

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO:- 562 OF 1994

TUESDAY, THIS THE 17 DAY OF DECEMBER, 2002

HON. MRS. MEERA CHHIBBER, MEMBER-J

Sardar Daleep Singh
Ticket No. 1757 SCP-15
G. Building 443,
s/o Sri Sardar Thakur Singh,
r/o Moh. Baruzai Peshawari,
H. No. D-1/80
Dist:- Shahjahanpur. Applicant.

(By Advocate:- Sri R.K.Gupta &
Sri K.C.Saxena --Absent)

versus

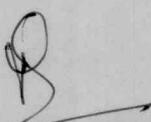
1. Union of India through
Secretary Ministry of Defence,
2. General Manager,
OCF, Shahjahanpur.
3. Addl. DGOF Group HQ
G.T.road,
Kanpur. Respondents.

(By Advocate:- Km. Sadhna Srivasta a)

ORDER (ORAL)

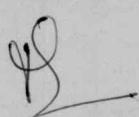
HON. MRS. MEERA CHHIBBER, Member-J

By this O.A, the applicant has sought a direction to the respondents to correct the date of birth as 9-9-1939 instead of 9-10-1937. It is submitted by the applicant that he was studying in class VIIth in the year 1957 when he left his studies and got himself enrolled with the Employment Exchange Shahjahanpur. He was appointed as unskilled labourer in the Ordnance Clothing Factory by recording his age as 21 years by visual observation without ascertaining it from him or demanding evidence about it and recorded his date of birth as



9-10-1937. It is further submitted by the applicant that since he was illiterate, he was made to sign on the dotted lines therefore, he signed the form without knowing what was being written in the service record. Subsequently when he came to know that his age has been wrongly mentioned in the service record he gave an application in the year 1989 to correct his date of birth but the same was rejected in the order dated 11-6-1993 and 12-8-1993. He has challenged these orders on the basis of school leaving certificate wherein his date of birth is shown as 9-9-1939 and the Transfer Certificate was issued on 22-1-1993.

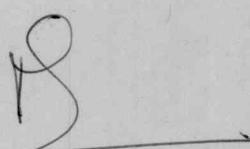
2. The respondents have opposed this O.A and have stated that applicant was appointed as Tailor 'D' on 10-10-1958 and since he did not produce any document or Educational Qualification Certificate at the time of his appointment, his date of birth was recorded as per the medical report and this statement given by the applicant himself. They have annexed the opening page of his service record wherein the applicant's age is shown as 21 years as on 9-10-1958 and his date of birth is shown as 9-10-1937, the column of Educational Qualification is left blank. This page is duly signed by the applicant and he has even corrected the spellings



of his name and initially it was written as Dalip which
was scored out and instead thereafter even in the
attestation form which was issued on 28-10-1958,
the age of applicant was shown as 21 years in column
seven and the attestation form is duly signed by
the applicant. In this attestation form the last
paragraph reads as under:-

"I certify that the foregoing information is
correct and complete to the best of my
knowledge and belief. I am not aware of any
circumstances which might impair my fitness for
employment under Government."

They have thus submitted that it was the applicant
who had himself given a statement about his date of
birth and after the said date of birth was recorded
he had duly signed the same. Therefore, he cannot be
turned around and say that his date of birth was wrongly
entered in the service book. Moreover, the applicant
has made contradictory statement on his own in the O.A
in as much as in Para 4-A he has submitted that he was
studying in class VIII th in the year 1957 while in
para 4-E he has stated that he was illiterate, therefore,
did not know on what paper he is signing and what are the
contents of the said documents. They have further
denied that any application was given by the applicant for
correction of date of birth in the year 1989 as
according to them the applicant gave his application
for the first time after about 33 years in 1993 only
by submitting a certificate in support of his educational



qualification that is IXth class failed in which his date of birth was shown as 9-9-1939. However, since it was filed after such a long delay the request of applicant was turned down in view of the judgments given by Hon. Supreme Court. They have thus submitted that there is no merit in the O.A and the same may be dismissed with costs.

Counsel for the respondents has relied on 1993 (2) SLR 42 (S.C) UNION OF INDIA VERSUS HARNAM SINGH, J.T 2001 (9) S.C 129 HINDUSTAN LEVERS LTD VERSUS S.M.JADHA and also JT 1997 (4) SC 660 and number of others judgment given on the point by Hon. Supreme Court. Counsel for the respondents has also relied on the judgment given by this Tribunal in similar other cases filed by the employees of Ordnance Factory itself which have dismissed by the Tribunal. Copy of the judgment taken on record.

3. I have perused the pleadings and heard learned counsel for the respondents.

4. Admittedly the applicant at the time of taking appointment had shown his age to be 21 years and had accepted his date of birth to be 9-10-1937 as he has affixed his signatures on the opening sheet of his service book and had further certified his age to be 21 years as on 9-10-1958 in the attestation form. Therefore, he cannot now turn around and say that he did not know about the date of birth entered in his service book by the respondents. Even otherwise, the applicant has himself submitted in para 4-A of the



application that he was studying in class VIIth in the year 1957 therefore, he can not claim to be an illiterate person and atleast would have known what is the age being recorded in the service book and what is the date of birth recorded in the service book. If he had left his studies in the year 1957 as submitted by him in the O.A itself, naturally he would have got the school leaving certificate also in which his correct date of birth would have been mentioned. So it was open to him to inform the administration about his correct date of birth if it was something different and what was being recorded in the service book. But he did not do so for reasons best known to him. I have seen the certificate relied on by the applicant. A perusal of same shows it was issued as duplicate on 22-1-1993 therefore, I would agree with the respondents that applicant could not have given the application in the year 1989 as is being alleged by him because this is the only document relied on by the applicant. The law on the subject of change of date of birth is well settled by the Hon'ble Supreme Court as back as 1993 in the case of Union of India versus Harnam Singh wherein the Hon'ble Supreme Court had held that stayed and belated applications for alteration of the date of birth recorded in service book could not be looked into after a period of 5 years as per the amendment in rules in 1979. In that case the date of birth was entered in the service book in the year 1956 and request was made for the first time in September, 1991, therefore,



that the Hon'ble Supreme Court had held the request was hopelessly belated and did not merit any consideration. Therefore, it was held that the Tribunal failed in error in issuing the direction to correct the date of birth of the respondents therein. The same view was taken by the Hon'ble Supreme Court in the case of VISHAKHAPATNAM DOCK LABOUR BOARD VERSUS E. ATCHANNA, (1996)2 SCC 484 wherein the request to change the date of birth after 25 years in service, was not allowed. Similarly in state of Orrisa versus R. Patnaik it was held that evidence produced subsequently during ^{the} or after service ^{are} of no avail as applicant himself endorsed service record of date of birth. In JT 2001 (4) SCC 129 the Hon'ble Supreme Court had held that employees cannot raise a dispute regarding their age or date of birth at the fag end of career.

5. In the instant case the applicant had given the application form for showing the date of birth after a period of 33 years in service. Therefore, in my considered opinion this case is fully covered by the judgments given by Hon'ble Supreme Court and thus calls for no interference by the Tribunal. Since the applicant had himself endorsed his age and date of birth at the time of entry in the service, no case has been made out for interference by us. The O.A is accordingly dismissed with ~~the~~ order as to costs.


Member (J)

Madhu/