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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
ALLAHABAD BENCH, ALLAHABAD.

Original Application No.548 of 1988.

Syd. Noorur Rahaman ... .. Applicant.

Versus.

Union Of India & others ... .. Respondants.

Hon'ble Mr. A.K. Sinha, Member (Judicial).

The applicant aforementioned, who was working as Head clerk in the C.C.S. Office, Gorakhpur under North Eastern Railways, and since already retired in the month of April 1988, has prayed for quashing the impugned orders dt. 29.1.87 contained in annexure III and dt.17/18.3.88 (annexture V) holding that the date of birth of the applicant was 13.4.1930 and rejecting his prayer for correction of date of birth as 13.4.1931 on the basis of High School certificate (annexture I). The applicant has also prayed for consequential reliefs.

2. The case of the applicant is that his date of birth is 13.4.1931 and that he passed High School Board examination as a regular candidate from M.S.G.I. Inter College, Gorakhpur, where his date of birth was so recorded. In the year 1949, the applicant was appointed on the post of a clerk in Oudh Tirhuth Railways, Gorakhpur and after six months, he was transferred to C.C.S. Office, Gorakhpur and there he continuously worked till the date of his retirement. It is alleged that at the time of his initial appointment, the Railway Administration did not demand the High School Certificate nor it was submitted by the applicant and that at the time of his appointment the character certificate issued by the Principal of the college wherein the date of birth of

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birth of the applicant was mentioned as 13.4.1930 due to typing mistake about which, it is alleged, the applicant had no knowledge. Consequently, the date of birth of the applicant was accordingly recorded in the official records relating to his appointment.

3. The case of the applicant is that for the first time in the year 1983 September, he came to know about the wrong entry as regards his date of birth and he accordingly put in his representation for its correction on 15.9.83 attaching the copy of the High School Certificate. It is alleged that the applicant filed several other representations on 23.9.85 and 30.7.86 and that the respondents got the matter enquired into by the Welfare Inspector who submitted his report in favour of the applicant but even then the administration rejected the prayer of the applicant for correction of date of birth and consequential reliefs and hence this application.

4. The respondents have appeared on notices and have filed their written statements repudiating the claim of the applicant stating inter-alia that at the time of his initial appointment, the applicant himself had produced the attested copy of his age certified by the Principal of his College (annexture 1 to the W.S.) wherein it was mentioned as 13.4.1930 and managed to obtain the job in the railways concealing the truth of his age although he was in possession of the High School Certificate which he did not produce at that time otherwise he would have been underage for appointment. It is submitted that after 33 years of his service when he was due to retire, he came up with his representation for correction of his date of birth and that in between all these period he never moved the authorities for correction of his date of birth.

5. The further averment of the respondents is that in the year 1983, the applicant himself in his own



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own handwriting and under his signature and thumb impression, had filled in his service card on 23.1.1953 and written out himself as follows:

"My date of birth is Thirteenth April Nineteen Thirtiety .

Syed Noorur Rahaman".

And, therefore, it was sought to be urged that where the applicant himself had so stated as far back as in the year 1953 that his date of birth was 13.4.1930 and never disputed this fact and that he had several occasions to see his own service record during all these years, and where the applicant at the time of his initial appointment produced the certificate from the Principle of the College wherein it was stated in unequivocal term that his date of birth was 13.4.30 and that on representation of that birth date he was eligible to get into service and as such took the advantage of getting into service, he cannot be allowed to reprobate the same after 33 years of his service when he was at the end of his service career for getting an advantage by production of his High School Certificate showing his date of birth as 13.4.31. It was further submitted that by concealing the real fact, the applicant got into service although according to his age mentioned in the High School Certificate he was not even eligible for getting into service in the year 1949.

6. On all these grounds, it has been urged that the applicant has got no locus standi for correction of age. It has further been asserted that it is true that the Welfare Inspector had submitted his report but, however, it was denied that the Welfare Inspector had supported the theory of typing mistake as alleged by the applicant.

7. The only question that arises for consideration is as to whether the applicant has made out good grounds for correction of his date of birth with consequential benefit ?.



4

8. The applicant has also filed his rejoinder which is on the record and which I have perused wherein he has reiterated his contentions and grounds made in the main application.

9. After having gone through the pleadings of the parties along with the relevant documents and hearing the arguments of the respective learned counsels, it appears to me that in the instant case, the date of birth recorded at the time of entry of the applicant into service as 13.4.30 had continued to exist, unchallenged between 1949 to 14.9.83, for almost about three decades. During all these period, seniority list (annexture III to the W.S.) dt.24.11.64 was also published by the department concerned of the Rly. Administration reflecting the date of birth of the applicant as 13.4.1930 and no objection was raised by the applicant at that time or immediately thereafter. On perusal of annexture III aforementioned, it will be seen at page 9 at serial no.284, the name of the applicant is mentioned with his date of birth as 13.4.1930 besides the date of his entry in the service as 3.8.49. That apart, the applicant had numerous occasion to see his service book and one of the occasion was January 1953 when in his own pen and writing and under his own signature and thumb impression he had noted in the service book his date of birth as 13.4.1930 and never disputed this fact even then when he was in possession of his High School certificate wherein the date of birth was mentioned as 13.4.1931. He did not seek the alteration of the date of his birth even at that time also. But when he was at the fag end of his retirement, in the month of September 1983, he came up with his representations for correction of date of birth on the basis of his High School certificate which was even available to him 30 yrs before when he had in the year 1953 noted in his service book his date of birth under his signature and thumb impression and mentioned it as 13.4.1930.



5

10. Where the applicant at the time of initial appointment produced and relied upon a certificate from the Principal of the college where he had studied and passed certifying that his date of birth was 13.4.1930 withholding his original High School Certificate and thereby claimed eligibility for getting into railway service and on the basis of that certificate obtained from the principal of the college represented the railway authorities to believe that he was eligible for the post applied for, and, as a matter of fact, got into the job and continued as such, and even in the year 1953 made an entry in his own pen and signature his date of birth as 13.4.1930 and never disputed the date of his birth till then, in the event of foregoing facts when the parties proceed on the basis of an underlying assumption— either of fact or of law— whether due to misrepresentation or mistake makes no difference— on which they conducted the dealings between them—neither of them will be allowed to go back on that assumption when it would be unfair or unjust to allow him to do so. If one of them does seek to go back on it, the court will estop him in doing so on the principle of estoppel and acquiescence.

11. The applicant should thank his star that the Rly. Administration did not proceed against him for misconduct for suppressing his original High School Certificate and producing a certificate from the Principal of the college as regards his date of birth in getting into service in the year 1949 when he was not eligible on the basis of his High School Certificate wherein the date of birth was noted a year less than the one which was mentioned in the certificate of the Principal which was the basis of his entry into the service.

12. That apart, Rule 145 of the Rly. Establishment Manual which is almost similarly worded as note 5 to the Fundamental Rule 56(m) governing correction of date of birth in the service record. The Rule 145 (iii) of Rly's Est. Manual



6

Manual clearly lays down:

"where a satisfactory explanation of the circumstances in which the wrong date came to be entered is furnished by the employee concerned (which should not be entertained after completion of the probation period of 3 years service, whichever is lesser,) together with statement of any previous attempt made to have the record amended".

However, by amendment, the last date for change in the date of birth was 31.7.73. It is, therefore, obvious that the request for correction of date of birth was required to be made by the applicant within three years of his service or by the extended date, ie, 31.7.73. But in the instant case, it was not done so by the applicant.

13. In similar facts and circumstances, the Supreme court in Harnam Singh's case reported in 1993 ATC(24) page 92 at page 101 which is also reported in A.I.R.1993 SC, page 1367, did not allow the applicant correction of his date of birth. I did not deal with the ratio of that case because the facts of that case was at pari materia with the facts of the instant case.

14. In the conspectus of facts and circumstances and for the foregoing reasons, it is held that the applicant has not made any ground muchless good grounds for correction of his date of birth. The result, therefore, is that this application has got no merit and the same is accordingly dismissed. However, in the circumstances, the parties will bear their own costs.

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Allahabad:  
Dt. 19-8-1993.

*Shri Kishan Singh*  
Member (Judicial)  
19-8-1993.