

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1637 of 1993

Allahabad this the Eleventh day of ~~December~~ 1999

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

Hari Kirtan Ram &/o Ram Sunath Ram/o I-1, Out
House, Plant Depot Colony, Mughalsarai, Distt-
Varanasi.

Applicant

By Advocate Shri S. K. Dey

Versus

1. Union of India through the General Manager,
E. Rly. Calcutta-1.
2. The Chief Personnel Officer, E. Rly. Calcutta-1.

Respondents

By Advocate Shri A. K. Gaur

O R D E R

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

Shri Hari Kirtan Ram has brought this application under section 19 of the Administrative Tribunals Act, 1985 to get corrected his date of birth. As per official record, his date of birth is mentioned as 10.7.1940 whereas he claims it to be as 10.7.1948.

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2. As per the facts of the case, the applicant entered into railway services in 1972 as substitute in the Eastern Railway Inter College, Mughalsarai. In the year 1975, he was sent for medical examination and was posted as Farras w.e.f. 10.07.1975. Presently he is working as Lab Attendant since 1987. It has also been mentioned that when he was being considered for promotion in the year 1987, he came to know about the date of birth, as recorded in his service record, and immediately thereafter he moved to get it corrected. The department has finally taken his date of birth as 1940, therefore, he has come up before the Court for the direction. In support of his contention in respect of his date of birth he has relied upon two school leaving certificates in which his date of birth is 10.7.1948 and also a medical certificate in which the date of birth is mentioned as 10.7.1948.

3. The respondents have contested the case and filed counter-affidavit and have pleaded that the actual date of birth, as per service record, is 10.7.1940 and the applicant has put his signature in particulars of his service acknowledging this date of birth as to be corrected. Regarding school leaving certificate, it has been contended that the same could not be verified from the Institution wherefrom they are said to have been issued. Regarding mention of age in the medical certificate issued by the medical department of the railways, it has been contended that the mention of digits in the column

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of age is suspicious and it appears that digit '0' has been altered into digit '8'. The applicant has filed rejoinder affidavit to this counter affidavit.

4. Considered the arguments placed from the either side and perused the record.

5. It is undisputed legal position that the Courts should be very cautious in allowing the O.A./petitions where the applicant seeks change in his date of birth after a lapse of several years but it is also very clear that the rightful interest of an employee cannot be ignored.

6. In the present matter, it is not in dispute that the applicant was initially appointed in the railway on 03.4.1972. Incase his birth year is taken as 1940, it will come out that in the year 1972, he was 32 years of age and at that age there could not be a fresh appointment, unless there is order for age relaxation, which is not in the present case.

7. It is also from the record of the respondents that as per medical certificate, copy of which has been annexed with the counter-affidavit, in the age column "10.4.1948" is visibly mentioned. Incase there was any doubt, that the last digit has been converted from the digit '0' to digit '8', the respondents must have got it inquired from the source of issue, which is a hospital of railway department itself and the other part of this medical certificate

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must have been kept in record of the hospital. ~~where there~~
~~could be~~ ~~Their~~ substantive and concrete direct evidence
~~is possible that the~~ at the option of contesting
party itself, the suspicion, surmises and individual
privileging of observation cannot be prevailed.

8. With the above facts in view, the
respondents are directed to reconsider the matter
and determine the age of the applicant keeping in
view the observation of this Tribunal as made above,
and correct the date of birth in service record acc-
ordingly, if it is then so required. The U.A. is
disposed of accordingly. No order as to costs.

See margin

Member (J)

/ M. M. /