

(4) A2/2

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 1926 of 1993

Dated: 23rd of May. 1995

Sudama Prasad,  
S/O Late Shri Shaker Lal,  
Aged about 53 years, Vehicle Mechanic,  
508 Army Base Workshop,  
Allahabad Fort, Residing at Kacchi Sarak,  
Talab Nawalrai,  
Krishna Nagar, Allahabad.

..... .... Applicants.  
By Advocate Shri A.B.L.Srivastava

Versus

1. Union of India,  
through D.E.M.E. (Civil)  
Army Head quarters,  
D.H.Q. New Delhi.
2. The Commandant,  
508 Army Base Workshop.  
Allahabad Fort,  
Allahabad.

..... .... Respondents.

By Advocate Shri N.B.Singh

\* \* \* \*

Hon'ble Mr. S.Das Gupta, Member-A  
Hon'ble Mr. T.L.Verma, Member-B

(By Hon'ble Mr. T.L.Verma, J.M.)

This application under Section 19 of the  
Administrative Tribunal's Act has been filed for  
quashing impugned order dated 29.9.1993 whereby  
the request of the applicant for making correction  
of his date of birth in his service record has been  
rejected and for issuing a direction to the  
respondents to record his date of birth as  
17.11.1937 in place of 17.1.1935.



2. The applicant was appointed as Motor Mechanic in the year 1960. According to the applicant, his date of birth was incorrectly recorded in his service book as 24.1.1935 in place of 17.11.1937. When the discrepancy in the date of birth came to the notice of the applicant, it is stated, he made inquiries from his mother in that regard and learnt that his date of birth was 17.11.1937. He, thereafter, made inquiry from the Municipal Corporation which confirmed that his date of birth has been recorded as 17.11.1937 in the Birth Register of the Corporation. He, therefore, obtained copy thereof and submitted a representation to the concerned authority for making necessary correction of his date of birth in his service book. The representation filed by the applicant, however, was rejected. He, therefore, filed O.A. No. 549/91 for issuing a direction to the respondents to correct his date of birth in his service record. The application filed by the applicant was disposed of by order dated 26.11.1992 wherein, the following direction has been issued;

"Accordingly, the respondents are directed to consider the plea of the applicant for correction of the order by which the application has been rejected dated 19.8.1990 is quashed. The respondents are directed to consider the plea of the applicant for correction of the date of birth after making due inquiry after giving an opportunity to the applicant. Let this be done within a period of 4 months. The applicant shall appear before the officer concerned within one month i.e. on 28.12.1992 who will make an inquiry in this matter. The applicant shall tender at the evidence. In case, after hearing the applicant taking into consideration his evidence the officer concerned come to the conclusion that his -..... pg.3/-

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date of birth was wrongly recorded, the same may be corrected and the benefit of the same may be given to him. But even if thereafter from the documents and evidence by a speaking order comes to the conclusion that the date of birth was rightly recorded in the service record, it cannot be corrected. This application shall stand dismissed. No order as to costs."

3. According to the applicant, he tendered the photo copy of the birth register of the Municipal Corporation and Medical certificate as evidence in proof of his correct date of birth i.e. extract of birth register (Annexure A-3) and copy of medical certificate (Annexure A-4) ~~to~~ the respondent No. 2. The respondents, it is stated have passed impugned order dated 29.9.1993 (Annexure A-1) declining to make correction in the date of birth of the applicant in his service record as prayed for by him without holding inquiry as directed by the Tribunal.

4. In view of the directions issued by the Tribunal in O.A. No. 549/91, the only question that falls for consideration is whether the respondents have held inquiry as contemplated in the direction given by this Tribunal or no such inquiry was held as alleged by the applicant. In case, it is held that inquiry was held and the concerned authority has come to the conclusion on the basis of the evidence adduced that the date of birth was correctly recorded, in that case, the application will stand dismissed.

5. The respondents have resisted the claim of the applicant interalia on the ground that the impugned order has been passed after holding enquiry as directed by this Tribunal, and as such there was nothing to be adjudicated. In view of the pleadings of the parties the only question that falls for <sup>our</sup> consideration is ---- whether the respondents have passed the impugned order after holding enquiry in terms of directions issued by this Tribunal.

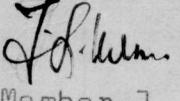
6. We have heard the learned counsel for the parties and perused the record. We have noticed that the respondents by letter dated 23.3.1993 (Annexure -5) directed the applicant to appear in person before the Col. Administration and present evidence in support of his new date of birth. He appeared before the enquiry officer pursuant to the above direction and tendered copy of birth register (Annexure-3) and medical certificate(Annexure-4) in proof of his new date of birth. The enquiry officer, on a consideration of the evidence tendered by the applicant held that the claim of the applicant cannot be accepted. The appointing authority, on a consideration of the enquiry report, declined to accede to the request of the applicant to <sup>com. and pl.</sup> ~~rectify~~ his recorded date of birth. The learned counsel for the applicant submitted that the exercise gone into by the respondents does not amount to an enquiry in terms of the directions issued by this Tribunal. The dictionary meaning of the 'Inquiry' as given in Concise Oxford

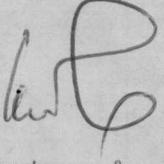
Dictionary is asking questions (official), investigation and according to the Lexicon Webster Dictionary 'Inquiry' means seeking of truth, information or knowledge, investigation to the research, the act of inquiry and investigation, The respondents have in our opinion by directing the applicant to appear in person before the Col. Administration who was the officer appointed to make inquiry in the matter and furnish evidence in his possession to support his claim regarding his new date of birth complied with the requirement of holding inquiry. The applicant on receipt of the above notice, should have produced both oral and documentary evidence in his possession in support of his claim if he is ordered. He seems to have tendered the copy of the birth register of the Municipal Corporation and certificate granted by a Doctor. Both these documents admittedly, state that date of birth of the applicant is 17.11.1937. The appointing authority, for reasons recorded in his order has declined to accept the same as conclusive in nature and to interfere with the recorded date of birth in the service book of the applicant.

6. The respondents in view of the above, cannot be said to have passed the impugned order without holding the inquiry. We are satisfied that after the notice was issued and served upon the applicant to appear before the inquiry officer and produce evidence in his possession in support of his claim the ball was in the court of the applicant and it was for him to have petitioned the inquiry officer to call the original birth register from the Municipal Corporation or the person who prepared the copy of the birth register filed by him in support of his claim to prove the same as secondary evidence. In the above circumstances, the conclusion arrived at by the appointing

Authority cannot be said to be not supported by evidence. In that view of the matter, we are of the view that in exercise of the power of judicial review, we ~~cannot~~ re-assess the evidence adduced by the applicant before the inquiry officer and arrive at an independent conclusion as a Court of ~~appeal~~

In that view of the matter and having regard to the direction given by the Tribunal in D.A. No. 549/91, the applicant has no cause of action for this application and the same be and is hereby dismissed as devoid of merit. There will be no order as to costs.

  
Member-J

  
Member-A

/jw/