

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Allahabad this the 31st day of March, 1997

Coram : Hon. Mr. T. L. Verma, Member-J
Hon. Mr. S. Dayal, Member-A

ORIGINAL APPLICATION NO. 131 of 1997

Bal Goley son of late Sri Gaj Raj
resident of village & Post Sakrar,
District Jhansi.

at present Resident of Mohalla-Bajariya Konch
District Jalaun.

Sub Post Master Konch, District Jalaun.

...applicant.

(BY COUNSEL SRI V. SANDILYA)

Versus


1. Union of India through Director Post and
Telegraph Department, New Delhi.
2. Chief Post Master General, Lucknow.
3. Senior Superintendent of Post Jhansi.
4. Inspector of Post Offices,
Sub-Division Konch, District Jalaun.

....Respondents.

(Through counsel Sri N. B. Singh)

O_R_D_E_R (ORAL)

(By Hon. Mr. T.L.Verma, JM)


 This application under Section 19 of the
Administrative Tribunals Act, 1985 has been filed for
issuing a direction to the respondents to correct his
date of birth in the service book from 1.2.1936 to
1.2.1940 and allow him to continue on the post of Sub-
Post Master, Post Office Konch, Jalaun until he
attains the age of 60 years.

2. The facts of the case in short are that the applicant was appointed on Class IV post on 28.6.1966 by Inspector of Post Offices Jhansi Division vide appointment letter (Annexure-1). He was, thereafter, promoted to Group 'C' post and was appointed as Sub-Post Master. The date of birth of the applicant according to Junior High School Certificate submitted by him at the time of his appointment is 1.2.1936. The retirement age of a Government servant in Group 'C' Post is 58 years. He was, therefore, ordered to retire on attaining the age of 58 years on 1.2.1994. The applicant claims that as he was appointed in a Group 'D' post, his date of retirement should be 60 years.

3. The date of birth as recorded in the Service Book of the applicant, it is alleged, is not correct and that his actual date of birth is 1.2.1940. The applicant, therefore, submitted a representation on 23.12.1993 (Annexure-4) for correcting his date of birth from 1.2.1936 to 1.2.1940. In the representation a request was made ^{that} ~~to make~~ ^{may be made} fresh estimate of his ~~da~~ age by getting him examined by the Chief Medical Officer. Since the respondents did not accept the request of the applicant and ordered his retirement with effect from 1.2.1994, this application has been filed for the reliefs mentioned above.

4. The respondents have contested the claim of the applicant. In the written statement filed on behalf of the respondents, it has been averred that the petition is not maintainable as date of birth has been recorded in the service book of the applicant on the basis of his Junior High School certificate as well as declaration made by the applicant at the time of his appointment. It has further been averred that the applicant has admitted his date of birth as 1.2.1936 in his leave application dated 6.6.68, 28.5.1973 and 12.12.1974 respectively.

5. We have heard the learned counsel for the parties and perused the record carefully. The applicant in para 8 of his rejoinder-affidavit has not denied that his date of birth in his Service Book was recorded on the basis of ^{his} ~~the~~ Junior High School certificate. The applicant has also not denied that ~~he~~ in his leave application dated 6.6.1968, 28.5.1973 and 12.12.1974, he has mentioned his date of birth as 1.2.1936. From the above, it is thus, clear that the applicant had the knowledge that his recorded date of birth is 1.2.1936. The applicant, though had a right to seek ^{abnormal} correction of his date of birth ~~the~~ the delay in seeking such a correction has been defeated the right. ~~as has been decided on the basis of the following~~

 The Hon'ble Supreme Court in Harnam Singh's case reported in (1993) 24 (A.T.C. 992, which is a leading case on the subject ~~case~~ has held that an application seeking correction of date of birth must be filed without any unreasonable delay. The applicant ^{who} was appointed on 28.6.1966, has made an application for correction of his date of

birth only on 23.12.1993, more than 33 years after his retirement. In view of the decision of Hon'ble Supreme Court in Harnam Singh's case, this delay is unreasonable and therefore, the application for correction of date of birth at such a late stage cannot be entertained.

6. In addition to the above, the correction of recorded date of birth is not to be treated lightly. The Courts are required not to interfere with the recorded date of birth unless there is clear and irrefutable proof as regards the correct date of birth. We have perused the record and we find that there is absolutely no material on record which may even make the claim of the application for correction of date of birth plausible. The learned counsel for the applicant submitted that elder brother of the applicant whose date of birth is 1938 is still in service and as such the applicant being younger brother cannot be retired from service. This is a self serving statement, therefore, cannot be treated as irrefutable proof.

7. We also find no substance in the argument of the learned counsel for the applicant that the applicant would be governed with the rules applicable to a Group 'D' Assistant in the matter of retirement age as he was initially inducted in Class IV Service. The applicant, the moment he was promoted to group 'C' post, ^{ceased} ~~used~~ to have any connection with his initial appointment in Class IV. After his promotion to Group 'C' post he will be governed by terms and conditions of service applicable to a group 'C' employee. Admittedly retirement age of a Government

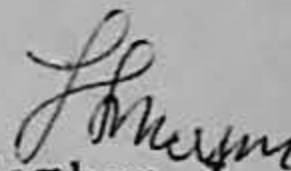
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servant in Group 'C' service is 58 years. He has therefore, been rightly superannuated on his attaining the age of 58 years.

8. For the reasons stated above, we find no merit in this application and dismiss the same leaving the parties to bear their own costs.



Member-A



Member-J

(pandey)