

25

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 52 OF 2002.

ALLAHABAD THIS THE 20TH DAY OF MARCH 2008.

Hon'ble Mr. Justice Khem Karan, Vice Chairman.

Manni Ram, son of late Shri Raghunandan, Gangman under SE (P. Way)/North, E. Railway, Mughalsarai, Distrit Chandauli.

.....Applicant

(By Advocate: Shri R.V. Pandey)

Versus.

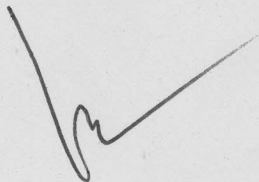
1. Union of India through General Manager, E. Railway, Calcutta.
2. The Divisional Railway Manager, E. Railway, Mughalsarai, District Chandauli.
3. The Senior Divisional Engineer (Co-Ord.), E. Railway Mughalsarai, District Chandauli.
4. The Senior Divisional Personnel Officer, E. Railway, Mughalsarai, District Chandauli.
5. The Divisional Medical officer, E. Railway, Mughalsarai, District Chandauli.
6. The Assistant Engineer (I), E. Railway, Mughalsarai, District Chandauli.
7. The Senior Engineer (P. Way)/North, Mughalsarai, District Chandauli.

.....Respondents

(By Advocate: Shri K.P. Singh)

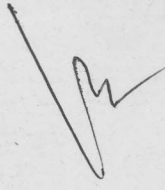
ORDER

Applicant Manni Ram has filed this O.A., challenging the order dated 28.11.2001 (Annexure A-8) by which the respondent NO.2 declined to correct his date of birth from 5.11.1941 to 14.10.1952 and for commanding the respondents to treat him in service even after 30.11.2001.



2. Applicant was initially inducted as Casual Labour in 1975 in open line and was subsequently conferred temporary status w.e.f. 31.7.1985, on completion of 180 days of continuous service. It is said that he was also regularized on 11.12.1989. According to him, at the time of regularization his date of birth was mentioned on 5.11.1941 on the basis of certificate of the Doctor. He alleges that when the department issued notice saying that he will retire on 30.11.2001, that he came to know that his date of birth was not correctly mentioned in the service record. He goes on to state that he made efforts at the departmental level for getting the same corrected and when nothing was done, he filed one O.A. NO. 1232 of 2001, which this Tribunal disposed of vide order dated 2.11.2001, directing the respondents to consider his representation and dispose of the same by passing a speaking order. In compliance of those orders, the respondent NO.2 passed the impugned order dated 28.11.2001 (Annexure A-8). According to it, his date of birth was mentioned in the service record on the basis of medical examination dated 5.11.1980 and the same was duly attested by the then Assistant Engineer and P.W.I and so there was no good case for change in date of birth.

3. The applicant is challenging the said rejection dated 28.11.2001 mainly on the ground that in school leaving certificate (Annexure A-5), his date of birth is noted as 14.10.1952 and there is nothing on record to suspect the genuineness of this document. He has also said that medical examination in 1980, was done with a view to see medical fitness of the applicant and not for determining the age of the applicant and so there was no good ground with the respondents to record the date of birth on the basis of that medical opinion. He says that he submitted the school leaving certificate supported by affidavit even then the Authority concerned ignored the same.

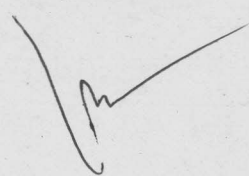


4. The respondents have filed reply saying that in absence of any other proof about age, the date of birth was recorded on the basis of medical opinion; They say that this School leaving certificate is coming for the first time alongwith the OA and was not there before the Authorities at the time of entries about the date of birth were made in the service record.

5. I have heard Shri R.V. Pandey, learned counsel for the applicant and Shri K.P. Singh, learned counsel for the respondents and have perused the entire material on record.

6. Applicant retired on 30.11.2001, on the basis of date of birth entered in his service record. This much is clear that attempt for correcting the date of birth in the service record ^{came} either ^{came} at the fag end of service career or thereafter? In other words, there is no allegation or averment in the O.A. that applicant made any attempt to get it corrected in early years of the service after regularization. There is no averment that in 1985 or in 1989 when the applicant was conferred temporary status or regularized, and when the date of birth was mentioned in the service record, applicant had submitted any documentary proof such as school leaving certificate, so as to say that his date of birth was 14.10.1952. He says that he submitted this proof in the year 1986. Had there been such a documentary proof about date of birth, there would have been no occasion for entering the date of birth on the basis of medical opinion. It is never the case of the applicant that 5.11.1941 was mentioned, ignoring the said school leaving certificate showing 14.10.1952 as date of birth.

7. Law as regards the correction in entry relating to date of birth is that it should not be allowed in the later years of service and it can be done only if there is some clerical or arithmetical or inadvertent error in noting the same in service record. ^{Procurement or} Pronouncement of filing of proof as regards the date of birth,



subsequently to the entries having been made, will not be sufficient for correction. The applicant himself says that he filed School leaving certificate in 1986, after the entries had already been made in the service record on the basis of medical opinion. So I think the applicant has no case and the OA deserves to be dismissed. It is accordingly dismissed but with no order as to costs.

(Signature)
20.3.08

Vice-Chairman

Manish/-