

2. The applicant has challenged the entire disciplinary proceedings on the ground that the second charge-sheet should not have been issued to the applicant and no proper opportunity was given to him and the disciplinary authority has no power to alter his date of birth. He has further contended that because the Medical Officer is competent to issue a certificate declaring his date of birth as 2-11-31, which was entered in the register.

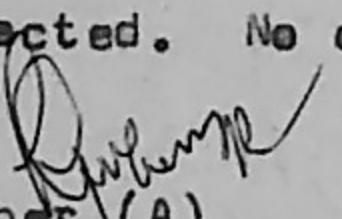
3. From the facts it is clear that the applicant did not submit the copy of Vernacular Certificate when he entered the service. Instead of producing the copy of Vernacular Certificate he was medically examined and produced the certificate showing his date of birth as 2-11-1931. The applicant himself has invited the trouble

by seeking permission to appear in the High School Examination submitting a true copy of Vernacular Certificate. Thereafter the department started proceedings.

4. The learned Counsel for the applicant ~~extremely~~
^{strongly} contended that the legal position is in his favour and not in favour of the respondents inasmuch as his date of birth was wrongly given by his maternal uncle and he could have got it corrected. All these could have been done earlier, and not later on. It was for him to come before the department and declare that his date of birth was not correctly recorded. It may be under a mistaken belief that he could not get it corrected earlier. Now there is no occasion for the applicant much after his retirement to ask the respondents to hold an enquiry again in the matter. The learned Counsel for the applicant made reference to certain Supreme Court decisions regarding the probability value of the School Certificate and the age as given by the parents. The age given by the parents attach more value than that of the age given by any other persons.

5. We have looked into the proceedings and we do not find any flaw in the proceedings. In this case the respondents have taken into account the fact that the applicant has concealed his correct date of birth when he entered in service and did not file the copy of the Vernacular Certificate. In the mean time also he did not approach the department to inform that he has got a certificate and that his date of birth was not correctly recorded and he may be given an opportunity to get it corrected. Therefore, the respondents are right in taking disciplinary proceedings and they have awarded

only a minimum punishment, by giving him a censure entry, although they could have awarded him any other major punishment. As far as the medical certificate is concerned, sanctity can be attached to it, but it cannot be final. Now it is much after the retirement, and it is not a case wherein an opportunity can be given to the applicant directing the respondents to hold an enquiry and ask the applicant to tender evidence in support of his claim that his correct date of birth is 2-11-31 for which he has not filed any documentary evidence, except the medical certificate which cannot be considered under these circumstances. The respondents themselves allowed the applicant to continue in service 7-8-86. As the applicant was retired with effect from 7-8-86 the same will be taken as the date of superannuation and not 15-1-86. The respondents shall re-calculate all the pensionary benefits and pay to the applicant as far as possible within a period of 3 months from the date of communication of this order. The application stands disposed of in the above terms and as all the reliefs claimed in this case no longer survives, but for the above relief all the other reliefs claimed by the applicant stand rejected. No order as to the costs.


Member (A)


Vice-Chairman.

Dated: 24th March, 1993, Allahabad.

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