

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

(A2)
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O.A. NO. 68
T.A. NO.

1990

DATE OF DECISION _____

Shri Phobu

PETITIONER

Shri Arul Kumar

Advocate for the Petitioner(s)

Versus

Union of India & others

RESPONDENT

Shri A. K. Gaur
Union of India & others

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. A. B. Gorakhpur A.M.

The Hon'ble Mr. S. N. Prasad, J.M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
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 all other Benches ?

GHANSHYAM/

(9) (2)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD.

Registration O.A. No.68 of 1990.

Pheku Applicant
Versus

Union of India & Others.....Respondents.

Hon. Mr. A.B. Gorthi, A.M.
Hon. Mr. S.N. Prasad, J.M.

(By Hon. Mr. A.B. Gorthi, Member(A))

This application under Section 19 of the Administrative Tribunals Act, 1985 from Shri Pheku is for correction of his date of birth and for the consequential reliefs by way of his continued service till 1994 and retention of Government accomodation.

2. The applicant joined the Eastern Railway on 1.5.1957 as a Khalasi in the Engineering Department and at the time of entry, he declared his age as 20 years. However, he was surprised to receive a notice dated 25.9.1989 for his impending retirement w.e.f. 28.2.1990. He then realised that his date of birth was wrongly recorded in his service book as 26.2.1932. He immediately represented to the Chief Personnel Officer, Eastern Railway against the proposed order of retirement. The applicants case is that according to entry made in the Kutumb Register, he was born inthe year 1934. A certified true copy of the entry in the Kutumb Register, which the applicant obtained from the Tahsildar, Sakaldeeha, Varanasi shows that his date of birth as 24/1936.

3. The respondents have clarified that since the original service book of the applicant was lost, another one was made in the year, 1961. The first page of the service book wherein the date of birth of the applicant was recorded as 26.2.1932 bears the thumb impression of the applicant. Besides, the applicant during his service, while making the usual applications for passes, P.T.Os, loans etc showed his date of birth as 26.2.1932. The respondents further contend that the entry in the so called Kutumb Register is vague, in that, it does not show any date as such except for the figures 24/1936. The certified true copy produced by the applicant was obtained by him from the Tehsildar, Sakaldeeha, Varanasi on 16.1.89/90.

4. Apparently the applicant was illiterate at the time of entry in the service. However, the entry of date of birth in the service book must have been made at the instance of the applicant himself. Further, the applicant had shown his date of birth as 26.2.1932 in the various applications made by him. His claim for change of date of birth based on the vague entry made in the Kutumb Register does not appear to be convincing.

5. In the case of State of Assam & another Vs. D.P.Deka and others, the Hon'ble Supreme Court

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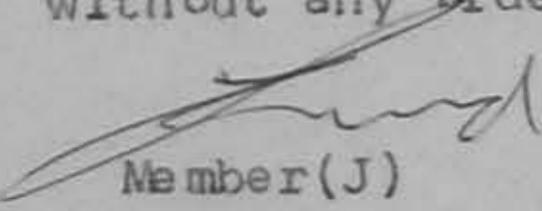
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5. In the case of State of Assam & another vs. D.P.Deka and others, the Hon'ble Supreme Court

held that the date of compulsory retirement must be determined on the basis of the service record and not on what the government servant claims to be his date of birth, unless the service record is first corrected consistently with appropriate procedure. Until the record is so corrected, employee may not claim that he had been deprived of the guarantee under Article 311(2) of the Constitution of India by having been compulsorily retired on attaining age of superannuation as determined on the basis of entry of his date of birth in the service record.

6. In the instant case the documentary evidence led by the applicant in support of his date of birth is not only vague but is unconvincing, when viewed in the light of the entry made in the service record and the declaration by the applicant himself of his date of birth as 26.2.1932 in his various applications. In these circumstances we find no substance in the application.

The application is hereby dismissed without any order as to costs.


Member (J)


Member (A)

Dated the 08 August, 1991.