

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH  
ALLAHABAD**

\*\*\*\*\*

(THIS THE 28 DAY OF 10, 2009)

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

***Hon'ble Mr. D.C. Lakha Member (A)***

**Original Application No.524 of 2007**

(U/S 19, Administrative Tribunal Act, 1985)

Badri Prasad son of Sri Beni Prasad, Resident of Teekar, Post Teekar, District-Fatehpur.

..... Applicant

***Versus***

1. Union of India through Secretary, Ministry of communication, New Delhi.
2. Post Master General, Lucknow.
3. Superintendent of Post Office, Fatehpur.

..... Respondents

Present for Applicant :            Sri S.M. Ali  
   Sri Shatrughan Singh

Present for Respondents :       Sri S.C. Mishra  
   Sri Saumit Singh

**ORDER**

**(Delivered by Hon'ble Mr. A.K. Gaur, J.M.)**

Through this Original Application, the applicant has claimed following main relief/s:-

- (i) to issue a direction in the nature of certiorari quashing the impugned order dated 05.04.2007 (Annexure -I) with all consequential benefit.
- (ii) to issue a direction in the nature of mandamus commanding the respondent no.3 not to given effect to the impugned order till the pendency of the O.A. and further commanding the respondent no.3 not to interfere the working of the petitioner till his due retirement 21.05.2008.

✓



2. The grievance of the applicant is that although he was appointed on 13.10.1964 on the basis of date of birth i.e. 22.05.1943 recorded in 8<sup>th</sup> Class certificate but the respondents vide order dated 30.03.2007/Annexure A-5 of O.A. superannuated him w.e.f. 21.05.2007 on completion of 65 years age treating his date of birth as 22.05.1942. Aggrieved the applicant preferred representation dated 03.04.2007 for correction of date of birth as 22.05.1943 instead of 22.05.1942. According to the applicant, the respondent no.3 without verifying the service book and without taking into account his grievance passed the order dated 05.04.2007/Annexure A-1 of O.A.

3. Learned counsel for the applicant submitted that the date of birth on which the respondents have superannuated the applicant is based on some declaration form which is not a part of service book and he cannot be superannuated treating his date of birth as 22.05.1943.

4. Denying the claim of the applicant, the respondents filed Counter Affidavit and submitted that as per office record and declaration given by the applicant/Annexure CA-3 of counter affidavit, his date of birth is 22.05.1942. According to the respondents, in view of **Note 6 below F.R. 56**, which clearly demonstrates that the date of birth so declared by the Government servant and accepted by the appropriate authority shall not be subject to any alteration exception as specified in this Note, that an alteration can't be made if a request in this regard is <sup>not</sup> made within 5 years of his entry into Government service. Learned counsel for the respondents further submitted that the applicant has also admitted his date of birth as 22.05.1942 and 19.11.1964 before the Medical Officer, Khaga/Annexure CA-3 of Counter Affidavit. It is submitted on behalf of

u/



the respondents that the documents enclosed as Annexure-3 to the CA are self explanatory and indicative of the fact that the date of birth of the applicant is 22.05.1942.

5. Learned counsel for the respondents submitted that at the time of medical examination before the Medical Officer, Khaga on 19.11.1964, the applicant declared his age as 22 years (Annexure CA-3). Apart from this, in the seniority list dated 31.10.2004/Annexure CA-3, his date of birth was clearly shown as 22.05.1942. Learned counsel for the respondents further submitted that the applicant has already been superannuated on 21.05.2006 and filed the instant O.A. in August, 2007, therefore, the date of birth cannot be corrected and altered after a long delay & and after retirement. In support of his contention, learned counsel for the respondents invited our attention to Annexure-I of Affidavit dated 10.02.2008, which is a publication published in Swamy's CL Digest 1997/2 and submitted that the applicant cannot claim for any correction in his date of birth after such an inordinate delay.

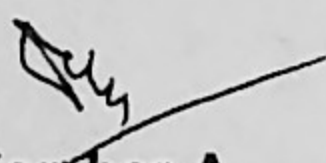
6. Applicant has filed Rejoinder Affidavit in which nothing new has been added,

7. We have heard rival contentions and perused the pleading as well the written submissions. We are in full agreement with the argument of the learned counsel for the respondents that in view of **Note 6 below F.R. 56 and publication published in Swamy's CL Digest 1997/2** (referred to above), which clearly demonstrate that the date of birth so declared by the Government servant and accepted by the appropriate authority shall not be subject to any alteration except as specified in this

✓



Note, where it is, mentioned that an alteration in date of birth can be made, if a request in this regard is made within 5 years of employee's entry into Government Service, and any alteration or correction is impermissible after such a long time. The Hon'ble Supreme Court, in the case of ***Burn Standard Co. Ltd. &Ors. Vs. Shri Deen Bandhu Majumdar and another (JT 1995 (4) SC 23)*** has held, that the entry with regard to date of birth made in the service book, at the time of entry in service, should be deemed final. Hon'ble Supreme Court in its decision reported in **2000 SCC (L&S) 1043 State of Haryana Vs. Haryana Veterinary and AHTS Association and another** has clearly held, that no correction in date of birth is permissible at belated stage. In view of the settled principle of law and discussions made above, the O.A. is totally misconceived and is liable to be dismissed and is accordingly dismissed. Parties are directed to bear their own costs.

  
**Member-A**

  
**Member-J**

/Anand/