

3

An
2

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Registration O.A.No. 254 of 1993

Mahadeo Applicants.

Versus

Union of India & ors. Respondents.

Hon'ble Mr. A.K.Sinha, Member-3

Mahadeo Singh, the applicant has prayed that the respondents be directed to treat the date of birth of the applicant as 10.1.1939 which was originally recorded in the service record and also prayed that the order dated 13.10.1990 arbitrarily changing his date of birth from 10.1.1939 to 6.5.1935 be quashed.

2. The contention of the applicant is that the date of birth of the applicant in service record was 10.1.1939 and without giving any opportunity of hearing, the respondents have changed it to 6.5.1935 which is against the principles of natural justice, and, therefore, he has submitted that the impugned order should be quashed and the respondents be directed to treat his date of birth as 10.1.1939.

3. The respondents have appeared on notices and filed their Counter. In paragraph 4 of the Counter Affidavit, it is stated that the applicant was initially appointed on Casual basis on 7.5.1963. The applicant being illiterate produced an affidavit dated 24.4.1963 stating therein his date of birth as 10.1.1939 which was recorded in his service book.

4
The Medical Officer has assessed his age at the time of entry in service as 28 years and on that

basis, his date of birth was calculated to be 6.5.1935. In course of the argument, it was fairly submitted by the learned counsel for the respondent that regarding the correction of date of birth originally recorded in the service record of the applicant as 10.1.1939 was changed to 6.5.1935 on the basis of medical opinion without giving any opportunity to the applicant in this regard.

4. From the facts disclosed from the pleadings of the parties, it is obviously clear and is an admitted position that in the service record on the basis of the affidavit sworn by the applicant, the date of birth of the applicant was recorded as 10.1.1939 but, subsequently, it was changed to 6.5.35 on the basis of the medical opinion without giving the applicant any opportunity in this regard which is against the principles of natural justice. It is now a settled principle of law as laid down by the Hon'ble Supreme Court in Dr. Binapani's case reported in AIR 1967 Supreme Court, page 1269 at page 1272 that

"even an administrative order which involves civil consequences, as already stated, must be made consistently with the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof and after giving an opportunity to the first respondent of being heard and meeting or explaining the evidence."

5. Keeping this settled principle of law in view and considering the facts of this case, it is obviously clear that no change in the service record of the applicant as regards date of birth could have been brought about by the respondents without giving a prior information and opportunity of hearing to the applicant. It is an admitted position that in the

instant case, as stated above, no such opportunity of hearing was ever given to the applicant and the respondents arbitrarily changed the date of birth from 10.1.1939 to 6.5.1935 behind the back of the applicant, which is against the principles of natural justice.

5. In that view of the matter, the impugned order as contained in Annexure A-3 dated 13.10.1990 changing the date of birth of the applicant from 10.1.1939 to 6.5.1935 is hereby quashed and set aside, and the respondents are directed to treat the date of birth of the applicant as 10.1.1939 which was originally recorded in the service record with all consequential benefits and the applicant shall be deemed to be in service with all consequential benefits.

6. In the result, this application is allowed, but, in the circumstances, there will be no order as to costs.

Ashok Kumar Singh
Member (J)

6/7/93

Allahabad Dated: 6.7.93

/jw/