

**RESERVED**  
(On 02.01.2013)

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**ALLAHABAD BENCH, ALLAHABAD**

Dated : This the 23<sup>rd</sup> day of January 2013

**Original Application No. 170 of 2007**

**Hon'ble Ms. Jayati Chandra, Member (A)**  
**Hon'ble Ms. Jasmine Ahmed, Member (J)**

Smt. Tulsi Devi Rana, W/o late Nek Bahadur Rana, R/o 702, Gorakhpur Cantt., Gorakhpur.

... Applicant

By Advocate : Shri Sheel Ojha

**VERSUS**

1. Union of India through General Manager, N.E. Railway, Gorakhpur.
2. General Manager, N.E. Railway, Gorakhpur.
3. General Manager (P), N.E. Railway, Gorakhpur.

... Respondents

By Advocate : Shri P.N. Rai

**ORDER**

**By Hon'ble Ms. Jayati Chandra, AM**

Through this OA filed under Section 19 of the A.T. Act, 1985 the applicant seeks following reliefs:

- a. *The Hon'ble Tribunal pleased to quash the impugned retirement notice dated 06.12.2006 and order dated 05/25.01.2007 passed by the respondent No. 3.*
- b. *The Hon'ble Tribunal pleased to direct the respondent No. 2 and 3 not to retire the applicant from the post of 'Daftari' by treating her date of birth to be as 06.04.1957.*
- c. *To issue any other suitable order or direction which this Hon'ble Tribunal may deem fit and proper under the facts and circumstances of the case."*

2. The brief facts of the case as averred by the applicant is that the applicant is an illiterate lady and she never studied in any school. She was

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granted appointment on compassionate grounds on 01.01.1994 after the death of her husband who was a sepoy in RPSF and had died in harness. At the time of her appointment her real date of birth was 06.04.1957 as proved by the birth certificate issued by Butwal Municipality Office, Nepal (Annexure -2) submitted at the time of her appointment. As she was posted on the post of Daftari for which retirement age is 60 years, she is entitled to continue in service upto 30.04.2017 as per her date of birth, but the respondents by the impugned order retired her on 28.02.2007 i.e. 10 years earlier. The applicant gave an application on 04.01.2007 alongwith an affidavit and the copy of her birth certificate as issued to her by Butwal Municipality Office, Nepal stating that her date of birth should be corrected to 06.04.1957 so that she may carry on in service till she is due to retire.

3. In the rejoinder affidavit the applicant has stated that contrary to the averment made by the respondents, she had never attended any school. Therefore, the question of her having filed any certificate from any educational school regarding her date of birth, does not arise. She has further affixed copy of her birth certificate as issued by Nepal Government as Annexure R-1. Learned counsel for the applicant stated that as per Master Circular No. 12 of the Railway Procedure for recording date of birth on entering the Railway Service it is required that every person shall declare his/her date of birth which shall be accepted by the appropriate authority on production of a confirmatory document such as matriculation certificate or certificate from Municipal Certificate. Moreover, in case of literate staff, the date of birth shall be entered in the

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record of service in their own handwriting. In the case of illiterate staff, the declared date of birth shall be recorded by a senior railway servant and witnessed by another railway servant. In this case since the applicant is an illiterate person, her service book should have been prepared by a senior Railway Servant and witnessed by another Railway servant. The same was not done so.

4. Learned counsel for the respondents stated that the applicant's date of birth as per educational certificate issued on 29.08.1967 by Veer Shivaji Inter College, Sarhari, Gorakhpur which was produced by the applicant at the time of her initial appointment is 07.02.1947. Therefore, having attained the age of 60 years she was retired by the impugned order. The respondents have also stated that she was appointed on 05.01.1994 and not on 01.01.1994.

5. The respondents have also produced original service book of the applicant in which the date of birth is recorded as 07.02.1947 and her educational qualification is shown as having passed Class 8<sup>th</sup> on 07.05.1967 from Veer Shivaji Inter College, Sarhari, Gorakhpur.

6. We have heard Shri S.K. Kushwaha brief holder of Shri Sheel Ojha, learned counsel for the applicant and Shri P.N. Rai, learned counsel for the respondents and perused the entire facts of the case. The entire thrust of learned counsel for the applicant is that the applicant is illiterate and her service records were erroneously /fraudulently prepared to show wrong date of birth. Yet it is seen from the body of the OA that in every

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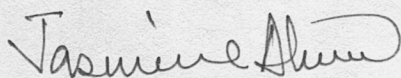
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document the applicant has signed her name instead of affixing her thumb impression as an illiterate person would be expected to do. Moreover, she has produced a Municipal certificate dated 01.12.1991 which is addressed "To whom it may concern" and is supposedly issued on the basis of records available and not the copy of main record. Further this certificate is not a certificate of date of birth because the date of birth certificate is issued to a person and necessarily includes the name of father. The certificate produced as Annexure RA-1 is in Nepali language. No authentic translation in Hindi/English has been provided.

7. The applicant stated in her OA that she had applied for compassionate appointment alongwith copy of birth certificate as issued by Municipal Office at Nepal, but she has not produced copy of her original application for compassionate appointment to the respondents to substantiate the same.

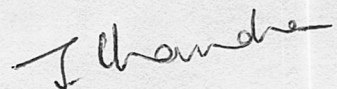
8. In any claim made by any person the burden of proof lies on the claimant. In this particular case the applicant has failed to proof beyond reasonable doubt that her date of birth is as claimed in 1957 and not in 1947 as recorded in her service book.

9. For the reasons recorded above we find no merit in the OA. The OA is accordingly dismissed. No cost.



Member (J)

/pc/



Member (A)