

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 265 of 1993

Allahabad this the 20th day of January, 2000

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

Sri Giraja Shankar Tewari, Son of Late Sri Ram Pati Tewari, Senior Commercial Clerk Satraon, North Eastern Railway, Varanasi Division through his Wife Smt. Chandrika Devi, R/o Village Parasia Tewari, Post Gaura Jai Nagar, District Deoria.

Applicant

By Advocate Shri S.N. Srivastava

Versus

1. Union of India through Chairman, Railway Board, Rail Bhawan, New Delhi-110001.
2. General Manager, North Eastern Railway, Gorakhpur, Uttar Pradesh.
3. Railway Board through its Chairman, Railway Board, Rail Bhawan, New Delhi-110001.
4. Divisional Commercial Manager, North Eastern Railway, Varanasi.
5. Chief Medical Superintendent, North Eastern Railway, Varanasi.
6. Chief Medical Officer, North Eastern Railway, Gorakhpur.

Respondents

By Advocate Shri Amit Sthalekar

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O R D E R (Oral)

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

Shri Giraja Shankar Tewari has come up seeking the relief to issue direction to the respondents authorities to correct the date of birth of the applicant as 01.2.1941 in his service record and to not to retire him on 28.2.1993 and also to treat the applicant to be in-continuing in service till 31.3.1999 and not to interfere in his functioning as railway servant.

2. As per the applicant's case, his date of birth has been mentioned in his service record as 26.2.1935 as against his actual date of birth being 01.2.1941. The applicant has mentioned that he was appointed as Class IV employee and joined on 21.7.1959. At that time, he was only class VIII passed person and subsequently he passed his High School Examination conducted by the Board of High School and Intermediate Education Uttar Pradesh in the year 1963. With these mentions he has asserted that his date of birth is 01.2.1941, which is mentioned in the copy of School Registration and in the High School certificate. The applicant has further mentioned that when he came to know that his date of birth has wrongly been entered in the service record, he made several representations but his date of birth has not been corrected by the department and therefore, he has come up for the relief, as stated above.

3. The respondents have contested the

See page ..pg.3/-

:: 3 ::

case and mentioned that the applicant has already retired on 28.2.1993 on attaining the age of superannuation being 58 years and also mentioned that at the time of appointment, the petitioner declared his date of birth as 26.2.35 and after such lapse of time and even after his retirement, there is no justification to get his date of birth changed in the service record and to allow him further period in the service. In the counter-reply, a reference has been made to C.A.-1 which is copy of 'B' card in respect of applicant service, in which his date of birth also was mentioned as 26.2.1935 and Annexure C.A.-2 which is certificate from D.O.S., in which his date of birth has been mentioned as 26.2.1935 and the applicant has put his signatures on 22.01.65 26.2.1935 acknowledging the receipt of the same.

4. Heard, the arguments placed from either side and perused the record.

5. Learned counsel for the applicant emphasised that as soon as the applicant came to know that his date of birth has wrongly been entered in the service record, he moved the department to get it corrected. He also mentioned that when he joined the service, he had passed class VIII and the copy of Scholar registration, issued at that time, mentioned his date of birth as 01.2.1941 and the same date of birth is mentioned in his High School certificate and

See page ... pg. 4/-

therefore, he is entitled to the relief sought for.

6. Learned counsel for the respondents mainly assailed the case of the applicant on the ground that at the time to ~~of~~ his retirement, he has approached the court to get extended his superannuation, ^{and} getting changed his date of birth which is not permissible under law and is also barred by limitation. Learned counsel for the respondents ~~referred~~ has referred the law handed down in A.I.R. 1993 Supreme Court Page 1367 Union of India Vs. Harnam Singh, in which it has been observed that request for correction in date of birth after long period of time shall ordinarily be refused. In another case 1997) IV S.C.C. 647 Union of India vs. Ramaswamy and Others, it has been held that the age declared at the time of recruitment, shall be accepted as date of birth of such person and there would be no occasion to even entertain an application for alteration in the date of birth. Learned counsel for the respondents has also pressed that the application is barred by limitation as provided under Section 21 of the Administrative Tribunals Act, 1985.

7. Keeping in view the above facts and circumstances of the matter, it is found that the move to get date of birth corrected is very much delayed ~~occurred~~ and at a very belated stage when the applicant was going to retire and now at this point ^{already} of time when the applicant has ~~retired~~ for 7 years

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Sub a.m.