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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration C.A. No. 102 of 1988

Nafasat Hussain .... Applicant

Versus

Director Postal Services, .... Respondents.  
Allahabad & Another.

Hon. Ajay Johri, A.M.

By this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant Nafasat Hussain is seeking a direction to be issued to the respondents to change his date of birth from 5.1.30 as recorded in his service record to 21.12.35 on the basis of High School Certificate and for quashing the orders of his retirement issued by the Senior Supdt. of Post Offices, Allahabad retiring him with effect from 31.1.1988.

2. The main grounds for making the prayer are that his date of birth as recorded in the School Leaving Certificate is 21.12.35. He had submitted a copy of the same in 1952 but the respondents have not corrected his recorded date of birth. They also accepted his High School Certificate for considering his promotion <sup>as to the post of</sup> ~~as~~ a clerk in which also his date of birth is shown as 21.12.35. When the applicant

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received a notice for his retirement in 1987 he again agitated the matter but his representations have been rejected.

3. The respondents' case is that there is no mistake in the entry of the date of birth in the service record and the same has been seen by the applicant at regular intervals and he has verified the entries by signing the same. Moreover if his date of birth is taken as he claims he would have been less than 14 years of age at the time of entry in service and so could not have been appointed.

4. I have heard the learned counsel for both parties and gone through the Service Record of the applicant as well as the register of the School containing the original of the School Leaving Certificate on the basis of which the applicant is representing for the change of date of birth. On behalf of the applicant a contention was raised that as far back as in 1952 he had applied for change of date of birth but no action was taken by the respondents, and he has been retired in April, 1988 when actually he should have been retired in 1993. The learned counsel for the respondents however repelled these contentions on the grounds that no representation was submitted

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in 1952, the entry in the Service Record has been verified by the applicant a number of times and if his year of birth is taken as 1935 he would have not been able to seek employment in 1949 as he would have been only 14 years old then.

5. As far as the School Register is concerned, the entries show that it has been signed in the year 1952. A number of pages with only names ~~3~~ and some particulars with no signature were also found in the same. These blanks are not explained. The register contains names of those who entered the school in 1943. It shows the applicant's date of birth as 21.12.35. According to this entry the applicant was only 13 years of age when he left the tenth class, a rather tender age for reaching class Xth.

6. The applicant joined service on 1.12.49 and rose upto the position of Asstt. Post Master. In 1953 when he passed the High School Examination he submitted a copy of the same to register his qualification. This was noted by the respondents. He has, however, not submitted any copy of the representation that he may have made in 1952 about the correction of

his date of birth. mere submission of the Matriculation Certificate would not automatically result in change of date of birth. The respondents have denied that they received any representation from the applicant in 1952. So it is difficult to believe that the applicant made a representation ~~and~~ but it was not considered. If he did make a representation, he should have pursued it to finality but he seems to have never reminded the respondents or pressed for its finalization. On the other hand in his service record he has signed on the first page, where his date of birth is entered, on following dates :-

(i) 22.6.49  
(ii) 13.1.55  
(iii) 16.4.60

According to him he had represented in 1952. But when he found the entry in date of birth column as 5.1.30 at the time of signing the service record in 1955 and 1960 he should have ~~taken~~ promptly ~~taken~~ recourse of conclusive action in regard to having the same changed but the pleadings show that nothing was done by him. He allowed the matter to reach a finality by his repeated endorsements.

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7. No rule has been shown to me that there was a provision for boy service at the relevant time. The medical certificate prepared at the time of his appointment clearly mentions that the age is 19 years on his own statement and that by appearance the doctor assessed him as 18 years. He has signed this certificate on 24.12.49. The certificate has been issued by the Civil Surgeon Allahabad. Before his regular appointment his Service Record shows that he was engaged as a Casual Hand Postman on 21.3.49 and worked in this capacity at intervals till his regularization.

8. A submission was made by the learned counsel for the applicant that, for the boy service, the applicant will not be entitled to count it as qualifying service but there is no endorsement in the Service Record to show that there was any period of boy service which has been deleted from qualifying service for calculating retirement benefits. As a matter of fact the short spells between 21.3.49 and 21.10.49 during which he worked in casual capacity have also been counted in the qualifying service.

9. In cases of changes of date of birth if a person has taken advantage by declaring a certain

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date of birth at some stage of his career, he cannot be allowed to take another advantage by declaring some other age later. There is no doubt that if the date of birth was taken as 21.12.35 the applicant would have been just 13 years and a few months old when he was first engaged in casual capacity on 21.3.49 and this would not have been possible. It would rather support a situation that it was with an intention to seek employment which he would have normally not got, that he declared himself to be of 19 years of age when he presented himself before the Civil Surgeon. Earliest a person can enter service is at the age of 18 years and he can have a service span of 40 years upto superannuation. The applicant entered service on 21.3.49 and was retired on 1.4.88 so he has served for 39 years. I consider this as a very good span of service entitling a person to earn the maximum pension possible. On the above considerations, the application must fail. The applicant is not entitled to the reliefs claimed.

10. I, therefore, dismiss the application. Parties will bear their own costs.

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Member (A)

Dated the 19<sup>th</sup> July, 1988.

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