

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 20th day of March, 2001

Original Application No.1480 of 1992

Coram :-

Hon'ble Mr. Justice RRK Trivedi, V.C.

Hon'ble Mrs. S. Biswas, A.M.

Tulsi Ram son of Shri Gur Prasad,
Resident of 65/110, Moti Mohal,
Kanpur, presently employed as Tailor
(Skilled), Ticket No. 155/LT,
Ordnance Equipment Factory, Kanpur.

(Sri MK Upadhyaya, Advocate)

. Applicant

Versus

1. Union of India through the Secretary,
Ministry of Defence, Department of Defence Production
Government of India, New Delhi.
2. Additional Director General, Ordnance Factories,
O.E.F. Group Headquarters,
ESIC Bhawan, Sarvodaya Nagar, Kanpur.
3. General Manager,
Ordnance Equipment Factory,
Kanpur.

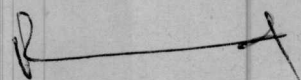
(Km. Sadhna Srivastava, Advocate)

. Respondents

O R D E R (O r a l)

By Hon'ble Mr. Justice RRK Trivedi, V.C.

By this application under Section 19 of the Administrative Tribunal's Act, 1985, the applicant has challenged the order dated 26-8-1991 by which on conclusion of the disciplinary proceeding, the applicant was awarded punishment of compulsory retirement from service. The aforesaid order of the disciplinary authority, however, was modified by the appellate authority vide order dated 18-5-1992. The appellate authority awarded



the punishment of withholding three increments for a period of three years with cumulative effect. Aggrieved by which this OA has been filed.

2. The facts giving rise to this application in short are that the applicant joined Ordnance Equipment Factory as a Labour 'B' under the appointment order dated 17-3-1980 (Annexure-A-3). Later on he was appointed on regular basis as a Tailor. The applicant was served with memo of charge dated 20-3-1989 that he suppressed material information regarding his age and date of birth and educational qualification at the time of appointment. According to service record, the date of birth of applicant is 20-3-1944. The disciplinary authority found the charge proved against the applicant and punished him as stated above. The appellate authority, however, reduced the punishment and found only one ground against the applicant stated in paragraph no.4 which is reproduced hereinbelow :-

"04. Out of the points listed in the preceding para the only point at Sl.No.(iv) is going against the individual. The appellant has submitted that he had only put the signatures as asked for and had not written anything on the CARD. This is a categorically statement written in Hindi. Being a literate person the appellant fully knew about the statement and vouchsafed it by putting his signatures. The individual cannot disown the responsibility by saying that he had not written the statement himself".

3. The appellate authority also observed that there was delay on the part of administration in not taking any decision regarding the correct date of birth of the applicant though he raised the dispute on 18-12-1980. The appellate authority gave direction to initiate normal administrative proceeding to determine correct

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date of birth and get the same recorded in the service record of the applicant by following the procedure prescribed under rules as applicable.

4. Sri MK Upadhyaya, counsel for the applicant has submitted that the applicant was appointed by the order dated 17-3-1980 (Annexure-A-3). He made an application dated 8-12-1980 (Annexure-A-4) that he had already passed High School in 1968 and his date of birth should be corrected in the service record. It is not disputed that according to the High School Certificate the date of birth is 01-7-1949. In his reply dated 25-3-1989 also the applicant raised the same issue about correction of his date of birth in the service record and it is stated that his genuine demand has been suppressed by initiating disciplinary proceeding. Learned counsel for the applicant has submitted that the charge has not been proved against the applicant and the punishment awarded is without any basis. Km. Sadhna Srivastava, counsel for the respondents on the other hand submitted that the appellate authority has already considered all the aspects of the case and has reduced the penalty. The order does not suffer from any error of law calling for interference by this Tribunal.

5. We have carefully considered the submissions of counsel for the parties. However, in our opinion, the charge of misconduct of suppressing the material facts is not made out against the applicant. There is nothing on record on which basis it may be said that the applicant was ever required to mention his date of birth or to produce the document regarding his educational qualification ~~and the fact that he was illiterate and he joined as a labour along with~~ may others. There was no necessity of writing on the workman's record of service ~~as above~~. It appears clearly ~~that he has not studied in school and has no papers to produce~~

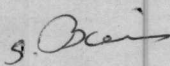
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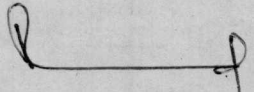
that the signatures of the applicant were obtained on 19-3-1980 when the form was blank and it was subsequently filled in on 20-3-1980. The difference of dates clearly demonstrates that the form was filled by the examining officer subsequently, otherwise there was no plausible reason for there being ^{mention of} ~~difference of~~ two dates. The applicant's bonafides are further established that without loss of time on 8-12-1980^u itself, he immediately made an application ^{claiming} ~~claiming~~ correction of his date of birth on the basis of High School Certificate. The memo of charge was served on him in 1989 without resolving the dispute raised by him regarding incorrect date of birth mentioned in the service record. The signature of the applicant further demonstrates that he could not be ^{ill} ~~ill~~iterate person. He has signed and put the date below his signature. All these materials clearly indicate that there was no question of any suppression by the applicant. The respondents have also not been able to show that the applicant could have got any advantage on the basis of this suppression at the time of his appointment. Considering all these facts and circumstances, in our opinion, the the impugned order of punishment cannot be sustained.

6. For the reasons stated above, the impugned order dated 26-8-1991 (Annexure-A-1) and the appellate order dated 18-5-1992 (Annexure-A-2) are quashed. However, the direction of the appellate authority contained in para 6 that the General Manager/disciplinary authority may initiate normal administrative action ^{to} ~~to~~ correct the date of birth ~~to get the same~~ recorded in service record by following the procedure as prescribed, shall remain unaffected and shall be complied with by the authorities. As the impugned orders have been quashed, any financial

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disadvantage caused to the applicant during this period shall be paid to him within six months from the date a copy of this order is filed. There shall be no order as to costs.


Member (A)


Vice Chairman

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