

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
A L L A H A B A D

O.A.NO. 1155 1988  
TXXXX.

DATE OF DECISION December 15, 1989

Khuda Bux

PETITIONER

Mr. R.K. Nigam

Advocate for the  
Petitioner(s)

VERSUS

General Manager, Northern

RESPONDENT

Railway, Jhansi

Shri A.K. Gaur

Advocate for the  
Respondent(s)

CORAM :

The Hon'ble Mr. K. Obayya, A.M.

The Hon'ble Mr. -----

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether to be circulated to other Benches ?

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*Date of Judgment*

CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH, ALLAHABAD

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Registration O.A. No. 1155 of 1987

Khuda Bux ..... Applicant

Vs.

General Manager, Northern Railway,  
Jhansi ..... Respondent

Hon' Mr. K. Obayya, A.M.

This application under section 19 of the Administrative Tribunals Act No.XIII of 1985 was filed by the applicant on 30.11.87 for quashing the retirement order dated 11.3.86 as illegal and without jurisdiction and continue to applicant in service till 1991.

2. The facts of the case are that the applicant was appointed on 17.11.51 as Rekashak in the Railway Protection Force. Some where in 1961 he was found to be colour blind and was appointed in the Railway as Khalasi. He continued in this IVth Class category up to 1983. According to him his date of birth is 17.11.1933. As such he should have been retired on 17.11.91 after attaining 58 years of age (the age of superannuation in the Railways). To substantiate his claim, the applicant submitted a certificate of Municipal Board, Bhopal (Annexure-A-1), according to which his date of birth is shown as 17.11.1933. He represented to the Divisional Railway Manager on 20.2.1987, but this was to no purpose.

3. According to the respondents, the date of birth of the applicant indicated in their record is 1-10-1925, as such he was correctly retired on 1-10-83 on attaining the age of superannuation i.e. 58 years, and that the birth certificate issued by Bhopal Municipal Authorities cannot be relied upon, as it is given on the own affidavit

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of the applicant, it is manipulated etc.

4. Heard the arguments. The learned counsel for the applicant pressed the case of the applicant on the ground that he has obtained a certificate from Municipal Corporation, Bhopal, in pursuance of the reference made by the respondents and that the Competent Authority to take a decision in this matter is General Manager and not the Divisional Manager.

5. From the scrutiny of the document it is noticed that the applicant declared his age as 26 years at the time of initial entry to government service as 'RAKSHAK' in 1951, and his date of birth was entered as 1-10-1925.

The applicant has also affixed his thumb impression in confirmation of this. In the Menials' Service Register in the ~~Government of India~~ <sup>GREAT</sup> ~~Government of India~~ <sup>Peninsular Railway</sup> his date of birth is entered as 1-10-1925 this has also been attested by responsible officer as required under the rules at the time of his appointment on 17-10-1951.

6. According to Railway Establishment Code rule 145 (Rule 225 in the New Code) it is provided that every person on entering railway service shall declare his date of birth which shall not differ from any declaration expressed or implied for any public purpose before entering Railway service. In a case of literate staff, the date of birth shall be entered in the record service in Railway servant's own handwriting and in the case of illiterate staff, the declaration of date of birth shall be recorded by a senior Class III Railway servant and witnessed by another Railway servant.

7. The learned counsel for the applicant laid stress on this rule on the question of competency of the Authorities to take a decision relating to change of date of birth.

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PM

(7)

According to him it is the General Manager who should dispose of such matters and not the Divisional Railway Manager. A careful look at this rule brings out that date of birth recorded in accordance with the rule shall be done and no alteration shall be permitted subsequently. The General Manager shall however, being competent in the case of 'C' and 'D' grade Railway servants, to cause the date of birth to be altered, where a clerical error or where a satisfactory explanation has been offered that wrong date has been entered.

8. The record bears out that the entry of date of birth in this case has been done as per rules. This is not a case where a clerical error has been discovered as to necessitate correction nor any satisfactory explanation has been given for altering a date of birth. The date of birth entered when he entered service is on the own declaration of the applicant, as per rules. He has not been able to establish that this is not his correct date of birth. The certificate issued by the Municipal Authorities cannot be relied as this is also on the basis of the affidavit of the applicant. Once having declared his age he is estopped from making a different statement on the same issue. The learned counsel for the respondents also pointed out that this application is barred by limitation. The applicant entered service in 1951 and retired from service in 1983, and this application is filed on 30.11.1987. Clearly this is time barred and on this ground also it is liable to be rejected.

9. For the reasons stated above, this application is liable to be rejected and accordingly it is not allowed. Parties bear their costs.

(sns)  
December 15, 1989  
Allahabad.

MEMBER(A)

