

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated: This the 06th day of JULY 2005.

Original Application NO. 1101 of 2003.

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

Raj Kumar Verma, S/o late Munni Lal
R/o H. No. 117/218, Kakadeo,
KANPUR NAGAR.

....Applicant

By Adv: Sri R.K. Shukla

V E R S U S

1. Union of India, through the Secretary
Ministry of Defence,
Dept. Of Defence Production & Supplies,
Govt. of India,
NEW DELHI.
2. The Addl. D.G.O.F.,
Ordnance Equipment Factory,
'Ayudh Upaskar Bhawan', G.T. Road,
KANPUR NAGAR.
3. The General Manager,
Ordnance Parachute Factory,
KANPUR NAGAR.

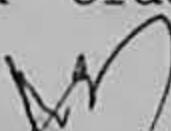
.....Respondents

By Adv: Sri S. Singh

O R D E R

By this OA, filed under Section 19 of the A.T.
Act, 1985 the applicant has prayed for the following
direction:-

"i. To issue a writ, order or direction in
the nature of Certiorari quashing the
Factory Order Part II No, 732 dated
25.06.2002 and Order No. CF-738/Pension



(Vividh) dated 19.06.2003 (Annexure A-I)
issued by the respondent No. 3.

ii. To issue a writ order or direction in the nature of Mandamus directing the respondent No. 3 to rectify the Petitioner's date of birth in their records as 25.8.1944 instead of 30.09.1943.

iii.

iv."

2. According to the applicant he was initially appointed on the post Labour 'B' on casual basis w.e.f. 04.10.1963. The appointment letter is filed as Annexure 2 to the OA. He was, thereafter, promoted as Fitter 'C', Fitter 'B' and Fitter General HS II after passing the requisite tests.

3. AT the time of appointment Matriculation Certificate showing Date of Birth was demanded. As the applicant failed in the 9th Class, he filed the Transfer Certificate (in short TC) issued by the B.N.S.D. Inter College, Kanpur, which is a reputed College of Kanpur, wherein the Date of Birth of the applicant was entered as 25.08.1944. He has also submitted Class 5th certificate of Kendriya Basic Pariksha Praman Patra, wherein the Date of Birth of the applicant was shown as 25.08.1944. These certificates have been annexed as annexure 3 & 4 to the OA. After completion of 5 years of service in Ordnance Parachute factory, Kanpur the applicant was issued with a permanent Identity card in which the

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Date of Birth of the applicant is shown as 25.08.1944 (Annexure 5). The applicant was issued a computerized form of monthly pay slip which also bears the Date of Birth of the applicant as 25.08.1944 (Annexure A 6). Owing to the above mentioned Govt. records the applicant was sure about his Date of Birth as 25.08.1944. On the verge of retirement i.e. on 19. 6.2003 the applicant came to know when respondent No. 3 asked him to sign pension papers in pension office that his Date of Birth ~~has~~ ^{is} wrongly been recorded on the basis of medical report instead of authentic documents produced by the applicant such as TC from a reputed institution of Knapur as well as class 5th certificate. Accordingly, the applicant was superannuated about 11 months earlier to that of his actual date of superannuation. He filed a representation on 11.05.2003 alongwith certified copies of both the certificate of Class 5th and TC. To enquire into the matter and to make rectification in recorded Date of Birth (Annexure 7). He also submitted the original documents above mentioned alongwith his representation dated 02.07.2003 (Annexure A8) for the satisfaction of the respondents. When no decision was taken on the representation of the applicant he filed this OA.

4. Learned counsel for the applicant submitted that the applicant had produced certificates of his education as well as Date of Birth at the time of

appointment and the same Date of Birth should have been recorded in the documents treating the applicant as a literate employee and not as illiterate one. The applicant was never shown his service book and no controversy of Date of Birth was ever raised or come into knowledge of the applicant. The applicant was supplied with the IC by the respondent which shows that his Date of Birth is 25.08.1944 based on the educational certificate filed by the applicant at the time of his initial appointment. He was even issued monthly wages slip and GPF annual statement showing the claimed Date of Birth. Learned counsel for the applicant further submitted that the action of the respondents in not rectifying the applicant's Date of Birth as recorded in his service book is contrary to Govt. instructions and thus violative of Article 14 and 16 of the Constitution of India. This incorrect Date of Birth shown in the service book is certainly due to some clerical mistake which is permissible to be rectified under the provision of Supplementary Rules 199, containing Govt. of India, Ministry of Home Affairs O.M. No. F-0/1/61-Estts (A) dated 27.11.1962, as mentioned in para 17 of the OA. Therefore, the applicant is entitled for all the consequential benefits arising out after the rectification of his Date of Birth.

5. The learned counsel for the applicant has placed reliance on the judgment of this Tribunal

dated 11.03.2005 in OA 1193 of 1998 Jagdeo Vs. U.O.I. & Ors and also in case of Om Prakash Shahu Vs. U.O.I. & Ors in OA 1155 of 1995 decided on 13.3.2003.

6. On the other hand, contesting the claim of the learned counsel for the respondents has filed the CA. Inviting my attention to para 'B' of the CA, the learned counsel for the respondents submitted that the applicant had not produced any documents in support of his Educational Qualification and Date of Birth as he was not in possession of the same. In the absence of documentary evidence of his educational qualification certificate, his Date of Birth was recorded as per his statement and Medical Report i.e. 30.09.1943. (Annexure CA1). Learned counsel for the respondents has placed reliance on Annexure CA 3 and submitted that no Matriculation certificate or Municipal Certificate issued for Date of Birth was filed at the time of appointment. Learned counsel for the respondents finally submitted, that it is wrong to say, that the representation of the applicant was replied by the department vide order dated 03.06.2003, filed as Annexure CA 4. The applicant was informed that no amendment in the Date of Birth of the applicant is possible now which should have been applied for within 5 years of the service. Therefore, the action of the respondents in retiring the applicant

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after the age of superannuation treating the age of the applicant as 30.09.1943 is legal and justified.

7. I have heard the learned counsel for the parties. By order dated 01.04.2005 this Court had directed the respondents to produce the original record of the applicant i.e. service book to ascertain/find out about the exact Date of Birth of the applicant. No such original records were produced except filing of CA alongwith Works Men Record of Service filed as Annexure CA 1 and other annexures. I have gone through this annexure to the CA in which in the column of Date of Birth it is written " Date of Birth (i)medical report 30.9.1043...(ii) 25.08.1944 other documents" which is also under signed by the applicant. This document has been filed by the respondents alongwith CA the heading of which is "**WORKMAN'S RECORD OF SERVICE**". It is also an admitted fact that the applicant represented the department vide representation dated 17.05.2003 filed as Annexure CA 2. This fact has also admitted that the age of the applicant as shown in the IC of the applicant as 25.08.1944. There is also a note which reads as under:

"So far as the security record is concerned Date of Birth 25.08.1944 as mentioned in Permanent Card Pass is found OK."

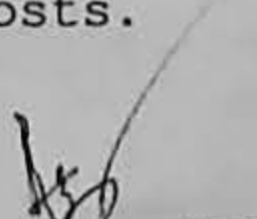
It is also an admitted fact that the Scholar Register and TC form of B.N.S.D. School Kanpur, which was submitted by the applicant has his Date of

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Birth mentioned as 25.08.1944. ON the perusal of the document filed by the applicant as well as annexures to the CA I find force in the arguments of learned counsel for the applicant that the Date of Birth of the applicant is 25.08.1944 which is also authenticated by the various documents such as TC issued from B.N.S.D. School Kanpur Class 5th certificate filed by the applicant, IC and the pay slip, all shows the Date of Birth of the applicant as 25.08.1944. The applicant is also 8th Class pass and cannot be said to be an illiterate labour. It is an admitted fact that the applicant has now retired on 30.09.2003.

8. Under the facts and circumstances, the OA deserves to be allowed. Accordingly, the OA is allowed. Order dated 19.06.2003 (Annexure A1) and order dated 25.06.2002 in respect of the applicant only are hereby quashed and set aside. The respondents are directed to correct the Date of Birth of the applicant as 25.04.1944 in his Service Book and pay him all consequential benefits after rectification of his age. This exercise shall be completed within a period of three months from the date of communication of this order.

9. There shall be no order as to costs.


Member (J)

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