

4  
(3)

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
AHMEDABAD BENCH

O.A. No. 116 of 1986  
T.A. No.

DATE OF DECISION 20.10.'86

SHRI HIRA G. BHARADA Petitioner

SHRI N. D. NANAVATI Advocate for the Petitioner(s)

Versus

WORKS MANAGER, W.RLY. Respondent

SHRI D. K. VYAS Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P. H. TRIVEDI ... Vice Chairman

The Hon'ble Mr. P. M. JOSHI ... Judicial Member

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.

5  
⑥

O.A. No. 116/86

Per: Shri P. H. Trivedi, Vice-Chairman

JUDGMENT

The applicant's birth date was recorded as 21.4.'28, in his Service Sheet. On 22.11.'85, he applied to the respondent to alter it to 1.7.'33, on the basis of School Leaving Certificate, in which the birth date was shown as 1.7.'33. The School Leaving Certificate has been furnished on 25.10.'85. On 26.11.'85, the respondent asked the applicant to explain the circumstances in which the wrong birth date was shown on the Service Sheet. According to the applicant, he met respondent no. 2, and produced the School Leaving Certificate and stated the circumstances in which the wrong birth date was entered in Service records.

In reply, the respondents have maintained that the applicant was initially appointed as Unskilled Khalasi on 4.1.'50 and he submitted his resignation after working up to 1.3.'71. Thereafter he again joined the railway service on 3.11.'73. On both occasions when he joined the service his date of birth was recorded in the Service Sheet as 21.4.'28 and the applicant signed it in token of its being correct. On the second occasion, the applicant has in his own handwriting entered the birth date in Gujarati and signed it in Column 10. He was called upon to explain the circumstances in which he had entered a wrong birth date, when he made his representation for the first time on 22.11.'85, for

changing his birth date from 21.4.'28 to 1.7.'33, but he has not filed any reply or adduced any explanation regarding such circumstances. The respondent, therefore, denies that there is any legal right vested in the applicant for change of his birth date, merely because at the end of the service, on the eve of his retirement, he thinks it fit to procure School Leaving Certificate on the basis of which he dresses up his claim after neglecting to make it, until right up to retirement. The decision to retire the applicant on the due date on the basis of his birth date being 21.4.'28, is therefore not unjust. It is true that there are instructions in order to remove hardship for entertaining applications and representations for change of birth date entered on service records. But such representations and applications have to be within a specific period. Some instructions limit this period to 3 years of service or probation period whichever is earlier and further a relaxation was given to this time limit upto 31.7.'73. The learned advocate for the applicant has cited a judgment of Gujarat High Court, 1983 GLH P 600 to support his claim that it cannot be shut off merely by drawing an arbitrary date across the period beyond which such representations cannot just be entertained.

The most generous interpretation regarding the time within which representations or claims for change of birth date can be made, cannot ignore that evidence has to come forth for supporting it. Even if the applicant claims that at any stage, during his working life, he is entitled to make a representation and that the authorities are bound to examine

it on its merits, the merits of such a claim have to be established and there is a provision for the authorities to entertain such claim, if the merits are found to be adequately convincing or overwhelming. In this case, the applicant himself has entered the birth date atleast in one service sheet in his own hand, in a language which he understands and which he has used viz., Gujarati. He has not taken any step at all during his entire working life except in 1985, for making any change in it. It is not unusual for working Government servants to discover their birth date to be different from that borne on service records, on the eve of their retirement. Even if the Rules and Instructions cannot shut off their claim for consideration to their representations, the credibility of their claim cannot but suffer unless they can establish not only their merits but their bonafides in terms of why they did not make such claims earlier in the face of several Government or authorities' instructions to make such claims within specific time limits. In this case, the authorities have asked the applicant to satisfy them regarding the circumstances for not making such claim earlier and there is nothing on record, beyond filing a School Leaving Certificate and that too in 1985. The applicant has no satisfactory reason to produce, for his not doing so earlier. The evidence of the School Leaving Certificate is not so overwhelming as to cause us to discount the weight in favour of the respondent's case. There is a strong view in favour of not making any changes in the record of the birth date in the service records, because such birth dates

8 (9)

:: 4 ::

so recorded form the basis for working out the date of retirement and determine the length of the period of service and in so far as this is the case, a record of the birth date in the service records is a basis for determining an important part in the totality of service conditions with the Government servant or the railway servant as the case may be. We need not go into the question whether in view of this plea or ground, the birth date in the service records can or cannot be changed at all. Even if the most generous construction has to be upon the circumstances on the things, we cannot but hold that even if such a representation has to be examined it could only be on the basis of the evidence offered and that evidence in this case is almost paltry. The application, therefore, fails. No order as to costs.

*P. H. Trivedi*  
( P. H. TRIVEDI )  
Vice-Chairman

*P. M. Joshi*  
( P. M. JOSHI )  
Judicial Member