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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

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O.A. No.1901 of 1993

Dated: 6.9.1995

Parsottam son of Dalla, R/o Gharchit,
P.O. Bhojapur, Distt
Varanasi. APPLICANT.

(By Advocate Sri S.K. Dey & Sri S.K.Mishra)

VERSUS

1. Union of India through the G.M.
E.Rly. 17 Netaji Subhas Road,
Calcutta-1.
2. Sr. D.P.O. E. Rly,
Mughalsarai, District
Varanasi. RESPONDENTS.

(By Advocate Sri A.K.Gaur)

O R D E R

(By Hon.Mr. S. Das Gupta, Member(A))

This application has been filed under Sec. 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents to reinstate the applicant in service by amending his date of birth.

2. The applicant's case is that he entered the Railway Service as a Casual Gangman on 1.4.1963 and he was considered for regular absorption in May, 1973. At that time he was medically examined and the physical fitness certificate annexed as Annexure-A 1 indicated that his age was 27 years. On 7.8.1975, he was posted as a Gangman and his service book was prepared in 1978 but his date of birth was wrongly recorded as 5.3.1927.
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The applicant's case is that on the basis of the erroneous date of birth recorded in the service book he was retired on 31.3.1985 whereas he should have actually ^{been} retired on 31.5.2004 on the basis of the age indicated in the medical fitness certificate.

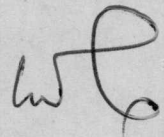
3. It is seen from the averments that there is not even a whisper that the applicant had represented to the respondents for amendment of his date of birth prior to his retirement. Even if he had made such representation, it may not have been acceptable on account of the delay and laches in terms of the Law laid down in the case of Harnam Singh. The applicant is now seeking advantage of the decision given by a Bench of this Tribunal in the cases filed by two other colleagues of the applicant regarding the amendment to the date of birth. These decisions are totally ~~in personam~~ and do not come to any assistance of the applicant. The applicant's case must stand or fall on the merits of its own plea.

4. As already pointed out, the applicant did not even make a request for amendment to the date of birth prior to the retirement and cannot, therefore, state now that he should not have been retired when he was actually retired on the basis of the date of birth recorded in the service book. The retirement had taken place way back on 31.3.1985 and thus the cause of action has become totally stale by efflux

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of time. The application is thus liable to be dismissed on the ground of limitation alone. The decision in the case of his colleagues cannot give him a fresh cause of action as was held in the case of Jacob Abraham Vs. U.O.I.(1994)28 ATC810. Moreover, the application is also totally devoid of merit and is dismissed accordingly. Though, it is a fit case for awarding costs against the applicant, in view of the fact that he has already retired, I refrain from doing so.



MEMBER(A),

(N.U.)