

R2
2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH, ALLAHABAD

* * * *

Allahabad : Dated the 20 th day of October , 1995
ORIGINAL APPLICATION NO. 1431 OF 1994

QUORUM :-

Hon'ble Mr. S. Das Gupta, A.M.

Jhandu Singh son of Sri Bali Singh,
resident of Village and Post Office
Patanpur, District-Hamirpur.

(By Advocate Sri A.V. Srivastava)

..... Applicant

Versus

1. Union of India,

Through the Director General (Posts)

Dak Bhawan Sansad Marg, New Delhi.

2. Chief Post Master General,

U.P. Circle, Lucknow.

3. Superintendent of Post Officers,

Banda Division, District Banda.

4. Assistant Superintendent of Post Officers,

Sub Division Hamirpur, District-Hamirpur.

(By Advocate K.M. Sadhna Srivastava)

..... Respondents

W.L.

ORDER

By Hon'ble Mr. S. Das Gupta, A.M.

This Application has been filed challenging the order dated 7-4-1994 passed by Respondent No.4 by which the Applicant was retired with immediate effect. The Applicant has sought a direction to the Respondents to continue him in service till he attains the age of superannuation on the basis of his date of birth recorded in his Service Books as 20-7-1935 with all consequential benefits and arrears of pay. The Applicant was appointed as an Extra Departmental Mail Peon in 1965. It is stated that at the time of his initial appointment he had not only mentioned that his date of birth was 20-7-1935 but had also produced school leaving certificate in support thereof, and on this basis his date of birth was recorded as 20-7-1935. On that basis the Applicant would have retired in the year, 2000 on completion of 65 years of age. However, on 13-4-1994 when the Applicant went to attend his duties, he was orally informed by Respondent No.4 that his services were no longer required as he has been retired from service and charge of his post was given to one Sri Ram Singh on temporary basis. On making enquiries, the Applicant came to know that he had been retired from service on the basis of the impugned order dated 7-4-1994 issued by Respondent No.4. From this impugned

W.L.

A2
3

order he came to know that an inquiry has revealed that the year of birth of the Applicant is 1927 and, therefore, he had already completed his 65 years of age.

2. The Applicant has stated that throughout his service period, at no point of time there was any dispute regarding his date of birth and in fact several reports rendered by the Inspecting Officers after periodical inspection of the Branch Post Office in which the Applicant was working, his date of birth has been shown as 20-7-1935. The Applicant has further stated that he was not ~~aware of~~ ^{answering} any inquiry having been conducted with regard to the authenticity of his recorded date of birth.

3. The Respondents have filed a Counter Affidavit in which it has been stated that the Applicant was engaged on the post of EDMP on 1-2-1972. At the time of engagement, the Applicant himself had indicated his date of birth as 1927 in the descriptive particulars which was signed by him on 1-2-1927 and which also bears his thumb and finger impressions. The education qualification mentioned in the descriptive particulars is old Class Vth pass. On the basis of the date of birth indicated in the descriptive particulars, the Applicant was to be retired from the service and, therefore, the impugned order dated 7-4-1994 was issued retiring him from service. The Applicant has submitted school leaving

W.L.

certificate on 8-7-1990 issued on 1-7-1958. A photostat copy of this certificate is at Annexure-CA-2. It is ^{The Certificate} ~~view~~ of the Respondents that the Applicant had not submitted his school leaving certificate at the time of appointment, but later, school leaving certificate of Basic Primary Pathshala, Patanpur dated 15-3-1950 signed by Sri Devi Dayal, Headmaster was submitted by the Applicant but this certificate was found to be forged one on enquiry. A photostat copy of the inquiry report is at Annexure-CA-3, while a photostat copy of the school leaving certificate dated 15-8-1950 is at Annexure-CA-4. A comparison between the two certificates (Annexure-CA 2 and CA-4) reveals that in one certificate the applicant is shown as Class II pass and Serial No. in the Register is 580 whereas in another certificate he is shown as Class III pass and Serial No. entered in the Register is 116. There is also vast difference in the handwriting and signatures of the Headmaster although both are stated to have been signed by Shri Devi Dayal. All these, the Respondents contend, show that both the certificates produced by the Applicant are forged ones and the dates of birth entered in the certificates are not reliable.

4. In the Rejoinder Affidavit the Applicant has reiterated that at the time of his initial appointment, he had not only declared his date of birth as 20-7-1935 but had also produced school leaving certificate dated 15-8-1950. He has further stated that the entries

W.L.

made in the service records were not in his handwriting and moreover in other Govt. offices the date of birth is recorded both in words and figures indicating date, month and the year and in no Govt. offices only year of birth is recorded. He has also stressed that the enquiry which is stated to have been conducted by the Respondents was behind his back and was without affording him any opportunity to explain the circumstances

5. I have heard the Learned Counsels for both the parties and have also gone through the record.

6. The controversy in this case boiled down to the question as to what was the correct date of birth of the Applicant. The Applicant's case is that he had mentioned his date of birth as 20-7-1935 and had also produced school leaving certificate in support thereof at the time of initial appointment. The Respondents, however, claim that the Applicant did not produce any school leaving certificate at the time of his initial entry and has himself indicated his year of birth as 1927 and this was recorded in the ~~descriptive~~ particulars which was signed by him.

7. In respect of the civil servants the date of birth which is recorded at the time of entry in the service in the service book is prepared at that time will determine his date of retirement. The date so recorded can be changed during the course of service in accordance with law. In the case before me, in the column of date of birth in the descriptive particulars of the Applicant, year 1927 is recorded. This descriptive particulars also bear the signature of the Applicant and his thumb and finger impression.

wlf

The Applicant has not denied that these signatures or the finger impressions were ~~not~~ his. The date on which these entries were made appears to be 1-2-1972. These observations are based on a photocopy of the descriptive particulars placed at Annexure-CA-2 of the Counter Affidavit.

8. No doubt, it is somewhat ~~curious~~ to enter only the year of birth in the column of date of birth. ^{However,} After a lapse of so many years one ~~can~~ ^{cannot say} see how the date and the month of the birth were not recorded. There could be many explanations for this. But the fact remains that the year of his birth being recorded as 1927, the Applicant cannot claim that he had indicated his date of birth as 20-7-1935 at the time of entry in service. The Applicant was not illiterate and he had put his signature on the descriptive particulars in which year 1927 has been recorded as his date of birth. The Applicant would, therefore, have retired in 1992 on completion of 65 years of age. It is not clear how he was allowed to continue in service till 12-4-1994, but the fact remains that on the basis of year of birth recorded, the Applicant cannot claim that he should have been allowed to continue till 65 years of age on the basis of 20-7-1935 as his date of birth. The very fact that the Applicant has produced two different school leaving certificates with wide variations, also makes his claim in this regard as unreliable.

w/c

9. In view of the foregoing, I see no merit in this Application. The same is, therefore, dismissed. The interim order is vacated. Parties shall bear their own costs.



Member (A),

RBD/