

(S)  
Open court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH,  
Allahabad.

Dated This The 28th February, 1997.

By Hon'ble Dr. R.K.Saxena, JM.,

ORIGINAL APPLICATION NO: 541 of 1994.

Raja Ram son of Sri Narain Dass,  
Working as Highly skilled Painter  
Grade-II TicketNo. 2291, posted at  
Paint Shop, North Eastern Railway,  
Izzatnagar, Bareilly. .. petitioner.

(C/A: Sri Rakesh Verma.)

Vefsus:

1. Union of India through the General  
Manager, North Eastern Railway,  
Gorakhpur.

2. Chief Works Manager(Personnel).  
North Eastern Railway, Izzatnagar.

.. Respondents.

(C/Respds.Sri D.C.Saxena.)

P

2,

O R D E R . ( O R A L ) .

BY: Hon'ble Dr. R.K.Saxena, JM.

This is the application Under section 19 of the Administrative Tribunal's Act, 1985. The applicant seeks relief that his date of birth which has been wrongly mentioned in the Service record as 22.8. 1936, <sup>be</sup> directed ~~the respondents to~~ <sup>to</sup> correct the date of birth as 1.8.1940, and the applicant be allowed to retire on 31.8.1998.

2. The brief facts of the case are that the applicant entered into service under the respondents on 26.9.59. At the time of entry in the service, he had furnished a copy of Scholar-Register and Transfer Certificate indicating 1.8.1940 as the correct date of birth. It is stated that the applicant remained under a bonafide belief that the date of birth as was given by him, was recorded in the record. He could come to know about the incorrect date of birth being written when the seniority list dated 15.3.1991 was published; and his date of birth was shown as 22.8.1936. It is stated that the applicant made a representation but with no result. According to the applicant, another seniority list was published on 18.9.91 in which the incorrect date of birth was again shown. Again a representation was made but it appears that nothing was done. Ultimately, the applicant was served with a notice of retirement wide annexure (6) in which, the name of the applicant was shown at Serial No: 66 and he was to retire on 31.8.1994. Feeling aggrieved by this notice, the present O.A. has been filed.

3. The respondents have contested the case and filed a counter reply in which it is stated that the date of

3.

birth which was disclosed at the time of entry in service, was entered in the service record and it was 22.8.1936. It is further contended that after a long period of 32 years of service, the applicant had filed a copy of Transfer certificate of his school showing the present date of birth which has been claimed to be correct. The respondents contend that such a certificate which has been obtained after such a long period, was not reliable. Ultimately, it is pleaded that the notice of retirement was correctly given and the applicant was rightly superannuated on 31.8.1994.

4. The applicant has filed rejoinder reply reiterating the facts which have been brought in the O.A.

5. I have heard the learned counsel for the applicant and the counsel for the respondent and also perused the record. The main question for consideration is whether the applicant can be allowed after such a long gap of the period of service, to get his date of birth corrected. Their Lordships of the Supreme court in the case of 'Union of India: V/S Harnam Singh.' (1993) SCC 162 held that the maximum period in which the correction of date of birth, may be sought for the entry in service was 5 years. This view was taken on interpretation of Official Memorandum in which the period of five years was prescribed for correction of date of birth. The ~~reasableness~~ <sup>of</sup> the period of 5 years was also upheld. In this case, the applicant is challenging the recorded date of birth after 32 years. He admittedly entered in service in 26.9.1959 and the present O.A has been filed on 18.3.1994. No doubt the applicant has come with a plea that the incorrect of the date of birth, came to his knowledge only when

1  
2

4.

the seniority list was published in the year 1991, In view of the law laid down in the case of 'Union of India. v/s Harnam Singh' (Supra), this application carries no weight. In another case of 'Burns Standard Co., Ltd., and others. v/s Din Bandhu Majumdar and another' JT. 1995(4) SC 23, it was held by their Lordships of the Supreme court that ~~whatever the~~ date of birth was recorded in the Service record, it must be deemed final. It is also pointed out that if any change was allowed, it would create havoc and several settled matters shall be unsettled. When it was found that this principle of law was not being followed, their Lordships again observed in the Special Leave Petition No. 18332 of 1995 'Senior Horticulturist and another. v/s Mallayiah and Others' decided on 22.11.1995 that the law laid down in Burns Standard Co, Ltd., was not followed and a direction was given that the copy of the said judgment be circulated amongst all the High Courts and the Tribunals in the country.

6. In view of this legal position, I do not find any merit in the case. The applicant cannot be allowed to seek correction in the date of birth at this belated stage of 32 years of service. O.A. is, therefore, dismissed. No order as to the costs.

1. *Amberelle*

MEMBER (J).

rc/