

(7)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

O.A. No. 360 of 1986 1986  
TOA/CNT

DATE OF DECISION 22-5-1987

Chandrika Prasad Shukla Petitioner

Mr. J.C. Sheth Advocate for the Petitioner(s)

Versus

Station Supdt. W. Rly & Ors. Respondent

Mr. R.P. Bhatt Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.H. Trivedi : Vice Chairman

The Hon'ble Mr. P.M. Joshi : Member Judicial.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal.

JUDGMENT

(6)

OA/360/86

22-05-1987

Per : Hon'ble Mr. P.H. Trivedi : Vice Chairman

The applicant Chandrika Prasad Shukla joined the Railway Service as Class IV servant on 9-6-1952 and on the Service Sheet his date of birth was shown as 4-12-1928, which he has signed in Hindi. On the option form he has signed in English. The date of birth recorded is the same, 4-12-1928, and in Form II of the option form dated 31-10-1960 he has signed in English. On the Service Sheet the date of birth date has been taken on the authority of "As per P.F.C. No.71150 of 4-12-1950 issued by DMO-ABR". On this basis the petitioner was due to retire on 4-12-1986. He found during his visit to U.P. that his elder brother had not reached the age of retirement and he has produced at Annexure 'A' the certificate of birth of his elder brother. He has also produced at Annexure 'B' the transfer certificate from Basic Shiksha Parishad, Basti giving his date of birth as 1-6-1933. This certificate has been issued on 3rd May, 1986. He has another certificate from the Gram Sabha certifying that his date of birth as 1-6-1933.

2. The respondent's case is that throughout his service his date of birth has been taken as 4-12-1928 and that on various documents like Service Sheet, Option Forms which the petitioner has signed, this is the date of birth which has been recorded and which he has acknowledged. The respondent contends that the petitioner is literate as seen from the fact that he has signed both in Hindi and English and that he has studied up to class IV which gives him adequate literacy. The respondent considers that the petitioner not having raised the question of his birth date at any time in the past and not even having applied for any change by means of representation to the relevant circulars asking him to do so in 1972 is now debarred from raising this question. The respondent has quoted Rule 145 in which it is laid down that generally the date of birth recorded in the Service records should be taken as reliable basis

and unless there is a clerical error or there is otherwise a satisfactory explanation of the circumstances in which wrong date is claimed to be entered or the case for alteration of birth date may be considered.

has

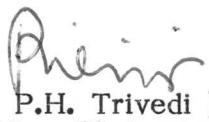
3. The question of birth date been examined in the judgments in OA/224/86, TA/70/86 and TA/284/86. In this case the petitioner is literate and has raised the question at the fag end of his service. As has been observed in the judgments referred to in the case of birth date the particular circumstances of each case need to be appreciated for considering the merits of the petition. There is of course no bar in considering the application even if they are made at the end of the service in the case of Class IV employees. It is for the petitioner to adduce evidence on the basis of which it becomes necessary for the respondent to examine his representation. The petitioner in this case has not produced any certificate prior to 1986 or any document of earlier period on which his claim is based. The mere fact that his elder brother possesses a certificate which gives a later date of birth could also give rise to an inference that his brother's date of birth may have been wrongly recorded. In this case the petitioner has recorded his signature on the Service Sheet and other documents and it is not his case that he knew about the birth date which he now claims earlier than in 1986.

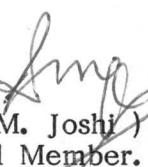
4. The only question that survives is whether the respondent made any kind of inquiry to deal with the case. From the reply filed it does not appear that this has been done. They have simply denied the averments and relied upon the facts of the petitioner being a signatory in his own hand on the various documents in which his birth date has been shown as 4-12-1928. They have also relied upon the portion of Rule 145 and an opportunity given for representation by means of circular in 1972. Whether the petitioner's case is satisfactory or not he is entitled to have the evidence that he has presented to be looked into by means of an inquiry so that

authorities come to a proper conclusion about his claim. This inquiry has not been held. We cannot say that this inquiry is rendered unnecessary by the fact of the retirement of the petitioner. If as a result of the inquiry it is found that the petitioner's representation has merits, he would be entitled to add about 4 years to his period of service which is <sup>of</sup> a considerable advantage to him. It is, therefore, fit and proper in the circumstances of this case that an inquiry should be held by the authorities before the claim of the petitioner is rejected by them. We do not consider that the petitioner has adduced sufficient evidence for ourselves to come to a conclusion that his claim is fully substantiated <sup>to</sup>, but we are unable to dismiss it out of hand. We uphold the petitioner's representation to the extent of its merits for having an inquiry on the basis of relief that he has sought in sub-para (a) of para 10 of his petition.

5. For the above reasons we hold that the petition has merits and allow it in part and direct the respondent to hold an inquiry into his representation about his date of birth and arrive at a decision on the basis of such an inquiry within a period not exceeding 4 months.

No order as to costs.

  
( P.H. Trivedi )  
Vice Chairman.

  
( P.M. Joshi )  
Judicial Member.