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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Dated: 12.1.1957

Original Application No: 1385 of 1994

G.P.Sharma, S/O Late Shri S.L.Sharma  
Senior Inspector of Stores Accounts  
under Deputy Financial Advisor & Chief  
Accounts Officer (Construction) Central  
Railway, Jhansi. R/O RB II/639-C, Rani  
Laxmi Nagar, Jhansi (U.P.)

.... .... Applicant.

By Advocate Shri H.P.Pandey

Versus

The Union of India & Ors.

.... .... Respondents.

By Advocate Shri G.P.Agarwal

C O R A M

Hon'ble Mr. T.L.Verma, Member-J

O R D E R

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The applicant entered respondents service on 25.10.1962 as Accounts Clerk. At the time of his entry in service, his service book was prepared and his date of birth has been recorded as 7.7.1938. It is stated that on receipt of the High School Certificate in October, 1955, the applicant learnt that his date of birth has been wrongly recorded as 7.7.1938 in place of 7.7.1943. He, it is stated, sent application to the Secretary, Board of High School and Intermediate U.P. Allahabad through the Principal S.P.I. Inter College, Jhansi along with original

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High School certificate for making necessary correction. The Principal forwarded the application along with the original Matriculation certificate by letter dated 5.10.1955 (Annexure A-2). He is also stated to have informed the respondents vide letter dated 25.10.1962 that his actual date of birth was 7.7.1943 and that he has moved the Secretary Board of High School and Intermediate Examination for making necessary correction in his service book and also that the date of birth in his service book may be altered to 7.7.1943. He, thereafter, filed representations for making necessary correction. ~~after representations~~, Annexures A-4 to A-13. The respondents, it is stated, have turned <sup>a</sup> deaf ear to the representations filed by the applicant and have passed no ~~no~~ orders there on so far. The applicant had enclosed true copy of the birth certificate obtained from the Registrar of Birth & Death Municipal Board, Jhansi along with his representation dated 28.9.1992. Annexures A-12 & A-13 are reminders to the representation dated 28.2.1992. As the respondents have passed no order on the representations filed by the applicant, this application for has been filed ~~issuing~~ the directions to the respondents to alter the date of birth of the applicant in his service book from 7.7.1938 to 7.7.1943.

2. The respondents have contested the claim of the applicant. It has been stated in the Written Reply filed on behalf of the respondents that since the representations for correction in the date of birth of the applicant were not accompanied by any



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documentary evidence, no order on such petition was passed. The representation dated 28.9.1992 could not be considered as the same had been filed much after the time limit fixed by Railway Boards' letter No. E(NG) II 70-BR dated 4.8.1972 (Annexure CA-2).

3. I have heard the learned counsels for the parties and perused the record. According to the instructions issued by the Railway Board (Annexure CA-2), the representations for correction of the date of birth from employees who were already in service on 3.12.1971 may be entertained up to 31.7.1973. The respondents ~~had~~ <sup>do</sup> not denied to have received the representation, stated to have been filed by the applicant. No order on the representations filed by the applicant has been passed for the reason that the representations received before applicant 28.9.1992 were not accompanied by proof of the claim of the applicant and also on the ground that the application for correction had become barred in terms of instructions as contained in Annexure-CA-2 issued by the Railway Board. According to the instructions issued by the Railway Board, the employees who were already in service on 3.12.1971 were given opportunity to represent against their recorded date of birth up to 31.7.1973. The applicant who knew that his recorded date of birth is 7.7.1938, will be deemed to have knowledge of the said instructions. In case, the respondents had turned a deaf ear to his representations and had not taken any decision there on, the applicant ought to have moved the appropriate forum for redressal of

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his grievance. The applicant was sitting over the matter until he filed this application in July, 1994 barely, a year before his tentative date of retirement in July, 1994. The Supreme Court, in Executive Engineer Vs. Rang Dhar Mallik reported in (1993) SCC (L&S) page 276 examined Rule 65 of the Orissa General Findings Rules, which provides that the representation made near about, time of superannuation for correction of date of birth shall not be entertained. The respondent who was appointed on 16.11.1968 made a representation for change in his date of birth in his service register. The Tribunal issued a direction as sought for by the respondent. The Supreme Court set aside the order of the Tribunal saying that the claim of the respondents that the date of birth was 27.11.1938 instead of 27.11.1928 should not have been accepted on the basis of document in support of his said claim.

4. In view of the above principle of *laissez faire* *laid down* by the Supreme Court, the delay on the part of the applicant in moving the appropriate forum for alteration in his recorded date of birth, is unexplained and as such, cannot be condoned.

5. In addition to the above, the Supreme Court in Union of India Vs. Harnam Singh reported in 1993 SCC (L&S) page 375 have held that it is open to civil servant to claim correction of his date of birth, if, he is in possession of irrefutable proof relating to his date of birth as different from the one, earlier recorded and even if there is no

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period of limitation prescribed for seeking correction of date of birth, the Government servant must do so without any unreasonable delay. The permissible period for making representation for correction of the recorded date of birth of the applicant had expired on 31.7.1973 and this application has been filed after a delay of long 21 years. This delay, obviously, is most unreasonable and cannot be ignored.

6. The Supreme Court in a recent ~~case~~ decision in Secretary and Commissioner, Home Department and Drs. Vs. R. Kirubakaran reported in (1994) 26 ATC has held as follows;

An application for correction of the date of birth should not be dealt with by the tribunal or the High Court keeping in view only the public servant concerned. Any such direction for correction of the date of birth of the public servant concerned has a chain reaction, inasmuch as others waiting for years below him for their respective promotions are affected in this process. This is an important aspect, which cannot be lost sight of by the court or the tribunal while examining the grievance of a public servant in respect of correction of his date of birth. As such, unless a clear case, on the basis of materials which can be held to be conclusive in nature, is made out by the respondent, the court or the tribunal should not issue a direction, on the basis of materials which make such claim only plausible. Before any such direction is issued, the court or the Tribunal must be fully satisfied that there has been real injustice to the person concerned and his claim for correction of date of birth has been made in accordance with the procedure prescribed and within the time fixed by any rule or order. If no rule or order has been framed or made, prescribing the period within which such application has to be filed, then such application must be filed within the time, which can be held to be reasonable. The applicant has to produce the evidence in support of such claim, which may amount to irrefutable proof relating to his date of birth. Whenever any such question arises, the onus is on the applicant, to prove the wrong recording of his date of birth, in his service books.

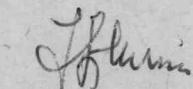
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From the above, it emerges that even where application for alteration of the date of the birth has been filed within time, then also, direction to alter the date of birth should not be issued unless a clear case on the basis of materials, which can be held to be conclusive in nature, is made out by the respondents. The case of the applicant on examination in the above premises, also, appears to be devoid of merit. The applicant has filed certificate purported to have been issued by the Registrar, Birth & Death Municipal Board, Jhansi in support of his claim that his date of birth is 7.7.1943. From the perusal of the copy of the birth certificate (Annexure A-1), it appears that the birth was registered on 25.9.1992 and copy of the birth certificate was issued on the same date. Admittedly, the date of birth has been recorded in the High School certificate of the applicant as 7.7.1938. The applicant was aware of the above fact right from the day ~~he~~, he received the High School certificate issued by the Board of High School and Intermediate in 1955. This is also an admitted fact that correction of the date of birth of the applicant has not, so far been made by the Board of High School and Intermediate in the High School certificate issued to the applicant. The applicant does not seem to have taken any effective step to ~~force~~ force the Board of High School and Intermediate to pass order on the representations, the applicant is stated to have filed for making necessary correction in regard to his date of birth in the High School certificate issued

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by the Board. In the circumstances, the date of birth as recorded in the High School certificate will be deemed to be final. Therefore, birth certificate obtained by the applicant on 25.9.1992 from Municipal Board, Jhansi against registration No. 2392/92 cannot be said to be conclusive evidence. On the basis of the material available on the record, I am satisfied that there has been no injustice to the applicant and his claim for correction of his date of birth has not been filed within reasonable time. The applicant, has, thus, not been able to prove that the date of birth recorded in his service register is wrong. Accordingly, this application is dismissed. There will be no order as to costs.

  
Member-J

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