

CENTRAL ADMINISTRATIVE TRIBUNAL
A LLAHABAD BENCH, ALLAHABAD

Original Application No: 393 of 1992

Sultan Akhtar Applicants.

Versus


Union of India & ors. Respondents.

Hon'ble Mr. A.K.Sinha, Member-J

The applicant Shri Sultan Akhtar has filed this application under section 19 of the Administrative Tribunal's Act, 1985 against the impugned order dated 29.10.1991 contained in Annexure A-7 passed by respondent No. 2 rejecting the prayer of the applicant for correction of the date of his birth in the service book as 5.6.1934 instead of 13.3.1934 with a prayer that the impugned order be quashed and the correct date of birth as 5.6.1934 be entered and that a direction be issued to the respondents not to retire him earlier than 30.6.1992 and to pass suitable and equitable order order as it may deem fit and proper.

2. Uncontrovertedly the applicant joined the service as Grade IV employee on 30.3.1955 and in his service book his date of birth was recorded on his declaration and duly attested by the Attesting Officer as 13.3.1934. The declaration was signed by the applicant in his own pen and signature. The applicant appeared in the High School examination from U.P.Board held in the month of March, 1955, the year to adjoined the service he passed the examination and obtained School Leaving certificate where his date of birth was correctly entered as 5.6.1934 on the basis of the school attendance register.


3. Admittedly when the applicant joined the service in the month of March, 1955, by that time the result of High School was not published.



4. On 17.8.1959 it is alleged that the Post Master Allahabad vide Annexure A-5 called for from the applicant certificates regarding his educational qualification and date of birth which the applicant submitted.

5. In September, 1991 on the eve of his retirement the applicant filed his pension papers with the correct date of birth as 5.6.1934. It was objected too by the concerned officer of his department intimating the applicant that his date of birth recorded in service book was 13.3.1934. The applicant filed representation for correction of date of birth on 13.9.1991 vide Annexure A-6 which has since been rejected and the applicant in the meantime was retired ~~U.s.f.~~ 31.3.1992. Hence this application is filed before this Tribunal for the above mentioned relief.

6. The respondents have appeared on notice and filed their Counter Affidavit denying the allegations of the applicant and stating interalia that the applicant entered in the Postal service as Class IV employee on 30.3.1955. His date of birth was recorded as 13.3.1934 in his service book. The applicant had seen and signed the service book in token of having accepted entry in his service book. He again seen and signed the same on 13.12.1962. On 22.1.1986 the applicant had submitted application for withdrawal of G.P. fund and in that application he had further confirmed and mentioned that his date of superannuation was 31.3.1992. For the first time the applicant made his representation before the department on 13.9.1991 that his date of birth is 5.6.1934 instead of 13.3.1934. This fact was challenged by the applicant after a long gap of 36 years and too on the verge of his retirement due on 31.3.1992. The representation of the applicant was gone through and he was informed that his date of birth as recorded in the service book was correct and accordingly he was retired on 31.3.1992.




7. On these grounds it has been sought to be contended that the application has got no merit and fit to be dismissed without costs.

8. The only question for consideration is whether the applicant is entitled to the relief claimed!

9. I have heard the learned counsels of the parties at length and perused the pleadings and the documents filed by the parties. It is to be noticed that the applicant had made his declaration at the time of entry into service that his date of birth was 13.3.1934 and he had put his signature in English and had also written the date of birth in his own pen both in words and figures which were duly attested by the Attesting Officer and also by the then Post Master. This declaration was given by the applicant in the year, 1955.

10. The learned counsel for the respondents has produced the service book (serviceroll) of the applicant, which I have perused and the facts stated above are clearly borne out from the service record. It is also significant to mention that the date of birth and the signature of the applicant are in the same pen and ink and the date of birth are mentioned both in figures as well as in words in the pen of the applicant himself. The service book further would show on perusal that it was re-attested on 13.12.1962 and the applicant himself had put his signature on 13.12.1962 therefore it is obviously clear without any ambiguity that the applicant had knowledge since 1955 the year when he entered in the service till 1962 that his date of birth was 13.3.1934 entered in his service book duly attested by competent authority. That being the position the applicant cannot turn round and say that he had no knowledge that the date of birth recorded



in service book was 13.3.1934.

11. Note 5 below fundamental Rule 56 published as SO no. 3997 dated 15.12.1979 in the gazette of India clearly lays down that an alteration of date of birth of Government servant can be made with the sanction of a Ministry of department of the Central Government, or ----- in which the Government servant is serving, if

(a) a request in this regard is made within 5 years of his entry into the Government service.

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12. In the instant case, the applicant had knowledge about the date of his birth since the time of his entry in the service and even subsequently when he had signed the service book again on 13.12.1962 and further at the time when he had filed application for G.P.F. withdrawal in the year, 1986 in that application also he had stated his date of retirement as 31.3.1992 taking into account the date of his birth as March, 1934. From these facts, it cannot be said that the applicant had no knowledge about the entry of his date of his birth in the service record as 13.3.1934. He never attempted within 5 years of his entry in the service to get it corrected even though he has got his school leaving certificate etc. which he has sought to produce here at belated stage and that too before the respondents at the time when he was going to retire. In that view of the matter, it appears to me that by his own conduct, the applicant had acquiesced and taken up for granted that his date of birth as declared by him at the time of entry in the service was correct. In that view of the matter, the case of the applicant is barred by the principles of acquiescence.

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13. In the result, this application has got no merit and is dismissed, but in the circumstances, there will be no order as to cost.

Ashok Kumar Singh
Member-J
16/4/93

Allahabad Dated: 16. 4 93

(jw)