

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 14 of 2000

Allahabad this the 24th day of April, 2004

Hon'ble Mr.A.K. Bhatnagar, Member(J)

Nathuram S/o Late Sri Jwala Prasad, B/o Village Surhar
Post Salabad, District Jalaun.

By Advocate Shri Rajendra Rai

Applicant

Versus

1. Union of India through its Director, Postal Department, Ministry of Communication, Dak Bhawan, New Delhi.
2. Post Master General, Agra.
3. Senior Superintendent of Post Office, Jhansi Division, Jhansi.
4. Sub Divisional Inspector, sub post office at Jalaun.

Respondents

By Advocate Km.S. Srivastava

O R D E R

This O.A. has been filed under Section 19 of Administrative Tribunals Act, 1985 praying for direction to the respondents to reinstate the applicant and to quash the orders dated 24.12.1999 and 20.01.2000, passed by Senior Superintendent of Post Offices, Jhansi Division, Jhansi. He has further prayed for direction to the respondents not to disturb the services of the applicant till 04th January, 2007.

2. The brief facts of the case, as per the applicant, are that he was engaged in the year 1962 in the Branch Post Office Salabad. His services were regularised from 1973. A memorandum dated 24.12.1999 was issued by respondent no.3 whereby he was directed to handover the charge of post of E.D.B.P.M., Salabad as the applicant is completing the age of 65 years on 03.01.2000. As per the applicant, his date of birth is 04.01.1942 so he should retire in January, 2007 but the respondents have issued order dated 24.12.1999 to retire the applicant w.e.f. 03.01.2000 considering his date of birth as 04.01.1935, and accordingly he was discharged from services w.e.f. 03.01.2000. The applicant sent a representation on 31.12.1999 to the respondent no.3 against the order dated 24.12.1999, which was rejected vide order/letter dated 20.01.2000, in which it is clearly stated that as per departmental records date of birth of the applicant is 04.01.1935 so he was rightly being discharged from services after attaining the age of 65 years. Aggrieved by the action of the respondents, the applicant has filed this O.A.

3. Learned counsel for the applicant submitted that he has filed his school leaving certificate as an annexure A-3, which clearly established date of birth of the applicant as 04.01.1942 so he should have retired in January, 2007 after attaining the age of 65 years. Learned counsel further placed reliance on the inspections reports, annexed as annexure-7 to 13, in which his date of birth has been shown as 04.01.1942. He also submitted that in gradation list also his date of birth has been shown as 04.01.1942 in the 3rd column of serial no.132. Learned counsel for the applicant further....pg.3/-

submitted that on the descriptive particulars of the applicant, which is annexed as annexure 5, the date of birth of the applicant has ^{incorrectly} been shown as 04.01.1935. The applicant has alleged that the date of birth has been written by somebody after taking signatures of the applicant on his descriptive particulars. It is also asserted by the counsel that the date written is 04.01.1935 is not in the handwriting of the applicant.

4. The respondents have contested the case by filing the counter-affidavit. The applicant has rebutted the counter-affidavit by filing the rejoinder-affidavit.

5. Learned counsel for the respondents inviting my attention to para-4 of the counter-affidavit, submitted that the petitioner has himself noted his date of birth as 04.01.1935 and has made his signatures ^{as many as five} places on the descriptive particulars, filed as annexure C.A.-1 and his signatures are duly attested by the Mail Overseer L.S.G. Jalaun, so the applicant was fully aware of this fact while signing the above mentioned documents. It is not open for him to challenge the date of birth at this belated stage. It is further contended by the learned counsel that the date of birth mentioned by the concerned Inspectors in the Inspection Reports, cannot be taken as correct and service particulars of the E.D.M.P.M. are maintained by the Office of department. The date of birth shown as 04.01.1942 in the gradation list is due to clerical mistake. Learned counsel vehemently argued that the applicant had never challenged about the rectification of his date of birth during his entire service. As per the record of the department his date of appointment

is 01.08.1962 and not 01.09.1965. Learned counsel further submitted that the applicant subsequently with ill motive informed the incorrect date of birth to the Inspector at the time of inspection, which is usually written on the say of the employees treating it to be genuine in routine but the authentic record is kept in the office of department, which is final, if any controversy arises. Thus, the orders passed by the authorities dated 24.12.1999 and 20.01.2000 are based on original record, so they are just and proper and no illegality has been committed by the authorities in passing the orders.

6. Vide order dated 08.04.2003, the respondents were directed to produce the original record available with them including the gradation list and the inspection reports as well as the Branch Post Master's Register and the descriptive particulars, which were produced by the respondents counsel in original at the time of hearing for perusal of the court.

7. I have heard the learned counsel for the parties, perused the pleadings available on record as well as perused the original records produced by the counsel for the respondents.

8. In the present case, only short controversy which needs to be resolved is whether the date of birth of the applicant should be taken to be 04.01.1935 as described in the descriptive particulars or as 04.01.1942 as shown in the School leaving certificate, Gradation list and Inspection reports. The particulars of the applicant as shown in annexure C.A.-1 are not disputed

except the date of birth shown in column no.4 as 04.01.1935 on which applicant has also signed at five places which are duly attested by the Mail Overseer, L.S.G. Jalaun. I have seen the original descriptive particulars and ^{✓ found} find the date of birth as 04.01.1935 and signatures of the applicant at five places with It is also an admitted fact that the services of the applicant were regularised in November, 1973 so automatically his particulars about the age etc. would be taken in the year 1973. On perusal of such documents, it is revealed that it is signed by the applicant as well as he has put his left hand thumb impression on it. I have seen no cutting in the column of date of birth or anywhere., and it certainly appears to be a genuine document. I have gone through the original service particulars, register of B.P.M(Branch Post Master) produced before me and find the name of applicant at serial no.94 in which his date of birth ^{✓ is} has clearly been written as 04.01.1935 and date of attaining the age of 65 years is 03.01.2000. I have also perused the original record of gradation list of 1995-96 in which applicant's name [✓] and in row no.5 his date of birth is shown as 04.1.42 is at serial no.132 and I find force in the arguments of However, learned counsel for the respondents that it is due to clerical mistake, which is possible while preparing a gradation list of 203 employees. I have also perused the Inspection report dated 24.04.1997, 15.04.1998 and 12.04.1999 and I find the date of birth of the applicant is mentioned as 04.01.1942. From perusal of these reports, it is quite evident that these reports are maintained by surprise checking by the concerned checking-Inspector. In column no.2 of report dated 24.04.1997 after the name of one Mahesh Chand, there is cutting in the date of birth column, which was corrected as 01.01.1962. I

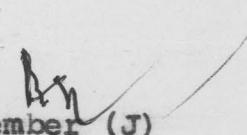
have also gone through the inspection report of Branch Post Office, Salabab from 19.03.1955 to 08.05.1996. In one report dated 27.06.1989 name of the applicant is at serial no.1 and in date of birth column "Nahi Bataya" is written. From perusal of these reports, I have come to the conclusion that these reports are written by the concerned Inspector while doing surprise checkings and they are not supposed to have original records of the employees with them so it is most probably that these reports are prepared only on the information given by the employees. ~~XXXXXXXXXXXXXX~~ Learned counsel for the respondents

has placed reliance on the following Judgments

1. Union of India Vs. Ram Suia Sharma 1996 S.C.C.(L&S) 605.
2. Burn Standard Col. Ltd. and Others Vs. Dina-bandhu Majumdar and another 1995 S.C.C.(L&S) 952.

In these cases, it is held that ordinarily the petitions for change of date of birth at the fag end of services of the employee, may not be entertained by the Courts and voluntary declaration made by the employee at the time of appointment in his Service and Leave record would ~~would~~ be taken as authentic.

9. In view of the observations and the legal position, I find force in the arguments of learned counsel for the respondents that the O.A. is not maintainable and is liable to be dismissed. The O.A. is accordingly dismissed being devoid of merit. No order as to costs.


Member (J)

/M.M./