

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

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Original Application No. 451 of 1988

Ramjee Lal Applicants.

Versus

Union of India
through G.M.
N.E.Rly, Gorakpur Respondents

Hon'ble Mr. A.K.Sinha, J.M.

1. This is an application by Ramjee Lal, a Railway employee under the respondents, under section 19 of Central Administrative Tribunal's Act 1985 praying therein to correct his date of birth as 1.7.1934 (In lieu of wrong date of birth i.e. 2.6.1930) on the basis of which his date of superannuation is 1.7.1992 and not 1.6.1988, and further prayed that the respondents be restrained from retiring the applicant on June 1988.

2. It is further stated that the applicant is seventh class passed employee under the respondents and was initially appointed on 12.9.1956 as Khalasi and, in due course, was promoted as polisher and thereafter a painter grade II on 1.1.1984 in the month of November 1987; the applicant came to know, in due course, that he was going to superannuate in June 1988, and he was surprised to know on enquiry that in lieu of his correct date of birth i.e. 1.7.1934, a wrong entry in the date of birth was made as 2.6.1930. Annexure-1 is the photo-stat copy of the seniority published in 1987

showing at S.No. 22, the applicant, Ramjee Lal's date of birth as 2.6.1930. The applicant having learnt about this, he collected certificate of correct date of birth i.e. 1.7.1934 from the principal of the college, where he got his education till class VIIth. Annexure-2 is the photostat copy of the certificate granted by the principal, D.P.Inter College, Gorakhpur, bearing number 6158 dated 23.11.1985 stating therein that the applicant, Ramjee Lal Gupta, S/O, Shri Bhagvan Das, was regular student of class VIIth in this college and his date of birth recorded was, 1.7.1934. The applicant sent a representation dated 24.11.1987 through registered post, A/D to the office of the respondents, Annexure-3, therein to correct the wrong date of birth as 1.7.1934 instead of June 1930. The respondents did not correct the wrong date of birth of the applicant on his representation dated 24.11.1987 and the applicant filed reminders appending photostat copies of the notary affidavit stating the correct date of birth, vide Annexure-4 and 5.

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3. It is stated that, inspite of all these, the respondents did nothing in correcting the wrong date of birth i.e. 2.6.1930 mentioned in the service book of the applicant and the result is that the applicant will suffer irreparable injury/loss after being retired on 1.6.1988 on the basis of wrong date of birth, i.e. 2.6.1930. Hence, the applicant has prayed for the reliefs stated above.

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4. The respondents appeared and filed their counter affidavit and, on amongst other grounds, they have stated inter alia that the applicant prior to his absorption in the Railways on regular basis as Khalasi on 12.9.1956 was working as waterman on casual basis, and on availability of vacancies of Khalasi on regular basis, his candidature along with other persons was considered for regular absorption, and, on 2.6.1956, the applicant declared his age on 2.6.1956 as 26 years and signed the declaration form vide Annexure RA-1. The applicant was sent for medical examination and was found fit and there also he declared his age as 26 years and put his thumb impression on the medical memo vide Annexure RA-2 and RA-3 respectively. The applicant was appointed as Khalasi and posted in Yard Shop vide Annexure, RA-4 and thereafter as per existing rule, 'A' card of the applicant was prepared in which the applicant not only entered in both words and figures his date of birth as 2nd June 1930, but also signed the same and affixed his L.T.I. vide Annexure RA-5.

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5. The learned counsel further submitted that in the year 1971, the Railway Board amended the rules and deleted the provision for recording date of birth on the basis of medical examination and in order to rationalise the position, it directed that all the employees are free to get their date of birth corrected by 31.7.1973 and that after which date no change or alteration shall be permissible. But despite this option, the applicant did not avail of the benefit or

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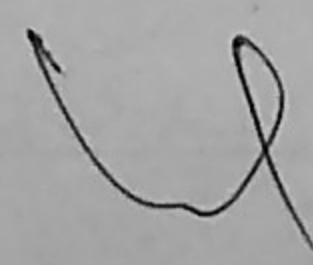
IV). In case, the applicant is able to prove to the satisfaction of the competent authorities that the date of entry in the service book

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requires correction, the fact that he would have been below the age of 18 years at the time of entry into service will not debar such correction. The rules already provided that in such case, the service before attaining the age of 18 years shall not be counted for seniority.

8. The aforesaid principles were enunciated in well known decisions of the Hon'ble Supreme Court, the reference of which I did not cite, because they are wellknown propositions of law. It is true that from the pleadings of the parties, it is clear that the applicant at the time of his initial appointment on 12.9.1956 had stated his age to be 26 years (vide Annexure RA1) and put his signature with date as 2.6.1956 and on that basis his date of birth was entered in his service book as 2.6.1930 and in this connection, the medical certificate (Annexure RA-2 and RA-3) were prepared.

9. The learned counsel for the respondents further drew my attention to Annexure RA-5 which is a photostat copy of 'A' card prepared by the Railway, wherein the applicant had given a declaration under his signature and thumb impression dated 21.9.1957 that his date of birth was 2.6.1930. On that basis, the learned counsel for the respondents submitted that the applicant had clearly and in unequivocal terms stated that his date of birth was 2.6.1930 and, therefore, the plea taken at this stage on the



basis of the college certificate that he was born on 1.7.1934 should not be accepted.

10. The contention of the learned counsel for the respondents further was that for correction of date of birth, a cutoff date i.e. 31.7.1973 was fixed after which time anybody applying for correction of date of birth could not have been entertained. It was submitted that the applicant - did not avail of this option and, therefore, he is not entitled to correction of age of his date of birth at this stage.

11. The learned counsel for the applicant submitted that in the month of November 1987, the applicant came to know that he was going to retire in the month of June 1988 and, on enquiry, he was surprised to learn that in lieu of the correct date of birth, i.e. 1.7.1934, the the wrong entry was made in his service book regarding his date of birth as 2.6.1930 and he immediately put his representation and filed the certificate of date of birth obtained from the college (vide Annexure 2) before the Railway authorities, but the Railway authorities did not take any action. The applicant sent repeated reminders along with notary affidavit mentioning therein his correct date of birth, but even then, when the respondents did not make any correction in the service book as regards the date of his birth, he has come up before this court.

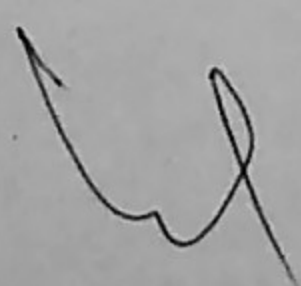
12. In support of his case, the applicant has produced the photostat copy of the certificate issued by the principal of D.B. Inter College,

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Gorakpur, bearing No. 6158 dated 23.11.1987 Annexure 2 which, on perusal, would show that the date of birth of the applicant as recorded in the school certificate is, 1.7.1934, which evidence cannot be said to be illegal in the facts and circumstances of the case. It is trite that at any time during the service, it is open to an employee to make request for the alteration of the recorded date of birth and that if the request is supported by cogent evidence to establish that the recorded date of birth is wrong, correction has got to be made.

13. In that view of the matter, where the applicant has produced the college/school leaving certificate showing that his date of birth recorded therein was 1.7.1934 and on that basis put in representations before the respondents much before his retirement for correction of his date of birth wrongly recorded in the service record, the authorities ought to have had taken into account the cogent evidence produced by the applicant and without resorting to technicalities corrected the wrong entry as regards the date of birth.

14. On a consideration of the facts and materials on record, I am of the view and hold accordingly that the applicant has proved by cogent and reliable evidence, (Annexure-2) that the recorded date of birth in his service record mentioned as 2.6.1930 was wrong and that his real date of birth was 1.7.1934.



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15. In that view of the matter, the respondents are directed to correct the date of his birth as 1.7.1934, in place of wrong entry as 2.6.1930, and are further directed to give all consequential benefits to the applicant flowing from the said corrections.

There will be no order as to cost.

Advocate Kumar S. S. S.
Member (J) 21/1/93.

Allahabad Dated:

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