

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION No.168 OF 1993

CORAM : Hon 'ble Mr.S.K.Agrawal, Member(J)

Murari, r/o. Village Mahrajganj (Toia Mutanwa),
Post Parmeshwarpur, District Gorakhpur.

.....Petitioner

(By Shri Sanjay Kumar, Advocate)

Versus

1. Union of India,
Through General Manager,
North Eastern Railway,
Gorakhpur.
2. Chief Workshop Manager (Bridge),
North Eastern Railway,
Gorakhpur.

.....Respondents.

(By Shri A.V.Srivastava, Advocate)

ORDER

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


In this original application applicant makes a prayer to direct the respondents to correct the Date of Birth of the applicant from 1-7-1931 to 1-7-1937 and to quash the notice dated 30-6-1989 and order dated 20-10-1992.

2. In brief facts of the case as stated by the applicant are that the Date of Birth of the applicant according to service record and Birth Certificate given by Gram Samaj of his village is 1-7-1937 and on several occasions petitioner has inspected his service record wherein his date of birth was mentioned as 1-7-1937, but all of sudden he was shocked to receive a notice dated 30-6-89 by District Controller of Stores to retire the applicant from 30-6-1989. It is stated

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that notice has to be given at least six months before the date of retirement and before 30-6-89 the applicant had no knowledge about the change of his date of birth from 1-7-1937 to 1-7-1931. The applicant filed representation on 31-8-1989 requesting to correct his date of birth and further representations on 8-9-89, 12-10-89 and 24-4-91, but with no result. However, the representation dated 4-2-92 was decided on 20-10-92. It is stated that tampering or over-writing in the date of birth of the applicant has been done to which applicant has no knowledge before he receives the notice to retire. Therefore, applicant has filed this original application with the aforesaid prayer.

3. Counter was filed. It is stated in the counter that applicant was initially appointed on 5-4-1956 and and on that date his date of birth was recorded as 1-7-1931 according to which the applicant was due to retire on 30-6-1989 on attaining the age of superannuation. It is stated that over-writing and manipulations have been made with respect to the date of birth in a card and other papers, accordingly the entire matter was enquired into and it was found that date of birth of the applicant is 1-7-1931 not 1-7-1937. Therefore, the applicant was rightly retired on 30-6-1989. It is also stated that the applicant has applied for advance from the Provident Fund, on that applicant also his date of birth was recorded as 1-7-1931 and applicant has not case in his favour for change of date of birth from 1-7-1931 to 1-7-1937. Therefore this original application is devoid of any merit and is liable to be dismissed.



4. Rejoinder was also filed reiterating the facts stated in the original application.

5. Heard the learned lawyer for the applicant and learned lawyer for respondents and perused the whole record and the original record produced by the Departmental Authorities.

6. F.R.-56 provides that any objection regarding age/date of birth cannot be entertained beyond 5 years from the date of his appointment.

7. In Rule-225 of Indian Railway Establishment Mannual, this limitation is only 3 years.

8. In Union of India and Others Vs. Harnam Singh 1993 S.C.C. (L&S) 375 it was observed by the Apex Court that even if the applicant has good and genuine case no request for date of birth can be granted, incase any request or representation is filed after limitation. This judgement delivered by the Apex Court has been followed in the case of Bern Standard Co. Ltd. Vs. Dinabandhu Mazumdar A.I.R. 1995 S.C. 1499, where Apex Court held that ordinarily High Court should not entertain a writ petition filed by an employee of the government or its instrumentality towards the fag end of his service and this view also get support from a leading case 'P.C. Dongra Vs. Union of India 1998 (38) A.T.C. 111'.

9. Learned lawyer for applicant has submitted that in the A & B card the date of birth of the applicant is recorded as 1-7-1937 and in the Kutumbh Register also the date of birth of the applicant has been shown as 1-7-1937. Therefore it is a case of pre-mature retirement treating the date of birth as 1-7-1931. The learned lawyer for respondents has objected to these arguements.

10. I gave thoughtful consideration to the rival contentions of both the parties and perused the whole record.

11. In the instant case the copy of Kutumbh Register was not produced by the applicant at the time of appointment. The copy of this register has been produced after filing this original application. On the perusal of A & B card it also becomes abundantly clear that the date of birth has been changed subsequently by over-writing/manipulation meaning thereby word '1' has been made word '7' subsequently which can be very well seen by naked eye. The service book of the applicant also shows ~~his~~ date of birth of the applicant as 1-7-1931 and in application dated 5-8-1983 and 23-3-84 for House Loan the date of birth has been mentioned as 1-7-31. The department has enquired the matter regarding the date of birth of the applicant and after enquiry it was found that date of birth of the applicant is 1-7-1931 and not 1-7-1937. Department has also noticed that it was subsequently changed by over-writing in A & B card, therefore the contentions of the applicant cannot be believed that his date of birth is 1-7-1937. The applicant has stated that the date of birth of his twin brother is also recorded as June, 1937, but this appears to be incorrect. Mr. Baldev who was superannuated at the age of 58 on 30-6-1991 his date of birth as per record is 1-7-1933. Therefore the contentions of the applicant that the date of birth of his twin brother is also recorded as June '37 is totally false and incorrect. Official record also does not show that applicant and



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Baldev are twin brothers. No reliable evidence has been produced by the applicant to prove the fact that his date of birth was 1-7-1937.

12. In view of the above discussion and the legal position as mentioned above, the applicant has no case of the interference by this Tribunal.

13. I, therefore, dismiss this original application with no order as to costs.

Date 26/3/99

/satya/

MEMBER (I) 26/3/99