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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

Original Application No. 1137 of 1994

Allahabad this the 7/5 day of April 1995

Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

Awadh Behari Lal, S/o Sri Bharat Ram, R/o 190/254,  
Darshan Purwa, Ramnagar, Kanpur

APPLICANT

By Advocate Shri Sanjay Kumar  
Versus

1. Union of India through Director General  
Ordnance Factory Board 10-A, Auckland Road,  
Calcutta-1
2. General Manager, Small Arms Factory, Kalpi  
Road, Kanpur.
3. Additional General Manager(II), Small Arms  
Factory, Kanpur.

RESPONDENTS

By Advocate Shri Ashok Mohiley

O R D E R

By Hon'ble Mr. Jasbir S. Dhaliwal, Member(J)

The petitioner has come to this Tribunal against rejection of his representation by the respondents for correction of his date of birth. He had joined service with the respondents in the year 1963 and after a lapse of about 18 years, he has been ~~@@@~~ making representations for correction of his date of birth mentioning that the date of birth recorded in the service record as 04.7.1933 is not correct and it should be recorded as 05.6.1942. The respondents had

informed him that they were not possessed of any representation of 1981 at which petitioner submitted his second application dated 02.4.1983 which was rejected on 28.4.1983. He again kept silent for about 7 years and filed a fresh representation on 04.9.1990 which was also rejected by order dated 14.9.1990. He filed an O.A. No.154 of 1990 in this bench of the Tribunal which was allowed and the respondents were directed to decide his representation with a speaking order after affording the petitioner a hearing. The respondents ~~considered~~ constituted a board in which the petitioner was given a personal hearing and he produced 2 documents which were considered but, again the respondents dismissed his claim for correction of date of birth vide order dated 03.5.1994. The petitioner challenges that order on the grounds that it is illegal, is non-speaking and has been passed without application of mind, that the respondents have dismissed his petition also on the ground of limitation which is wrong and that the documents produced by him <sup>not</sup> having been properly appreciated by the respondents, He, thus, prays for quashing the said order and directing the respondents to correct his date of birth as requested by him.

2, The respondents have not disputed the facts mentioned herein in their reply. They have, however, added that at the time of joining

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service petitioner had not produced any documentary evidence and his date of birth was recorded on his own representation and from his appearance by the medical authority. It was recorded 29 years. They have pleaded that it is strange that the petitioner could not trace the two certificates from the year 1963 upto 1993, even though, his house must have been white washed a number of times. They have questioned the story of the petitioner that the certificates were discovered by him only at the time his house was being white washed. They have pleaded that the certificates were carefully examined by the board appointed for this and the same were found to be not genuine but, doubtfull. They have also annexed the copy of the medical examination report where the age of the petitioner is recorded as 29 years as per the statement of his own and as above 30 years from his appearance. They have also filed a copy of the petition submitted by the petitioner for receiving his G.P.F. where his date of birth recorded as 04.7.1933 and is signed by him.

3. After hearing the learned counsel for the petitioner, it is seen while perusing the

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impugned orders, the respondents were wrong in recording that the petitioner had submitted his request for alteration of date of birth after expiry of prescribed time of five years. This aspect had been dealt with by this Court in detail while passing the judgement in O.A.154. of 1991(Annexure-9).

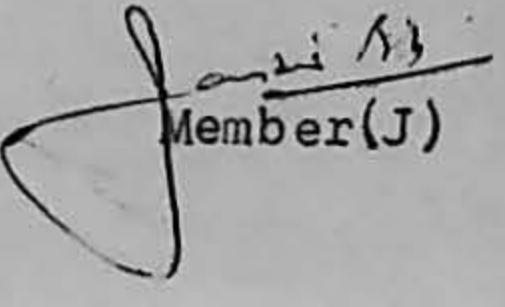
4. The other grounds taken by the petitioner challenging the order dated 03.5.1994 are, however, found to be devoid of any force. Reading of the same alongwith pleadings shows that the ~~pet~~petitioner was given a personal hearing where he was given opportunity to produce the documents also by the respondents. Reading of this order shows that the respondents have passed a well reasoned and detailed orders showing application of mind. This Court finds nothing wrong in the reasoning adopted by the respondents in it. The petitioner produced the certificates of the 'Tehsildar' and also the certificate of 'Imtehan' in original for perusal of the Court, copies of which are Annexure-2 and 13. The reasons given by the respondents in the impugned order, are found to be rightly passed on observations made as these are clear to the naked eye.

5. The Court finds force in the contention of the respondents that the story put forth by the petitioner is doubtful, that the certificates were not traceable for a period of about 30 years. He did not file~~@~~ any copy of these certificates ~~with~~ with his O.A. in the year 1991. The law on the point of correction of date of ~~birth~~ birth in the case of Government servants has been considered by the Supreme Court in a number of cases. The recent judgement is in State of Tamilnadu Vs. T.V. Venugopalan(1994) 28 A.T.C. page 294. It was held that delay in seeking correction of date of birth recorded at the time of entering service by an employee would not be permitted to be challenged at the fag end of his service. The Court has held that if, the application for correction has been rejected by the Government after considering various facts and circumstances, the scope of judicial review by the Administrative Tribunal becomes very limited. The Tribunal cannot reappreciate the evidence to reach a different conclusion from that of the Government as it does not sit<sup>as</sup> a Court of appeal. The matter was also considered in(1994) 26 A.T.C. page 828 ' Secretary and Commissioner, Home Department and Others Vs. R. Kirubakaran' wherein it was held that Court would be slow in allowing such application which have been~~@~~filed after considerable delay from ~~opposition~~ joining of service and

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relief could be considered only if, the evidence is of conclusive and unimpeachable character. The ratio of these two judgements is, fully, applicable to the facts of the present case.

6. In view of the foregoing legal position and the reasons mentioned above, this petition is dismissed having no merits.

  
Member (J)

/M.M./