

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 401 OF 1986.
~~TxXXXBox~~

DATE OF DECISION 1.1.1988.

SHRI JAGDISHKUMAR. D. Petitioner

V.H. DESAI Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS. Respondent s

M.R. BHATT FOR R.P.BHATT 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 ? *Yes*
2. To be referred to the Reporter or not ? *No*
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. *No*

Shri Jagadishkumar. D.,
Driver C,
Loco Shed,
Mehsana.

..... Petitioner.

(Advocate : V.H. Desai)

Versus.

1. Union of India,
Notice to be served through the
General Manager, Western Railway,
Churchgate, Bombay.

2. The Chief Personnel Officer,
Western Railway, Churchgate,
Bombay.

3. The Divisional Railway Manager(E)
Rajkot, Dist: Rajkot.

..... Respondents.

(Advocate : M.R.Bhatt for R.P.Bhatt)

J U D G M E N T

O.A. NO. 401 OF 1986.

Date : 1.1.1988.

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

In this application, filed by the petitioner Shri Jagdishkumar.D. under section 19 of the Administrative Tribunals Act, 1985, has challenged the validity of decision taken by the General Manager (as conveyed under letter dated 21.8.1986), whereby he rejected the petitioners' request for alteration of his recorded date of birth. According to him, when he was appointed as a cleaner on 6th January, 1950, he produced School Leaving Certificate issued by D.N.E. School, Jamnagar; wherein his date of birth was shown as 6th August 1936, but as a result of mishap due to the fire in the office in the year 1954, the original service sheet lying with the Respondents was destroyed and while preparing new service sheet, the authority has arbitrarily mentioned the birth date of the petitioner as 14th February 1929. It is alleged/when this fact came to his notice as back in the year 1978 he immediately made representation and requested the authorities to record his correct date of birth i.e., 6th August, 1936 in the service

book but the Respondents authority has committed an error in refusing the request of the petitioner. He therefore prayed that the impugned decision be quashed and set aside and the Respondents-Railway Administration be directed to correct the date of birth of the applicant as 6.8.36 instead of 14.2.1929.

2. The Respondents-Railway Administration in their Affidavit-in-reply, has denied the assertions made by the petitioner. According to them, the petitioner for the first time made a vague representation for change of his date of birth by alleging that his date of birth was in the year 1936. It was further submitted that the date of birth of the petitioner was entered as 14.2.1929, when service sheet was prepared in the year 1956 which the petitioner himself has signed in token of the correctness of the entries regarding date of birth, educational qualification etc.

3. During the pendency of the proceedings of this application, the petitioner has retired with effect from 28.2.1987. When the matter came up for hearing we have heard Mr. V.H.Desai and Mr. M.R. Bhatt for R.P.Bhatt, the learned counsel for the applicant and the Respondents respectively. We have also considered the materials placed on record. Mr. Desai contended inter-alia that when the petitioner had furnished a copy of the School Leaving Certificate wherein his date of birth was recorded as 6.8.36 the competent authority was not justified in rejecting the petitioners' request for correcting the same and grant consequential benefits. Mr. M.R.Bhatt, however strenuously urged that the competent authority has carefully considered the petitioners' representation and when the same has been rejected on valid grounds petitioner is not entitled to the relief as prayed for.

4. It is true, a birth date recorded in the service sheet is not conclusive but it can be changed only on sufficient evidence, which can lead to the conclusion that the change of birth date is warranted. Rule 145 of the I.R.E.M. regulates the procedure of recording and correcting the date of birth. It is intended to have a finality in respect of the date of birth given by employee concerned. The procedur

set up for the correction of the date of birth is laid down for the smooth administration and for settling certain basic matters once for all for the purpose of giving various benefits accruing therefrom.

5. It is borne out from the letter (Annexure-III appended with the reply) dated 23/26-7-1986 addressed by D.R.M., that the service sheet prepared on 3.7.56 (original placed on record) duly signed by the petitioner on subsequent date was forwarded to the competent authority. He had also clarified that the incident of fire quoted by the petitioner pertain prior to introduction of Division system. Before addressing this letter, he had brought to the notice of the petitioner under his letter dated 17.3.1986 (Annexure-II) that every person on entering Railway Service is bound to declare his date of birth which shall not differ from any declaration made for any public purpose. It was further pointed out that assuming his date of birth is 6.8.1936, the office has reason to believe that at the time of his appointment he was minor below the age of 14. He was therefore called upon to show-cause why action should not be taken against him for concealing willfull with intention to obtain monetary gains which he was not entitled lawfully on 6.1.1950. The petitioner however submitted his explanation vide his letter dated 5.6.1986. These and various other records were sent to the competent authority.

6. While adverting to the relevant issues raised by the General Manager, in his decision (reproduced in the letter dated 21st August, 1986, Annexure-IV), held that the petitioner has failed to satisfy the conditions for altering the date of birth recorded in the service sheet. In his opinion the petitioner has already gained an advantage of extra service and higher fixation of pay by giving the false age at the time of recruitment which he continued to maintain till 1981 and alteration in recorded date of birth will result in his extension in service for a longer time. While rejecting the petitioners' prayer he has stated that the declaration form available on his personnel file, the petitioner has indicated his date of birth as 14.2.1929. The competent authority has recorded its conclusions in the following terms:

The date of birth recorded in the Service Sheet as 14.2.1929 is very clear and there is no over-writing or erasure. In terms of Board's letter No. E-55-BRI/18/3 dated 2-3-1956, in the case of Gondal Region, if the entries of date of birth are clear and not over written or erased or mutilated, the date of birth entered which has been accepted for all these years, should stand. These orders have been issued with the sanction of the President. The entire Saurashtra Railway was in the erstwhile Gondal Region which is now existing on Rajkot and Bhavnagar Divisions.

In the circumstances enumerated above, I am unable to agree to his request for alteration in his recorded date of birth.

The service sheet and P/File of the employee are returned herewith.

7. In this context, it is pertinent to note that the petitioner has placed sole reliance on the school leaving certificate wherein his date of birth is shown as 6.8.36. In the matter of date of birth, in the case of Government servant, one which is originally entered in the service record is very material. In the instant case it should be borne in mind that the date of birth i.e. 14.2.29 recorded in the service sheet of the petitioner duly signed by himself was found consistent with the date of birth indicated in the declaration form / the competent authority. The decision therefore taken by the competent authority and conveyed under impugned letter dated 21st August, 1986 does not suffer from any infirmity or illegality. The school leaving certificate relied upon by the petitioner is not sufficient to change the date of birth. Bearing in mind all the circumstances of this case, it can not be said that the competent authority has committed an error in refusing the petitioners' request to alter the date of birth as contended.

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


(P.M. JOSHI)
JUDICIAL MEMBER

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