

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 26th day of February 1997.

Original Application no. 246 of 1995

Hon'ble Mr. S. Dayal, Administrative Member

Vidya Ram Sharma, S/o Late Sri Ram Dayal, Extra Departmental Branch Post Master Sirsa Khurd, Badaun.

... Applicant

C/A Sri Anupam Shukla
Sri U.M. Kahre

Versus

1. The Union of India through its Superintendent, Post Offices, Badaun Mandal, Badaun.
2. The Sub- Divisional Inspector based at Sahaswan, Badaun

... Respondents.

C/R Sri S.C. Tripathi.

O R D E R

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant seeks the relief of direction to the respondents to change the date of birth from 30.03.30 to 01.09.33 in respect of the petitioner in their records. The applicant also sought a direction that he should not be retired from the post of EDBPM, Sirsha Khurd before

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01.09.98, He has prayed for setting aside the order dated 13.12.94. Lastly he has prayed for award of the cost of the application.

3. The case of the applicant is that he was appointed as EDBER in the branch post office, Sirsa Khurd Badaun without any order of appointment on 01.04.51. There is no record of his date of birth in the inspection record maintained by respondent no. 2. He states that at that time there were no rules for recruitment of ED Agents and no academic qualification ^{was} prescribed and, therefore, no attention was paid to the date of birth at the time of recruitment. He states that two transfer certificates issued by Junior Basic School, Badaun show his date of birth as 01.09.33. Again in the inspection notes of branch post office Sirsa Khurd, the date of birth of the applicant was shown as 01.09.33. He came to know that the respondents had mistakenly shown his date of birth as 30.03.30 in the seniority list of ED Employees and he sent a protest letter dated 10.09.94 in which a copy of his school leaving certificate was attached. In response he received a letter dated 13.12.94 from the respondents maintaining that his date of birth is 30.03.30 and not 01.09.33. The applicant made 3 representations dated 19.12.94, 5.2.95 and 6.3.95. He has stated in the first two representations that the department itself had asked for his date of birth ten or twelve years back and he had

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Sent a copy of the ~~swid~~ transfer certificate ~~at office sl. no. 258~~ by registered post. His representations were not acceded to and he was not shown the official record regarding his date of birth which makes him believe that there was no official record. He has referred to departmental instructions casting obligations on the appointing authorities to inform the EDA 6 months in advance of the date on which they would complete 65 years. He claim that no such intimation was received by him. He states that the respondents ~~shall~~ initiated proceeding to fill up the vacancy of EDBPM at Sirsha Khurd on 19.12.94.

4. Arguements of Sri Anupam Shukla, learned counsel for the applicant, and Sri S.C. Tripathi, learned counsel for the respondents, were heard. Learned counsel for the applicant cited the case of Kapil Dev Sharma Vs U.O.I. & Ors (1993) 24 ATC 655, in which the date of birth of casual labour was recorded on 4.3.71 after medical examination and the applicant had signed and admitted the correctness of the ~~intervy~~ ^{entry} made in his service book. The applicant did not turned round in 1987 and claim that his date of birth was 27.4.46 on the basis date of birth ⁱⁿ School leaving certificate of ~~School~~. The facts of the case ~~are~~ are, however, not in parimateria with the present case before me. In the case cited the date of birth recorded ~~was~~ at the time his initial recruitment in 1964 as casual labour was 27.4.1946. Again when he was appointed as substitue by an order dated 11.3.71 ~~he was not~~ his date of birth was shown as 27.4.1946. It was only at the time of screening for absorption as regular khalasi in 1973 that his date of birth came to be recorded 27.1.42 on the basis of medical examination. Hence the prayer in

that case for correction of date of birth was accepted.

5. In the present case before me correction in date of birth is being asked for about 4 months before the date of retirement on ^{the} basis of school leaving certificate of class 3 in the school and on the basis of inspection notes ^{have} the respondents ~~were~~ claimed in the ~~the~~ CA that the applicant was asked to produce his education certificate showing date of birth but he did not ~~present~~ produce any certificate ^{the respondents have accepted} and ~~declare~~ his date of birth as 30.03.30, which was shown in the descriptive particulars prepared by the mail over ~~the~~ on the day of his engagement on 01.04.61. These bear the signature of the applicant and also his finger ~~print~~ prints. The applicant has admitted that he could read and write. A copy of the descriptive particulars in the service roll of the applicant ~~show~~ his date of birth as 30.03.30. This has been annexed to the CA. In a seniority list of October 1990, the date of birth of the applicant was shown again as 30.03.30 and this too is annexed to CA filed by the respondents. It ~~has~~ also been mentioned that the applicant was relieved on the after noon on 29.03.95 of the charge of EDBPM Sirsa Khurd. The learned counsel for the respondents has cited the judgement of the Apex Court in U.O.I. Vs Harnam Singh's (1993) SCC(L & S) 375. In which the Apex Court set aside the correction of date of birth ~~one year before~~ ^{respondents} the retirement as the ~~respondent~~ has several occasions to see his date of birth recorded by the applicants.

6. The applicant's claim for correction of date of birth as per averment made in the OA was first made on

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10.09.94 which was barely 6 months before his retirement. He states that he made this ~~salary~~ claim in response to the seniority list of ED Employees circulated on 01.12.90 such an argument lacks credibility and is not tenable besides being highly belated.

7. The application has, therefore, no merit and it is dismissed. There shall be no order as to costs.



Member-A