

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 13th day of March, 2001

Original Application No. 228 of 1994

CORAM :-

Hon'ble Mr. SKI Naqvi, J.M.

Raja Ram S/o Shri Chhiddoo
R/o Tal Firoz Khan, Agra
employed as Fitter in
Central Ordinance Depot, Agra.
(Sri M.K. Upadhyaya, Advocate)

. Applicant

Versus

1. Union of India
Through Secretary, Ministry of Defence,
South Block, New Delhi.
2. The Director General of Ordinance Services,
Master General of Ordinance Branch,
Army Headquarters, New Delhi.
3. The Commandant,
Central Ordinance Depot, Agra.
4. Manager, Ordinance Factory,
Muradnagar, U.P.
5. The Garrison Engineer, Agra.
(Sri Ashok Mohiley/Km. Sadhna Srivastava, Advocates)

. Respondents

ORDER (O r a l)

By Hon'ble Mr. SKI Naqvi, J.M.

The applicant has come up seeking relief to the effect that it may be declared that the correct date of birth of the applicant is 19-11-1937 and he be superannuated accordingly.

2. As per the applicant's case, he was initially appointed as Ma³door on 19-11-1959 in the Office of

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Garrison Engineer, Agra. At the time of his appointment his age was recorded as 22 years on the basis of medical examination and thereby his date of birth was taken as 19-11-1937. After having remained posted in the Office of Garrison Engineer, Agra (respondent no.5) for five months only, he was declared surplus and was directed to join Ordinance Factory, Muradnagar where he was absorbed and taken on duty w.e.f. 26-4-1960. After his duty in the office of respondent no.4 i.e. Manager, Ordinance Factory, Muradnagar, he was medically examined and later on transferred to COD Agra and his date of birth was recorded as 3-5-1934 in the office of respondent no.4. ~~Then~~ ^{When} He came to know about his recorded date of birth in the year, 1968, he made a representation but could not get any response from any corner and it was vide Annexure-A1 that his date of superannuation has been taken as 31-5-1994 taking the date of birth as 3-5-1934. Against this order he has come up seeking relief as above, mainly on the ground that in absence of any documentary proof regarding the date of birth the date recorded by the appointing authority at the initial stage should have been taken to be correct as per Government of India direction No.3 given under Article 51 of Civil Services Regulations. Respondent nos.1, 2, 3 and 5 have filed their joint counter affidavit and respondent no.4 has filed a separate counter affidavit. It is the case of the respondents that when the applicant was declared surplus from the Office of respondent no.5 and was directed to join with respondent no.4 his service records were not seen and the same were prepared at the end of respondent no.4 where he was medically examined and as per Medical Officer's Report he was 27 years on 3-5-1961. Taking that date of birth his superannuation was determined and superannuated accordingly.

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3. Heard learned counsel for the parties and perused the pleadings and documents on record as well as service record of the applicant as produced by Sri Ashok Mohiley, which has been returned to him after hearing.

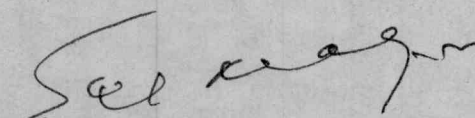
4. The whole case of the applicant rests on Annexure-A3 which mentions his date of birth as 22 years on 19-11-1937. As against it respondents have relied upon opinion of Medical Officer Incharge dated 3-5-1961 through the Medical Officer reported him to be of 27 years on that date. There is also reference to entry of service record mentioning his date of birth 3-5-1934 which has been attested by the applicant and he has put his thumb impression. Annexure-CA-5 is also the copy of the declaration in which the date of birth of the applicant has been mentioned as 3-5-1934 on 6-4-1971. This declaration ^{bears} ~~appears~~ the signature of the applicant and attested by two witnesses. The respondents were directed to produce the original of Annexure-CA-3 in which the date of birth of the applicant has been mentioned as 22 years on 19-11-1969, but the same has not been produced and a Supplementary Affidavit has been filed claiming therein that this old record is now not available. Some correspondence in this record has been brought on record to mention that the date of birth of the applicant has been ascertained through medical examination and the same has been entered in his service record.

5. This fact cannot be disputed that the applicant was medically examined and medical report was prepared and the applicant has put his L.T.I. thereon on 3-5-1961, a copy of which has been annexed as Annexure-A-2. There is also declaration from the side of Sri Raja Ram, the applicant, filed on 6-4-1971 which has been signed by him and has been attested by two witnesses which mentions his date of birth as 3-5-1934. This document has nowhere

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been disputed or explained from the side of the applicant as to under what circumstances he mentioned his date of birth as 3-5-1934 in his declaration which leads to presumption, that he declared his date of birth as 3-5-1934 on 6-4-1971 and now he cannot resile from it without giving ^{unrebutable} ~~unrebutable~~ reasons. It remains to be mentioned that the exemption from age bar has to be sought in respect of the applicant, which is 25 years on maximum side. Had the applicant entered at the age of 22 years as he claims, there would have been no occasion for this exercise for extension of age.

6. Learned counsel for the applicant has relied upon the case of Hari Singh Vs. State of Bihar, 2000 SCC(L&S) 832, wherein guideline has been given for determination of age and consequential date of superannuation but the facts in that case are very different from the present case, in view of the declaration by the applicant, mentioning his date of birth 3-5-1934. Further I find that the relief sought for in the OA cannot be provided. The OA is accordingly dismissed with no order as to costs.


Member (J)

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