

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1156 of 1994

Allahabad this the Eleventh day of November 1999

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

Nathilal Bharti, aged about 52 years, son of Shri Pooran Lal Bharti, working as Number Marker, at the Office of the Chief Goods supervisor, Central Railway, Agra.

Applicant

By Advocate Shri O. P. Gupta

Versus

1. Union of India through the Secretary, Ministry of Railways, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, Central Railway, Bombay V.T.
3. Mr. Manoj Pandey, Senior Divisional Personal Officer, Central Railway, Jhansi.

Respondents

By Advocate Shri G. P. Agrawal

ORDER

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

The applicant - Shri Nathilal Bharti has come up under section 19 of the Administrative Tribunals Act, 1985 to quash the impugned order dated 30.6.1993 which is annexure A.1 to the U.A. through

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which his representation dated 01.3.1993 has not been allowed.

2. Briefly stated the facts of the case are that the applicant is class IV employee working as Number Marker, Chief Goods supervisor Central Railway, Belanganj, Agra and has grievance that his date of birth, according to him is 05.7.1941 but in the official record, the date of birth is recorded as 02.8.1939. According to the applicant he entered the service in 1958 much before the Circular of 1979 issued by railway board. On finding out this mistake in the recorded date of birth, the applicant is said to have made representations to the respondents in August, 1987, followed by some other representations subsequently, but his representations have not been disposed of as per instructions contained in para-2 to 5 of the Indian Railway Establishment Code Volume I, for which he preferred O.A. No. 2592 of 1992 before the Principal Bench of Central Administrative Tribunal ~~on~~ at New Delhi, which was decided at the admission stage with the direction to the respondents to consider the representation of the applicant within a period of six months from the date of receipt of the copy of the order. This representation was decided vide impugned order. Being not satisfied with the order passed on the representation, the applicant has again come up with this O.A.

Sic et non agitur

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3. Now the applicant has sought for direction to quash the impugned order on the ground that his actual date of birth is 05th July of 1941 whereas it has wrongly been recorded as 02.9.1939 in his service record. In support of his contention, he has filed copy of school leaving certificate from M.D. Jain Inter College, Agra in which his date of birth is mentioned as 05th July, 1941.

4. The O.A. has been contested by the respondents and counter-affidavit has been filed, in which it has been pleaded by that the service record was prepared at the time of appointment of the applicant and his date of birth was mentioned as 02/9/39 which was acknowledged by the applicant by putting his signatures. In the counter-reply several other applications have been referred which have been moved by the applicant under his signature and there-in he has mentioned his date of birth as 02.9.39.

5. Considered the arguments placed for the either side and perused the judicial record as well as the service record of the applicant, which has been produced by the learned counsel for the respondents.

6. On anxious reading of the impugned order, it is found that it is well reasoned speaking, detailed order and the conclusion has been drawn in

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the light of departmental directions and the service record of the applicant. The Senior DPO Jhansi, who has passed this impugned order, has mentioned that the applicant himself has acknowledged the entries in the service record by putting his signature thereon in which his date of birth is mentioned as 02.9.39. In this impugned order, these applications have been referred which have been moved by the applicant for departmental promotion and other purpose and he has himself mentioned his date of birth as 02.9.39. As against this, there is school leaving certificate in which the date of birth of the applicant has been mentioned as 05.7.1941. The school leaving certificate is not a substantive piece of evidence which can over-ride right the own admission of the applicant and entries in the official record, which have been acknowledged by the applicant.

7.

In view of the facts and circumstances discussed above, I do not find any good reason to quash the impugned order which is based on cogent reasons and no malafide has been pleaded against the same. As a result, the O.A. fails and the same is dismissed accordingly. No order as to costs. The service record of the applicant, as produced by the learned counsel for the respondents at the time of arguments and kept with record, be returned back.

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