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Reserve

CENTRAL ADMINISTRATIVE TRIBUNAL ALIABAD BENCH

ALIABAD

Allahabad this the 8th day of August, 2000.

Original Application No. 882 of 1995.

Hon'ble Mr. M.P. Singh, Administrative Member.

Deo Narain Pandey aged about 53½ years,
son of Chet Ram Pandey resident of Village
& P.O. Balua employed as E.D.M.P. Balua
(Campiernganj) in the Distt. Gorakhpur.

.....Applicant

c/^o Sri J.M. Sinha

Versus

1. Union of India through the Secretary Ministry
of Communication Department of Posts India,
Dak Bhawan, Parliament Street, New Delhi-110001.
2. Post Master General, Gorakhpur Region,
Gorakhpur-273008.
3. Sr. Supdt. Post Offices, Gorakhpur Division,
Gorakhpur-273008.
4. S.D.T. (Posts 1), Anand Nagar Sub Division,
Anand Nagar, Distt. Mahrajganj.

.....Respondents

c/R Sri A. Tripathi.

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O R D E R

Hon'ble Mr. M.P. Singh, Member-A.

By filing this OA the applicant has sought directions that his date of birth be recorded as 12.3.42 in service record as per transfer certificate from the school and has also sought directions to grant him promotion and other benefits under next below rule, against the vacancy arising on or before 11.3.92.

2. The brief facts of the case are that he was appointed as EDMP on 27.2.62. The date of birth noted in the record by the Mail overseer was not known to him. The applicant who did not know English language was unable to know about the fact regarding his date of birth recorded in the service book. The respondents had prepared the gradation list and circulated it vide letter dated 22.7.91. It was for the first time that the applicant came to know about his date of birth recorded in official record. His date of birth in the service record was 12.2.41 instead of 12.3.42. He had submitted a representation dated 25.1.92. The applicant was given any reply to his representation dated 25.1.92. On the other hand the respondents altered his date of birth unilaterally from 12.2.41 to 4.8.35. Later on the respondent no. 4 had asked the applicant to submit his transfer certificate. Accordingly he submitted a copy of the documents (Annexure A-12) to the respondent no. 4 on 15.10.92. He again submitted the representation to

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Chief Post Master General U.P. on 16.10.92. The time limit of five years as laid down by Hon'ble Supreme Court could be counted only from the date of first disclosure of the date of birth recorded in-correctly on 22.7.91. The applicant was also ignored for his further promotion on the ground that he was over 50 years of age. Aggrieved by this he has filed this application.

3. The respondents in their reply have stated that the descriptive particulars, which is an authenticated record to judge the date of birth and date of joining the service of an E.D. employee, was prepared by the mail overseer at the time of his appointment. The date of birth as noted in the said record is 4.8.35. The promotion process for group (D) cadre from senior ED officials having age limit within 50 years was initiated in 1991-92. With a view to keep his name under consideration zone for promotion in group 'D' cadre, the applicant filed a representation dated 1.1.92 alleging that his date of birth is 12.3.42 instead of 12.2.41. In support of his claim he submitted a school leaving certificate cum T.C. issued from Primary School Balua District Gorakhpur. This was only with a view to get promotion in group 'D' cadre. The representation made by the applicant was also dealt by the P.M.G. Gorakhpur and was decided that the date of birth mentioned in the service record i.e. 4.8.35 should be treated as correct and the decision of the P.M.G. was communicated to the applicant on 18.8.92.

4. Heard learned counsel for the rival contesting parties and perused the record.

5. In the present case the applicant did not submit any documentary proof about his date of birth at the time of entry into govt. service. The mail overseer who prepared the service record noted his date of birth as 4.8.35. The date of birth recorded at the time of entry of the applicant into service as 4.8.35 had continued to exist, unchallenged between 1962 and January 1992 for almost three decades. He remained silent and did not seek the alteration of the date of birth till 25.1.92, just about eight years before his retirement. His inaction for all this period of about 30 years precludes him from showing that the entry of his date of birth in service record was not correct. In a similar case the Hon'ble Supreme Court vide its judgment dated 9.2.93, (1993) 2 SCC 162 has held as under :-

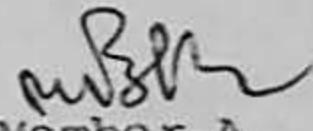
"In the facts and circumstances of this case, we are not satisfied that the Tribunal was justified in issuing the direction in the manner in which it has been done. The application for correction of date of birth entered in the service-book in 1956, for the first time made in September 1991, was hopelessly belated and did not merit any consideration. As already noticed, it had not been made even within the period of five years from the date of coming into force of Note 5 to FR 56(m) in 1979. The Tribunal, therefore, fell in error in issuing the direction to correct his date of birth and

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in the impugned order of the Tribunal cannot be sustained."

6. The principles laid down by the Hon'ble Apex Court in the above mentioned judgment are also applicable in the present case. In view of the above facts and circumstances of the case the OA is devoid of merit and is dismissed accordingly.

7. There shall be no order as to costs.


Member-A

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