

(10)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

S6  
O.A. No. 208 OF 1988.

DATE OF DECISION 19.2.1988

SHRI UMIYASHANKER VASHRAM MEHTA. Petitioner

M.M. X'AVIER

Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS.

Respondents

R.M. VIN

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.M. JOSHI, JUDICIAL MEMBER.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Y*
2. To be referred to the Reporter or not ? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal. *Y*

Shri Umiyashanker Vashram Mehta  
Adult, Hindu, Occu: Retired  
Block No. D/146, New Rly. Colony,  
Bhavnagar Para 364 003.

.... Petitioner.

(Advocate : Mr. M.M. X'avier)

Versus.

1. Union of India  
owing and representing  
Western Railway, through its  
General Manager, Western  
Railway, Churchgate,  
Bombay - 21.

2. The Divisional Railway Manager,  
Western Railway,  
Bhavnagar Division,  
Bhavnagar Para.

.... Respondents.

(Advocate : R.M. Vin)

J U D G M E N T

O.A. NO. 208 OF 1986

Date: 19.2.1988.

Per: Hon'ble Mr. P.M. Joshi, Judicial Member.

In this application under section 19 of the Administrative Tribunals Act, 1985, filed on 1.5.1986, by the petitioner Shri Umiyashanker Vashram Mehta of Bhavnagar, is a retired Railway employee. According to him, he had made several representations to the Railway Authorities during his tenure, in respect of his request to alter the date of birth, but no final decision was taken by the Defendant Authority till 23.5.84 i.e. only few days prior to the date of retirement, with the result the petitioner was made to retire compulsorily on 31.5.84 and he was not allowed to continue till his attainment of age of 58 years on 31.1.1985 based on the actual date of birth. The petitioner claims that his actual date of birth as per the school record is 5.1.1927 but it was wrongly recorded by the Railway Department as 13.5.1926. The petitioner

therefore prayed for the relief of declaration to the effect that he is entitled to get his date of birth corrected in the service record of the Respondent No. 2 from 13.5.26 to 5.1.1927. He further prayed that the action of the Respondents in retiring him on 31.5.84 is illegal and it should be further declared that the applicant be deemed to have been continued in service till 31.1.1985 with all the consequential benefits.

2. The Respondents-Railway Administration in their counter denied the assertions made by the petitioner. According to them, the petitioner was appointed in Ex-Junagadh State Railway on 9.5.1945, which Railway merged with Ex-Saurashtra Railway on 1.4.1948 and the Saurashtra Railway merged with the Western Railway on 5.11.51 and the date of birth which he had declared as 13.5.1926, was maintained through out. It is further submitted that the Station Master, Una, was directed under Office letter No. EP/753 dated 15.12.51 to inform the petitioner that his date of birth recorded as 13.5.1926 in the service sheet at the time of his appointment, can not be changed. It is the stand of the Respondents-Railway Administration that thereafter the petitioner did not turn up to sign the service sheet in the new form, but the entry of the date of birth has been duly attested and when the petitioner renewed his request for correction with regard to his date of birth duly recorded in the service sheet, he was replied through the Station Master vide letter dated 5/6-4-63 that his request can not be considered. However when the petitioner started representing after a lapse of several years and the matter was referred to the General Manager (Estt). The competent authority, the Chief Personnel Officer examined the case and the decision was communicated vide letter dated 23.5.1984. A speaking order of the competent authority dated 23.5.84 is found at Annexure 'B' appended

to the counter of the Respondents.

3. When the matter came up for hearing Mr. X'avier and Mr. R.M. Vin, the learned counsel for the petitioner and the Respondents respectively were heard. The materials placed on record and the written arguments filed by Mr. X'avier are perused and considered.

4. The main grievance of the petitioner is that the Respondents-Railway Administration has committed an error in rejecting his request to correct the date of birth on the basis of the School Record for which he was constantly representing to the authorities. In this regard the sole reliance is sought on the certificate dated 11.3.1986 issued by the Headmaster of "Kumar Shala, Jethalsar Junction", managed by Jetpur Taluka Panchayat. It is not a School Leaving Certificate obtained by the petitioner, when he left the School. It is stated in the certificate that on the basis of the School register the birth date of Shri Umiyashankar V. Mehta is 5.1.1927. As against this, the Respondents-Railway Administration has relied on the original nominal rolls of Junagadh State Railway Staff wherein in the relevant column against the name of the petitioner, his date of birth has been recorded as 13.5.26 and the date of appointment is shown as 9.5.1945. They have also produced the volume published by the Western Railway in respect of the gradation list of Staff working on Bhavnagar Division as on 1.8.1959; wherein also the similar entries are found against the name of the petitioner (at page 73) is found at Sr.No. 115.

5. In the case of Railway servants, the procedure for entering the date of birth and altering the same is provided under rule 145 of the Establishment Code. It is now well established that where a Government Servant makes a request for a change in his date of birth and adduces evidence for the purpose, the authorities are required to consider the

request objectively. However the authorities are free to consider such evidence in the light of the service records and other materials in their possession. In the matter of such enquiry the authorities are required to advert to the point by raising the issue as to whether there are valid reasons to alter the date of birth recorded in the service sheet in light of the evidence adduced by the employee in support of his request. In the matter of date of birth in the case of Government Servant, the one which is originally entered in the service record is very material.

6. In the instant case, it is borne out from the original roll of the Junagadh States Railway Staff that the date of birth i.e., 13.5.26 has been recorded as the date of birth of the petitioner. It is pertinent to note that the petitioner was advised by the District Traffic Superintendent Junagadh in 1951 that his date of birth was recorded as 13.5.26 in the service sheet at the time of appointment and hence it can not be changed. The petitioner represented that he has attached his last leaving certificate of Shri Baghwatsinghji High School, Dhoraji with his application on appointment. But when he was asked to produce the original certificate, he produced a birth date certificate issued by the said School. He was subsequently advised in 1963 by DOS BVP that his date of birth was recorded on the basis of his service record of the Ex-JND State Railway and it can not be altered. It is observed by the competent authority in its decision dated 23.5.83 that the representations of the petitioner were also replied earlier. The correspondence ensued in this regard is found in the list of documents produced and relied upon by the petitioner.

7. It is rather surprising that the petitioner preferred to file this application to claim alteration with regard to his date of birth nearly two years after his retirement, and that too even though his grievance or cause of action

had accrued much earlier in year 1951 and later on, in the year 1963 when it was clearly given to understand that his request for alteration for the date of birth in the service record can not be conceded. Apart from the fact that this application is belated the petitioners' claim is not supported by any substantive evidence. The certificate issued by the Headmaster which is relied upon by the petitioner has very little evidentiary value. Having regard to the fact that the competent authority has passed a speaking order in respect to the request of the petitioner's last representation, it can not be said that the decision taken in this regard suffers from any error or infirmity as contended.

7. In this view of the matter, the application merits no consideration. The impugned action, that is, the decision rejecting the petitioners' request to alter the date of birth is held quite valid. The application is accordingly dismissed with no order as to costs.



( P.M. JOSHI )  
JUDICIAL MEMBER.

ttc.