

RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDL.BENCH

ALLAHABAD

DATED: THIS THE 24<sup>th</sup> DAY OF APRIL \*1996

O.A. No. 524/95

SINGLE MEMBER BENCH

Hon'ble Mr. S. Das Gupta A.M.

Lal Mani Dubey s/o Gaya Prasad Dubey,  
resident of Village Mawaya, P.O. Harjendranagar,  
District Kanpur Nagar. - - - - - Applicant

C/A Sri V. B. Tewari

VERSUS

1. Union of India through its Defence Secretary,  
2. Officer Commanding No. 1 B.A.D.,  
Air Force, Chakeri, Kanpur. - - - - - Respondents

C/R Sri N. B. Singh

O R D E R

By Hon'ble Mr. S. Das Gupta A.M.

In this application filed under section 19  
of the Administrative Act.1985 the applicant has challenged  
the notice dated 3.5.1995, by which the applicant was

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informed that he was due to retire with effect from 30.6.95. He has sought quashing of the said notice and a direction to the respondents to record in the applicant's service documents his date of birth as 3.7.1938 and the date of retirement 31.7.1996.

2. The applicant's case is that he was appointed on 10.6.1960 as Class IV employee in 1 B.R.D., Chakeri~~s~~ Air Force, Kanpur. At the time of appointment, he had filed a Horoscope as the proof of his date of birth since he did not go to any school before his appointment. On 3.7.1962, he was promoted as Class III employee. At the time of his promotion he was examined by Sr. Medical Officer and on that <sup>date</sup> his age was recorded as 24 years. In February '94 respondent no.2 issued certain forms to the applicant to fill up stating that his retirement is due on 30.6.1995. Being a disciplined Defence employee, he filled the form, but at the same time, he represented to the respondent no.2 that according to date of birth in horoscope as well as on the basis of the medical examination held on 3.7.1962, his date of retirement should be 31.7.1996. Subsequently he received IRLA-cum pay slip for the month of May, 1994 in which his date of birth was shown as 10.6.1936 and the date of retirement as 30.6.1994. He again represented to the respondents that his retirement could not be 30.6.1994. Thereafter a letter dated 28.6.1994 was issued by Air HQ. informing the respondent no.2 that the date of birth of the applicant as shown in the service book was correct. The applicant was, therefore, under the impression that his date of birth was corrected in accordance with the Horoscope as well as the medical examination report dated 3.7.1962. However, by the impugned notice dated 3.5.1995, he was informed that he was to retire on 30.6.1995. The applicant submitted a representation against the same and thereafter approached this Tribunal, seeking relief afore-mentioned.

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3. The respondents have filed counter affidavit in which it has been stated that the applicant was medically examined on 10.6.1960 and his date was assessed as 23 years, when he joined as class iv employee. Accordingly his date of birth was recorded as 10.6.1937. in his service documents. These documents were regularly perused by the applicant at prescribed intervals. When he was appointed as a group 'C' employee on 2.7.1962, his date of birth was notified as 10.6.1936 by Part-II-B order SL 39/62. This fact was not recorded in the service documents, but available with A.F.C.A.O., who are maintaining his I.R.L.A. Since two dates of birth<sup>as</sup> were ~~not to be~~ recorded the Air Headquarter decided by order dated 12.6.1994 that the first recorded date of birth i.e. 10.6.1937 should be treated as correct date of birth. Accordingly 30.6.1995 was communicated to the applicant as his date of retirement by letter dated 16.2.1995. The respondents have stated that no Horoscope is available in his service documents. They have annexed a copy of the medical examination report of 10.6.1960 ( annexure CA-1) to support the contention that his age was assessed on that date as 23 years. He was medically examined second time when he was promoted on 2.7.1962 and at that time his <sup>age</sup> date was assessed as 24 years. Thereafter in Part II-B order his date of birth was notified as 10.6.1936, though this fact was not notified in the Service Books. It has been further stated from the attestation-form submitted by the applicant at the time of his entry in service, it was clear that he was a student of Hindi Primary school Mawaiya. A copy of the first page of the service book has also been placed as Annexure CA-3 in support of the contention that his date of birth was recorded as 10.6.1937 and he signed on that page a number of times in token of having perused the same.

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4. The applicant has filed R.A. in which he has reiterated that he had submitted a copy of the Horoscope at the time of his initial appointment and that he submitted the same document again in 1962. As regards copy of the first page of the service book annexed by the respondents, the applicant has taken stand that the same is forged and a fabricated document and it does not relate to him.

5. I have heard the learned counsels for the parties and perused the records.

6. It is clear from the averments/~~records~~ on that at the time of his initial appointment, the applicant was medically examined and on 10.6.1960 his age was assessed as 23 years. On that basis his date of birth was recorded as 10.6.1937 in the first page of Service book. It is also clear that the applicant was aware of such entry in the service book. However, subsequently, he was promoted and he was again medically examined on 3.7.1962 and his date at that time was assessed as 24 Yrs. Thereafter another date of birth i.e. 10.6.1936 got recorded in certain service record of the applicant though not in the first page of the Service book. Apparently this discrepancy came to light sometime before the applicant was due to retire and the authorities rightly decided that the date of birth initially recorded in the Service book shall prevail. It would appear from ~~the copy of~~ the representation of the applicant dated 2.5.1994, a copy of which has been annexed by the respondents as CA-4 that when the applicant was initially informed that he was to supernuate on 30.6.1995, he had accepted the same and had also submitted his pension papers. However,

later on when a different date of birth i.e 10.6.1936 surfaced, he became anxious and requested that date of birth be corrected so that he would not have to retire with effect from 30.6.1994 on the basis of his date of birth being 10.6.1936. It is clear that at that stage, the applicant would have been satisfied only if the discrepancy was sorted out and his date of birth was retained as 10.6.1937. It would appear that subsequently, however, he sought to take advantage of the discrepancies in the various service documents regarding his date of birth and tried to make out a case that his date of birth should not be 10.6.1937, but 3.7.1938 taking advantage of subsequent medical assessment in the month of July, 1962.

7. The date of birth recorded in the Service book at the time of entry in service shall determine the age of retirement of the employee. The date of birth of the applicant at the <sup>time of</sup> ~~initial~~ entry into the service was evidently recorded as 30.6.1937 in the first page of his Service Book. Therefore, the applicant is to retire on 30.6.1995. In the R.A. the applicant seems to have made a desperate attempt to salvage his case by making bald assertion that photocopy of the first page of the Service book is fabricated and it does not pertain to him. I have seen from the photocopy of the first page of service book at annexure CA-3 that in the column of name, there is no entry, but in the column of father's name, name of Gaya Prasad Dwivedi has been entered. A copy of the attestation form which the applicant himself has annexed as annexure-8, father's name of the applicant is shown as Gaya Prasad Dwivedi. Also in the column of home address tallies with the similar entry in

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the attestation form. There is, therefore, no doubt that annexure CA-3 is the photocopy of the first page of the applicant's service book in which his date of birth is recorded as 10.6 1937. I, therefore, see no reason to accept the applicant's version that his date of birth has not been correctly recorded.

8. Learned counsel for the applicant has submitted written arguments in which reliance was placed on several decisions of the Hon'ble Supreme Court and certain High Courts. I have perused these decisions but I do not find anything in them which comes to the assistance of the applicant.

7. In view of the foregoing, the application has no merit and the same is dismissed. There shall be no order for cost.

*W.L.*  
A.M.

Siddiqui