

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 12th day of March, 2003.

Original Application No. 144 of 1999.

Hon'ble Mr. Justice R.R.K. Trivedi, Vice-Chairman.

Chandra Prakash Gupta S/o Late Brijnandan Lal
R/o Shakti Nagar, P.O. Chandausi, Distt. Moradabad.

.....Applicant

Counsel for the applicant :- Sri B. Ram
Sri Avanish Tripathi

V E R S U S

1. Union of India through the Secretary (Posts),
M/o Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Postmaster General, Bareilly Region, Bareilly.
3. Senior Superintendent of Post Offices,
Moradabad Division, Moradabad.

.....Respondents

Counsel for the respondents :- Km. Sadhna Srivastava

O R D E R (Oral)

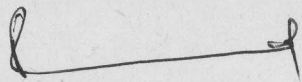
By this O.A filed under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the orders dated 17.05.1996, 10.09.1998 and 14.09.1998 by which claim of the applicant for correction of date of birth in service record has been rejected.

2. The facts, in short, giving rise to this dispute are that the applicant was appointed as Extra Departmental Branch Post Master (E.D.B.P.M) in 1976. For this purpose he moved application on 19.03.1976, which was in his own hand-writing. The date of birth mentioned in this application was 18.01.1955. Alongwith this application he also annexed School Leaving Certificate in which date of birth mentioned was 18.01.1955. On basis of these two documents, applicant



was given employment. In 1996, i.e after more than 20 years applicant made representation for correction of his date of birth in service record and prayed that the correct date of birth is 09.02.1960 which may be mentioned in the service record. In support of this claim applicant filed another School Leaving Certificate obtained on 04.07.1996 showing date of birth as 09.02.1960 (Annexure A- 3), School Leaving Certificate obtained on 02.01.1999 (Annexure A- 4), marksheet of High School (Annexure A- 5) and High School Certificate dated 23.08.1974. In these documents the date of birth is mentioned as 09.02.1960. The learned counsel for the applicant submitted that the respondents have illegally rejected the claim of the applicant though in enquiry it was found that correct date of birth was 09.02.1960 and the documents submitted by the applicant are genuine. It is also submitted that in the application form submitted by the applicant he clearly mentioned that he is High School pass hence the date of birth shown in the High School Certificate should have been accepted. Reliance has been placed in Full Bench judgment of Andhra Pradesh High Court in case of M. Vijay Bhashkar Reddy Vs. High Court of Andhra Pradesh 2002 (3) ATJ 237, judgment of Hon'ble High Court of Andhra Pradesh in case of A.K Kodandam Vs. Principal, Kamala Nehru Polytechnic for Women 1999 (1) ATJ 13, judgment of Hon'ble Supreme Court in case of S. Janardan Rao Vs. Govt. of Andhra Pradesh and another 1999 SCC (L&S) 653 and judgment of Kolkata Bench of this Tribunal reported in Swami News at page 52 of August, 2001.

3. Km. Sadhna Srivastava, learned counsel for the respondents on the other hand submitted that undisputed facts are that applicant joined service in 1976. If the date of birth as claimed by the applicant is accepted then he ^{could} ~~should~~ have ^u not ~~been~~ taken in employment, as he was minor and age of the applicant was 15 years. To avoid it, the applicant himself



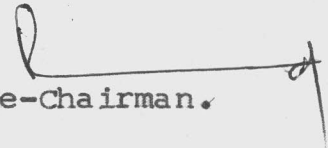
conceded the true facts in^{con}connivance with the authorities who were responsible for appointment at that time. Though the applicant^{had} passed High School in 1974 but the High School Certificate was not filed instead School Leaving Certificate obtained in 1973 from Junior High School, Fatehpur Samsoi was filed. The applicant by his own hand-writing mentioned his date of birth in application form as 18.01.1955 and the School Leaving Certificate filed alongwith application also mentioned the same date of birth which was on record. The date of birth mentioned in the High School Certificate was not relied on as on basis of that date of birth, the applicant could not get employment. After 20 years service the applicant made attempt to get the date of birth corrected. It is submitted that the documents filed are not disputed but the facts remain that the applicant himself represented that his date of birth was 18.01.1955 and relying on the same, the department employed the applicant. Now it is not open to the applicant to claim another date of birth with difference of five years.

4. I have considered the submissions of counsel for the parties and perused records.

5. The undisputed^{facts} are that the applicant moved application for seeking employment on 19.03.1976. The entire applicant has been filled by the applicant himself. The date of birth he has mentioned 18.01.1955. He also mentioned his educational qualification as High School but the date of birth mentioned in High School Certificate was not relied on. For purpose of age the certificate issued from Junior High School, Fatehpur Samsoi was mentioned in the application form. Thus, it was the own act of the applicant that contrary^{to date of birth} the High School Certificate, he produced the School Leaving Certificate mentioning the date of birth as 18.01.1955, which was accepted and applicant was given employment. For this

reason the applicant now ~~stated~~ ^{restated} from saying that his date of birth is 09.02.1960, which was ~~allegedly~~ ^{given up though was} shown in the High School Certificate. It is not open to the applicant to change the same now. The orders passed by the respondents and impugned in this O.A are perfectly justified. At the time of employment the applicant was also medically examined and the medical report dated 14.04.1983 shows that he was 28 years of age. From that also the date of birth comes ⁱⁿ the year 1955. In the facts and circumstances I do not find any illegality in the orders. The judgments relied on behalf of the applicant are distinguishable on facts and do not help in the present case. The O.A has no merit and is accordingly dismissed.

6. There will be no order as to costs.


Vice-Chairman.

/Anand/