

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD**

Original Application No. 1199 of 2003

Tuesday, this the 02nd day of ~~November~~ ^{December} 2008

Hon'ble Mr. Ashok S. Karamadi, Member (J)

Mamgali Prasad S/o Late Sri Dhani Ram, R/o 778/118-A, Sohbatiya Bagh, Allahabad.

Applicant

By Advocate: Sri D.K. Pandey

Vs.

1. Union of India through its Secretary, Defence, South Block, New Delhi.
2. Director General Ordnance Depot, Ministry of Defence, South Block, New Delhi.
3. Commandant C.O.D. Chhioki, Naini, Allahabad.
4. Administrative Officer, C.O.D., Chheoki, Naini, Allahabad.

Respondents

By Advocate: Sri Saurabh Srivastava

O R D E R

By Ashok S. Karamadi, Member (J)

This application is filed for quashing of the order dated 04.08.2003, and for payment of salary for the intervening period for which the applicant has not worked.

2. The brief facts of the case are that the applicant was appointed in the Central Ordnance Depot on 16.12.1963, and subsequently promoted as Civilian Motor Driver from 01.06.1979. The date of birth of the applicant was recorded on the basis of the School Certificate, issued by the Higher Secondary School, at the time of appointment as 06.12.1943, and other documents in which the date of birth of the applicant was shown as 06.12.1943. After computerization of the Office, the pay slip of the applicant was supplied in which various details were printed and the date of birth of the applicant was wrongly shown as 16.12.1942, in the pay slip received by the

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applicant for the month of July 1997, based on that applicant has made a representation dated 04.07.1997 to the respondents No. 3 for rectification of the mistake regarding his date of birth, and if the same is not done, the applicant would retire one year earlier, and again another representation was submitted on 21.11.1997, in support of his say he has produced the Identity Card, Family Members Card, Provident Fund slip. The respondents intimated the applicant by the letter dated 17.06.2000 for holding Court of Inquiry in connection with applicant's representations regarding the correction of date of birth. The applicant attended the Court of Inquiry and pointed out the mistake and the documents were also shown in which his date of birth was recorded as 06.12.1943. The applicant has not received any decision, and therefore by another representation on 19.03.2001, without decision the applicant was retired on 31.12.2002. Thereafter, the applicant issued a legal notice to the respondents as the respondents failed to inform anything about the representation of the applicant, has filed O.A. No. 248 of 2003, that O.A. was disposed of at the admission stage on 24.03.2003 directing the respondents to communicate the outcome of the Court of Inquiry. The applicant received a copy of the Order dated 04.08.2003 in which the respondent No. 4 has held that applicant's date of birth recorded as 16.12.1942, against this O.A. is filed for the above relief.

3. On notice, the respondents appeared and filed the counter affidavit, stating that the School Certificate and Transfer Certificate were not at all produced at the time of appointment. The applicant in his statement regarding his age of majority i.e. 21 years before the Medical Officer on 16.12.1963 and the Medical Officer also certified that applicant was medically 21 years old. The false statement is made with regard to documentary evidence. During his long period of service, various times he has put his signature confirming his date of birth as 16.12.1942. The Government rules prescribed that when the approximate age is only declared, the number of years representing the age declared are to be deducted and the assumed date arrived at. In compliance thereof the applicant's date of birth was calculated and arrived at as 16.12.1942. The medical form duly signed by the Medical Officer also based the impression of all the fingers of both left and right in token of his having certified the said



date of birth, the copy of the same is produced alongwith the counter affidavit. The Identity Card in question of the applicant was issued to him on 26.03.2001 after 37 years of his entering into service. Family Members' Card produced by the applicant himself under his signature, even though signed by the Group Officer without making any correction in the same as per the service record, this is an error of omission on the part of Group Officer, the applicant with an intention to take advantage in the routine manner got the signature without verification from the office records and the same is with regard to other document the applicant has produced and, therefore, cannot be taken as authentic documents for the purpose of determining the date of birth of the applicant. The case of the applicant was decided by convening the Board's meeting and after inquiry into the matter, came to the decision that the date of birth recorded in the Service Book as 16.12.1942 is correct and final and the same will not be changed after a lapse of 36 years. The respondents further state that the applicant himself had initiated/generated many statements showing his date of birth as 16.12.1942 and also had came across many statement/communications generated by the Depot, showing his date of birth as 16.12.1942. The respondents have also quoted the statement/communications, which are as follows: -

- (i) *Statement of service in respect of temporary Civilian Persona" in lieu of IAFK-1171 [Revised] showing the date of birth of the applicant as 16.12.1942 which was duly verified by the Officer-in-Charge and duly counter signed by the applicant Shri Mangali Prasad on 16.12.1963 i.e. on the date of his appointment (A photo copy of the verification of applicant is annexure CA-2).*
- (ii) *"Seniority Form" Appendix 'G' to ROI C/6 of 65 [para 11 (B) refers] shows the date of birth of the applicants furnished by him under his signature on 10.09.1979 as 16.12.1942. (A photo copy of the verification of applicant on 10.09.1979 is annexure CA-3).*
- (iii) *That the date of his birth certified by the applicant himself in a certificate given by the applicant under his signature on 10.09.1979 has being shown as 16.12.1942 which was duly attested by the commandant. (A photo copy of the same is annexure CA-4).*
- (iv) *That immediately after the joining of the applicant in this depot a daily order Part II No. 191 dated 30.12.1963 was published and circulated wherein the applicant's date of birth was shown as 16.12.1942 and not otherwise. (A photocopy of the circulation dated 3.12.1942 is annexure CA-5).*
- (v) *That the date of birth of the applicant is recorded in his Service Book is his actual date of birth i.e. 16.12.1942 which was attested by the applicant himself and also audited from*



time to time and verified up to the date of his superannuation i.e. 31.12.2002 by the competent authority, Local Audit Officer under Controller of Defence Accounts. (A photocopy of relevant page of the Service Book is annexure CA-6).

Based on this, the respondents sought for dismissal of the O.A.

4. The applicant has filed the Rejoinder, reiterating the same contentions, as made in the O.A. and prayed for the relief.

5. Heard Sri D.K. Pandey, learned counsel for the applicant and Sri Saurabh Srivastava, learned counsel for the respondents and perused the pleadings, and the materials on record.

6. The learned counsel for the applicant submits that relying upon the documents produced by the applicant with regard to date of birth of the applicant as 06.12.1943 instead of 16.12.1942 as entered in the service record of the applicant, is not correct. The learned counsel for the respondents submits that having regard to the documents signed by the applicant right from the date of his appointment as his date of birth 16.12.1942, which is correct and the grievance of the applicant was considered by giving him an opportunity and passed the impugned order. On perusal of the pleadings and materials on record, and also the original records produced by the respondents' counsel, it is clear that the applicant was appointed on 16.12.1963, as the applicant has not produced any documents at the time of his appointment with regard to his date of birth on the basis of the Medical Officer's assessment the date of birth of the applicant was entered as 16.12.1942. The documents relied by the applicant are not that of assistance having regard to the fact that the respondents have stated that those documents are issued without verification of service records of the applicant, and as such the error was crept in. This explanation given by the respondents appears to be genuine and correct having regard to the fact the service record of the applicant clearly goes to show that the date of birth of the applicant entered in all the service record as 16.12.1942, for which the applicant himself has signed since many years ago after his joining in service, in spite of having knowledge with regard to his date of birth while he was in service continuously, the applicant has not chosen to get it corrected initially after joining the service or subsequently with proper materials and proof of



documents for change of date of birth, failing to do so has come forward for a change of date of birth based on the pay slip entry of the later year, cannot be accepted as a genuine and bona fide effort on the part of the applicant. On the other hand the respondents have produced the documents alongwith the counter affidavit showing the date of birth of the applicant as 16.12.1942 at the time of his appointment the applicant verified of the same, and thereafter the seniority form which shows the date of birth as 16.12.1942. This information is furnished by the applicant himself and attested by the Officer on 10.09.1979, therefore, the contention of the applicant cannot be accepted as there was mistake with regard to his date of birth in the service record, even otherwise the grievance of the applicant at the fag end of his service, which is belated one, cannot have the force of law to consider the same, therefore the applicant has failed to make out a case for grant of relief, as claimed, and on the other hand the respondents have made out a case for dismissal of the O.A. Accordingly I do not find any justification for interference in the impugned order.

7. In view of the foregoing reasons, O.A. is dismissed. No order as to costs.



[Ashok S. Karamadi]
Member 'J'

/M.M/