

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 650 of 1993

Allahabad this the 01st day of February, 2000

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

Bimal Kumar Roy, aged about 64 years, son of Late Sachindra Mohan Roy, R/o B 13/42 Sonarpur, Varanasi.

Applicant

By Advocate Shri V.K. Srivastava

Versus

1. Union of India through its General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Rail Manager, North Eastern Railway, Varanasi.

Respondents

By Advocate Shri V.K. Goel

ORDER (Oral)

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

Shri Bimal Kumar Roy has come up with the prayer that the respondents be directed to quash the order of retirement passed by the respondents on the basis of his date of birth as 01.3.1926 and to further quash the orders dated

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27.11.1990 and 25.01.1991 through which his representations for correction of date of birth have been rejected.

2. As per applicant's case, the applicant was appointed to the post of Assistant Station Master, which he applied in response to advertisement and for which the minimum educational qualification is High School ^{hence} and he filed his High School certificate at the time of appointment, alongwith application in which his date of birth has been mentioned as 01.3.1929 but the respondents have wrongly entered his date of birth as 01.3.1926. The representation of the applicant in this regard has also not been favourably entertained by the respondents and, therefore, he has come up before the Tribunal.

2. The respondents have contested the case and filed the counter-affidavit with the mention that according to service record, the date of birth of the applicant is 01.3.1929. It has also been mentioned that the applicant has not filed his High School certificate in original or copy thereof and therefore, this contention ^{in this regard} from the ~~applicant~~ is not tenable. It has also been clarified that the applicant was initially appointed as Relieving Signaller and, therefore, no occasion arose to file the copy of the High school certificate in support of his educational qualification or in proof of his date of birth.

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3. Heard, the learned counsel for the applicant as well as the respondents and perused the record.

4. Learned counsel for the applicant has pressed that the date of birth as mentioned in the High school certificate is taken as conclusive proof to that effect and, therefore, the date of birth of the applicant which has been mentioned in the High school certificate as 01.3.1929 shall be taken as correct date of birth. He has also pointed out that in the periodical medical examination, his date of birth has been entered as 01.3.1929 and there is no reason to disbelieve the same. He has also referred that in the seniority list, the date of birth column against the name of the applicant, has been left blank without any entry therein which shows malafide intention of the respondents.

5. Learned counsel for the ~~applicant~~ ^{respondent} has emphasised that the applicant has never filed the copy of the High School certificate with the respondents and even in his O.A. or in any application before the Tribunal during the present proceedings, he has not submitted any proof to the effect that he ever passed High School examination or any High School certificate was issued to him. Even at the time of argument, learned counsel for the applicant has failed to present or referred any High School certificate submitted by the applicant and on this count, learned counsel for the respondents submitted that this argument is ^{for} only devoid of any merit. Learned counsel for the respondents has also pressed

that this O.A. has been moved in the year 1993 and the applicant has already been retired on 29.2.1984 and, therefore, this prayer of the applicant ~~cannot~~ even be considered in view of the observation by Hon'ble Apex Court in Union of India Vs. K.H. Pandija J.T. 1995(2) S.C. page 365 and again followed in State of Orissa Vs. R. Patnayak J.T. 1997 (4) S.C. page 663, in which a clear law has been ^{laid} handed down that evidence produced subsequently during or after service, is of no avail as the applicant himself endorsed the service record of date of birth and the claim for alteration of date of birth after inordinate and unexplained delay on the eve of retirement, must be scrutinised carefully and interference made sparingly. The learned counsel for the respondents has also invite attention towards the fact that the applicant retired on 29.2.1984 and preferred representations during 1989 to 30.8.1990 and lastly on 26.11.1990, which were decided on 27.11.1990 but this O.A. has been filed in the year 1993 and, therefore, it is grossly barred by limitation of time as provided under Section 21(2) of the Administrative Tribunals Act. On this point, the reply from the side of the applicant, that since the matter has already been admitted for hearing on 28.4.1993, this objection cannot be accepted, is not sufficient because admission of the case ~~is~~ without specific mention that the delay is condoned, does not automatically condones the delay or bar of limitation is lifted.

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For the above, I find the case is not

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only devoid of merit but is also barred by limitation of time as provided under C.A.T. Act and the same is dismissed accordingly. No order as to costs.

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Member (J)

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