

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 971 of 1994

Allahabad this the 07th day of February, 2000

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Kishan Lal Gupta, Son of Heera Lal Gupta, Garrison Engineer, M.E.S.(West), Allahabad.

Applicant

By Advocate Shri K.P. Singh

Versus

1. Union of India through Secretary of Ministry of Defence.
2. Commandar Works Engineer, Allahabad.
3. Garrison Engineer(West), Allahabad.

Respondents

By Advocate Shri Satish Chaturvedi

O R D E R (Oral)

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

This ^{is} matter ~~of~~ correction of date of birth. As per the applicant's case, when he joined service as Carepenter on 12.5.1960, he declared his date of birth as 05.6.1937¹⁹³⁶ but subsequently he came to know that his date of birth has been wrongly mentioned as in his service record as 01.7.1934 for which applicant preferred representations right from the year 1988 but of no avail till 05.5.1994 when he was

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served with an order passed in December, 1992 through which he was informed that no action will be taken on his application in respect of the correction of date of birth. He was also served with notice, copy of which has been annexed as annexure A-1 to the application, through which his date of birth has been mentioned as 01.7.1934 and his date of retirement has been given as 30.6.1994. The applicant asserts that when he joined the service, he filed copy of School Leaving certificate in which his date of birth is mentioned as ~~05.6.1937~~^{5.6.1936} and it has also been pressed that he never mentioned or declared his date of birth to be 01.7.1934 and, therefore, he has approached through this O.A. for a direction to the respondents to correct his date of birth and ~~fix~~^{fix} the date of superannuation accordingly.

2. The case has been contended on behalf of the respondents and as per the respondents case, when the applicant entered into service, he ~~was~~ declared his date of birth as 01.7.1934. It has also been mentioned that the entries have been made in the service record as such on subsequent declaration by the applicant in the year 1963, 1972 and 1978 and now at this stage, there is no good reason to change the date of birth.

3. Heard, the learned counsel for the rival contesting parties and perused the record. on the direction of the Court, the service record of the applicant were also produced and the learned

counsel for the applicant was also given an opportunity to inspect these records. The service record of the applicant shows that at the time of his appointment, the applicant mentioned his date of birth to 01.7.1934 and ⁱⁿ the column meant for the educational qualification shows 'N.A.'.

4. The applicant has based his claim on two counts. First that at the time of appointment and preparation of service record, he mentioned his date of birth as ^{5.6.1936} ~~05.6.1936~~ on the strength of school Leaving Certificate which also shows this date of birth and secondly that in case the date of birth of the applicant is taken to be 01.7.1934 as recorded in his service record, he was above 25 years of age at the time of appointment and thereby he could not be appointed being over age as the upper age limit was 25 years and also ^{that} at the time of his appointment, he was subjected to medical test in which his date of birth has been mentioned to be 05.6.1936. Learned counsel for the respondents has submitted that the copy of school leaving certificate and the mention of date of birth therein are not conclusive evidence to prove the date of birth. Moreover, in this matter, ^{where} the applicant has subsequently brought up a case that he studied upto Class IV and obtained school leaving certificate whereas in his service record, his educational qualification column shows that he was having no educational qualification, for which abbreviation 'N.A.' has been mentioned. On the point of medical

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certificate, learned counsel for the respondents mentions that the service record has no reference to the effect that the applicant was medically examined at the time of his initial appointment. Moreover, at the time of appointment, the medical test is carried to ascertain the fitness for being absorbed in the service and that is not done to ascertain the age by taking the test in that regard and, therefore, availability or non-availability of medical certificate in the service record has no bearing in the matter to ascertain date of birth of the applicant. Learned counsel for the respondents has also mentioned in reply to argument of learned counsel for the applicant on the point of age limit at the time of initial appointment and his mention that at the most it could be a circumstance in favour of the applicant but a single circumstance cannot override the declaration made by the applicant at the time of his appointment in the year 1960.

5. Keeping in view, the facts and circumstances of the matter and the arguments placed from either side, I find that the declared age of the applicant at the time of his initial appointment on 12.5.60, cannot legally be ordered to be altered after his superannuation particularly when, as per applicant's case, it was for the first time challenged in the year 1988 i.e. after about 28 years from the date of actual entry, though the respondents have categorically denied that the applicant made any representation even in the year 1988, as claimed by the applicant.

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6. Under the above circumstances, I find no merit in the case of the applicant. To arrive at this conclusion, I am enlightened by the law handed down by the Hon'ble Apex Court in 'Union of India Vs. K.H. Pandiza J.T. 1995(2) S.C. 365' and 'Vishakhapatnam Dak Labour Board Vs. E. Archana and Others J.T. 1996(3) S.C.(6)' and also 'Burn Standard Co.Ltd. Vs. Deen Bandhu Mazumdar 1995(30) A.T.C. 206 S.C.'. For the above, the O.A. is dismissed. No order as to costs.

S. M. J.

Member (J)

/M.M./