

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 02nd ^{7th} day of February, 2003.

~~(*) Date corrected
inside Court's
order dt. 14/8/03
in MAN. 2805/2003~~ Original Application No. 878 of 2002.

~~Hon'ble Mrs. Meera Chhibber, Member-J.~~

~~Kalimuddin
19/8/2003~~

Mumtaj Khan,

~~SO(J)~~ S/o Murad Khan,

R/o House No. 48, Purviya Tola,

Gadiya Fatak, Jhansi.

.....Applicant.

Counsel for the applicant :- Sri V.K. Goel

V E R S U S

1. Union of India through General Manager,
Central Railway, Bombay Bity.
2. D.R.M. Central Railway Jhansi, Division,
Jhansi.
3. Divisional Railway Manager (P)
Jhansi.
4. Electrical Foreman (Construction)
Central Railway Jhansi.

.....Respondents.

Counsel for the respondents :- Sri D. Awasthi

O R D E R (oral)

By this O.A., applicant has sought the following
relief(s):

- (i) issue an order or direction quashing the order dt. 4.6.2002 issued by Division Railway Manager (P), Jhansi (Annexure No.6)
- (ii) issue an order or direction in the nature of mandamus directing respondents not to retire the applicant pre-maturely on 4.7.2002.
- (iii) issue an order or direction in the nature of mandamus directing the respondent to allow the applicant to continue in service till 31.7.2006.
- (iv) -----.
- (v) -----."



2. It is submitted by the applicant that he was engaged as casual labour on 5.2.1968. He was regularised on 14.12.70, ^{was 8} but no service book ^{was 8} prepared immediately as service book was filled-up later on and signature was taken on 7.10.71. According to him, at the time of regularisation, he had given his T.C. which shows ~~that~~ his date of birth to be 6.7.46, but in the service book, his date of birth was recorded as 6.7.42. It is submitted by the applicant that he came to know about his date of birth having been wrongly recorded in the year 1994 at the time when he was applying for loan. Therefore, he immediately represented on 5.1.95 and requested the authorities to change his date of birth as 6.7.42 (page 25). However, since no decision was taken by the respondents, he had to file the present O.A. on 1.8.2002.

3. The respondents have opposed the O.A. and have submitted that the applicant had signed his service book in the presence of witnesses, which is evident from Annexure CA-1 to the Counter, therefore, the applicant cannot say that he was not aware about the date of birth entered in his service book. Even thereafter, the seniority list was issued on 27.7.91 wherein also, applicant's date of birth was shown to be 6.7.42 at page 20, applicant's name shown at sl. no. 25, but the applicant did not raise any objection. On the contrary, at the time when the applicant applied for loan on 14.11.1994, he himself wrote his date of birth to be 6.7.42 which is apparent from Annexure CA-3 to the Counter. Similarly in Form 30-B, applicant had shown his date of birth to be 6.7.42 and the form was duly signed by the applicant. Form no. 6 wherein the applicant gave the details of his family members as late as on 3.7.2002, which was also duly ^{was also} signed by the applicant in ~~renew~~ applicant's date of birth application was recorded as 6.7.42. In the ^{was 12} form of commutation of pension filled-up on 3.7.2002, again his date of birth ^{was 12} shown as 6.7.42 and even this form was signed by the applicant

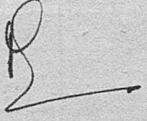
himself. Therefore, they have submitted that it is not open to the applicant to suggest that he was not aware of the date of birth entered in his service book. According to them, the first representation received from the applicant was on 20.5.2002 when the applicant was due to retire on 31.7.2002 after completing 60 years of age as per his recorded date of birth. Since law is well settled on the question of change of date of birth that such request cannot be entertained at the fag end of career, ~~and~~ his request was rightly rejected by the authorities vide order dated 4.6.2002 (Annexure A-6). They have, thus, submitted that as per settled law this O.A. is absolutely devoid of merits, as such the same is liable to be dismissed.

4. I have heard both the counsel and perused the pleadings as well.

5. Annexures filed by the respondents with their Counter affidavit clearly shows that throughout the applicant's date of birth had been recorded as 6.7.42 in the service record and since the seniority list was also issued in the year 1991, applicant cannot be heard of saying that he was not aware about the said entry in his service book. Even otherwise, as per applicant's own averments, ~~that~~ he came to know about the said date of birth in the year 1994, if that be so, then he ought to have filed the O.A. immediately thereafter, but even at that stage, no efforts ~~were~~ made by him to ^{get} ~~correct~~ his date of birth changed by filing O.A. In normal course, he was to superannuate on 31.7.2002, but the present O.A. has been ^{filed after his superannuation is} filed only on 1.8.2002. Since the applicant's date of birth was duly signed by the applicant himself at the time of his regularisation in the presence of witnessess and thereafter ^{was} also his date of birth shown in the seniority list issued in the year 1991, applicant cannot be heard of saying that he was not aware about his recorded date of birth in his service book. The law is well settled by the Hon'ble Supreme Court that such



request cannot be entertained at the fag end of career. Accordingly, I do not find any illegality in the order passed by the respondents. The O.A. is, therefore, dismissed with no order as to costs.


MEMBER (J)

GIRISH/-