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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 682 of 1988.

Kewal krishan Applicant.

Versus

Union of India & others Respondents.

Hon'ble G.S. Sharma, J.M.
Hon'ble K.J. Raman, A.M.

(Delivered by Hon. K.J. Raman, A.M.)

In this application, preferred under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is a Fitter in the Northern Railway, Allahabad, seeks to change his date of birth shown as 9.11.31 in the service records, to 13.6.1934 and prays that he be allowed to continue in service till superannuation on the basis of the changed date.

2. The applicant states that he was born in Hoshiyarpur and studied in D.A.V. High School, Simla and left his studies when he was in class VII, due to his family circumstances. At the time of leaving the school, the applicant obtained the School Leaving Certificate from the said school in Simla on 1.9.1951. This certificate shows his date of birth, correctly, as 13.6.1934. The applicant has annexed a photo copy of the alleged certificate. The applicant states that in 1954 he was medically examined and regularised in the Railways and claims that at the time of initial engagement, he produced the above mentioned School Leaving Certificate before the authorities concerned and was under the bona fide belief that his date of birth as entered in the School Leaving Certificate must have been entered by the respondents in his service record. However, in December, 1986, he, for the first time, learnt that his service record showed wrongly his date of birth as 19.11.1931. He submitted a representation for correction of the date of birth in 1986 and

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again in 1987 but to no avail. He contends that the School Leaving Certificate which was obtained prior to entering the Government service, shall be deemed to be an authentic and conclusive documentary evidence and the respondents are duty bound to correct the service record accordingly.

3. In the reply filed on behalf of the respondents it is asserted that the date of birth of the applicant is 9.11.1931. No school certificate showing his date of birth differently is in his service record. The respondents aver^{ed} that in fact, the applicant has himself signed his service record wherein his date of birth is written as 9.11.1931. A copy of the relevant record is annexed to the reply as Annexure 'CA-I'. The respondents contend that it is highly improbable that after 32 years of service, the applicant, who is an educated person, suddenly realised that his date of birth has been wrongly entered in his service record. The respondents state that the applicant is not entitled to any relief.

4. We have heard the learned counsel for the parties. During the oral arguments, the learned counsel for the applicant reiterated the contentions, referred to above, and also relied on a judgment of the Principal Bench of this Tribunal in Hira Lal v. Union of India (1987 (1) ATLT 378). The learned counsel for the respondents relied on the service record, copy of which has been annexed with the reply, and questioned the authenticity of the School Leaving Certificate produced after more than 30 years. The respondents strongly opposed the reopening of the matter without sufficient reason after such a long time since entry of the applicant into service.

5. We have very carefully considered the records of the case and the contentions of both the parties. It is no-doubt true that if the applicant makes ^a prima facie case of error in the recording of his date of birth in his service records at the time of initial engagement, the authorities are duty bound to consider the evidence submitted and enquire into the matter and duly settle the dispute on the basis of facts. In the case cited by the learned

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counsel for the applicant, the employee concerned, employed in Rashtrapati Bhavan, applied for correction of the entry, a number of years before his retirement was due. In that case, the matter was referred to the District Magistrate, Agra, who ^{got it} enquired by the Tahsildar, Agra, where the employee concern^{ed} was born and studied in school. The records of the school in the birth place were verified. There was also ^{an} old documentary evidence in the shape of a letter from the Deputy Comptroller, Governor-General's Household, which corroborated the claim of the employee. In these circumstances it was held that the date of birth was wrongly entered in the service record. The facts in the present case before us are, however, quite different. The only evidence relied on by the applicant is the School Leaving Certificate of D.A.V. High School, Simla, stated to be of 1.9.1951 showing the applicant's date of birth as 13.6.1934. This cannot be considered as contemporaneous evidence of the date of birth. As pointed out by the Madras Bench of this Tribunal in T. Ramaswami v. The General Manager & others (1987 (1) ATLT 62) the entry in the school register or record is normally made on information furnished by persons accompanying the child to the school; unless the person, who gave the information is available for examination, the mere entry in the school register or record cannot be taken as conclusive evidence of the age of the applicant. In that case, as in the present case, no birth extract has been produced (from the place of birth). It was held in that case that it was not possible to alter the date of birth merely on the basis of the entry made in the transfer certificate given by the school. As pointed out, again, by the Principal Bench of this Tribunal in Shanti Prasad Thapliyal v. Union of India & others (1987 (1) ATLT 424), ⁱⁿ the absence of any credible evidence, the entry in the service record, which is an essential document, cannot be ignored or corrected. It is observed that in the School Leaving Certificate produced it is shown that the applicant was studying in ^{VII} ~~VIII~~ class. In the application the

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applicant asserted ^{by} ~~that~~ ^{cor} that due to family circumstances he left the school while studying in class VII. In the service record (Annexure 'CA-1') it is written that the applicant has read upto VIII ^{class/standard} ~~standard~~. This shows inconsistencies in the averments made by the applicant. Perhaps, the applicant studied in another school after leaving the one at Simla. The most important point is that in the service record, the date of birth is very clearly and ambiguously shown as 9.11.1931. If the applicant had ^{cor} produced the School Leaving Certificate at that time to the Railway Authorities, there is no reason why they would have entered a different date in the service record. The crucial fact is that the applicant has himself signed in English below the entries including the date of birth, as above. There is no reason to believe that the applicant was not aware of the entry of his date of birth as 9.11.1931. The applicant's explanation that the date has been entered due to clerical error is not probable since the two dates of birth are vastly different from each other in the date, month and in the year. Since the date has been entered in the service record as 9.11.1931 and has remained so for over 30 years without contradiction, quite authentic evidence will be required to declare it as incorrect and to write some other date ^{instead} ~~therein~~. The applicant has not succeeded in convincing us of the incorrectness of the date of birth shown in his service record and the correctness of the School Leaving Certificate produced by him.

6. In the result the application fails and is hereby dismissed with no order as to costs.

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MEMBER (A).

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MEMBER (J).

Dated: May 5, 1989.

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