

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A. No./T.A. No. 310/92

Date of decision 21/8/98

Sharda Ward Singh Applicant(s)

C/A Sri G.C. Gehrao COUNSEL for the
Applicant(s)

Versus

Union of India & others Respondent(s)

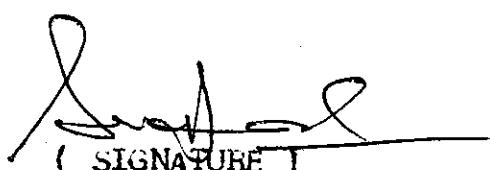
Sri N.B. Singh Counsel for the
Respondent(s)

C O R A M

Hon'ble Mr. S. Doyal, V.C./Member(A)

Hon'ble Mr. S.K. Agrawal, Member (J)

1. whether Reporters of local papers may be allowed to see the judgment? No
2. To be referred to the Reporters or not ? Yes
3. whether their Lordship wish to see the fair copy of the judgment ? Yes
4. whether to be circulated to all Benches ? No


(SIGNATURE)

MANISH/

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 310 of 1992

Allahabad this the 21st day of August 1998

Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. S.K. Agrawal, Member (J)

Sharda Nand Singh alias Shardha Nand Singh S/o Late Ram
Saran Singh, R/o Village Dumari, Pargana Kopachit Garbi
(West) District Ballia.

Applicant

By Advocate Shri G.C. Gehrana

Versus

1. Union of India through Director Post Offices, Eastern Region, Allahabad.
2. Superintendent of post Offices, Ballia Parkhand, Ballia.
3. Post Master General, U.P. Lucknow.

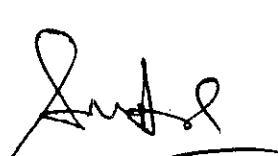
Respondents

By Advocate Sri N.B. Singh

O R D E R

By Hon'ble Mr. S.K. Agrawal, Member (J)

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to set aside the order dated 10.1.1989 and 19.6.1991 passed by the respondents and to direct the respondents to consider the applicant in continuous service and to pay the arrears of salary with all benefits.



2. In brief the facts of the case as stated by the applicant are that the applicant was initially appointed as

Extra Departmental Postman in 1956 and worked till 1966. On 09.12.1966 the applicant was appointed as E.D.B.M. Post Office Dumri, District Ballia, since then he was working. It is submitted on behalf of the applicant that the applicant was asked to explain the circumstances in which his name became from Shardha Nand to Sharda Nand and in reply to this letter, the applicant sent the reply, stating the facts but regarding the educational qualification, the applicant submitted that he is educated only upto Class IV and school record is not available to him. Thereafter no correspondence was made by the department to the applicant with regard to his educational qualification and date of birth but in the year 1988, the applicant was asked to furnish the school certificate with regard to his date of birth. The applicant in reply again submitted that he cannot furnish any school certificate as the same is not available. Although the applicant submitted a copy of Kutumb Register in which his date of birth was recorded as 06.5.1942. It is submitted by the applicant that suddenly vide letter dated 10.1.1989 the applicant was informed that the applicant will retire on attaining the age of superannuation of 65 years. The applicant submitted his representation against the order dated 10.1.1989 on 20.1.1989 but the said representation was rejected vide order dated 19/6/91. It is also submitted that the applicant did not complete the age of 65 years on 10.1.89 but inspite of this, he was superannuated. His date of birth was recorded in his L.I.C. Policy as 01.1.1939 and taking this date into consideration, the applicant could not have been retired in 1989 as he would retire only in 2004. It is, therefore, submitted that the respondents acting arbitrarily retired the applicant in the year 1989, therefore, it is requested that order dated 10.1.1989, 19.6.91

be set aside and respondents be directed to treat the applicant in continuous service and to pay him the pay and arrears of salary due to him.

3. The counter-affidavit was filed. In the counter-affidavit, it is stated that on 04/5/1948, Branch Post Office, Dumri was started and two posts of Extra Departmental Branch Post Master were sanctioned on which Sri Jamuna Rai and Sri Rajendra Chaubey were allowed to work respectively and at the time of employment of the petitioner, the declaration was submitted by the petitioner regarding his particulars which was forwarded to Post Master, Ballia on 12.4.1952 but the record is not available. The said post of Extra Departmental Branch Post Office, Dumri was given to so many persons and when Sri V.N. Singh was removed on 09.10.1966, the petitioner who was working as Extra Departmental Delivery Agent, was given the job of Extra Departmental Branch Post Master, Dumri from 23.12.66. It is also submitted that petitioner was put off duty and during the period of put off duty, the petitioner's younger brother Sri K.N. Singh has submitted an application dated 24.11.1966 alongwith a Junior High School certificate in which his date of birth was mentioned as 01.1.1941. The petitioner was asked vide letter dated 26.8.89 to submit educational qualification certificates but he did not comply with the directions and only submitted a copy of Kutumb Register in which his date of birth was shown as 06.1942. The inquiry was conducted regarding his date of birth and it was not accepted. It is also stated that in the year 1955, the petitioner submitted an application for appointment as Extra Departmental Branch Post Master and while forwarding his application to S.S.P.O., Varanasi the Inspector has mentioned in his letter dated 16.1.1955

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the age of the applicant as 32 years. It is submitted that according to the Kutumb Register, the date of birth of the applicant ~~is~~ has been shown as 06.5.1942 which is not acceptable and inspite of direction to submit school certificate in support of this, the applicant did not submit any proof and, therefore, the applicant was retired in the year 1989. Therefore, on the basis of the averments made in the counter, it is stated that this O.A. may be dismissed with cost.

4. Rejoinder has also been filed and it is ~~is~~ reiterated that petitioner did not complete the age of 65 years at the time of retirement and he was arbitrarily without any basis, was retired from the service in the year 1989.

5. Heard, the learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record.

6. Admittedly, the applicant was appointed as Extra Departmental Branch Post Master, Dumri on 09.12.1966 and was retired on 16.1.1989 on superannuation.

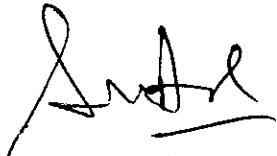
7. Learned lawyer for the applicant laid down much emphasis that respondents had no basis to retire the applicant in the year 1989 but the applicant failed to submit any documentary evidence so as to prove what is the date of birth of the applicant such as school certificate, birth certificate or medical certificate~~s~~etc. A copy of proposal form in L.I.C. is produced by the applicant with his original application in which the date of birth of the applicant has been shown as 01.1.1999 but, copy of this proposal form does not establish the fact that the date of birth of the applicant is 01.1.1939 because a copy of Kutumb Register, what submitted



by the applicant before the respondents, stating his date of birth as 06.5.1942, which was not accepted by the respondents. The letter dated 16.1.1955 (annexure C.A.-4) forwarded by Inspector to S.S.P.O., Varanasi, the age of the applicant has been shown as 32 years. The original record is not available with the respondents which was said to have been stolen and on the basis of which Inspector in his forwarding letter to S.S.P.O. has shown the age of the applicant as 32 years in the year 1955. The applicant was superannuated in the year 1989 on this basis. It is also pertinent to note that during the put off duty, the petitioner's younger brother Sri K.N. Singh submitted an application on 24.11.1966 alongwith a copy of certificate in which his date of birth was shown as 01.1.1941, therefore, it is obvious that age of the applicant must have more than his younger brother and it becomes completely wrong to say that the applicant's date of birth as shown in the Kutumb Register, is 06.5.1942.

8. On the perusal of the pleadings of the parties it also appears that applicant did not file any representation in connection with his date of birth/age. Only at the fag end of his retirement, he submitted application/representation which does not help him at all.

9. A person entering the government service, shall declare his date of birth/age and no person shall be appointed to government service who is not able to declare his date of birth/age. If a person who is enable to give his date of birth, has given his age, he should be assumed the completed age on the date of his attestation.



10. F.R.-56 provides that any objection regarding age/date of birth cannot be entertained beyond 5 years from the date of his appointment.

11. In Rule-225 of Indian Railway Establishment Manual, this limitation is only 3 years.

12. In Union of India and others Vs. Harnam Singh 1993 S.C.C.(L&S) 375, it was observed by the Apex Court that even if the applicant has good and genuine case no request for date of birth can be granted, incase any request or representation is filed after limitation. This judgment delivered by the Apex Court has been followed in the case of Bern Standard Co.Ltd. Vs. Minababdu Mazumdar A.I.R.1995 S.C.1499, where Apex Court held that ordinarily High Court should not entertain a writ petition filed by an employee of the government or its instrumentality towards the fag end of his service and this view also get support from a leading case 'P.C. Donura Vs. Union of India 1998(38) A.T.C. 111'.

13. In the instant case, it appears that the applicant requested through representation at the fag end after retirement and no creditable and reliable evidence was produced by the applicant in support of his age/date of birth. Infact applicant himself is not clear rather he is confused what is his original date of birth. Therefore, the applicant, looking to the facts and circumstances of this case, is not entitled to any relief sought for.

14. In view of the above, the O.A. is dismissed with no order as to costs.