

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 364 of 1987 **1988**
~~TOP SECRET~~

DATE OF DECISION 2/03/1988

Shri Balsinh D. Sarvaiya Petitioner

P.V. Hathi Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

B.R. Kyada. 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 ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *Ab*
4. Whether it needs to be circulated to other Benches of the Tribunal. *Ab*

Mr. Balsinh Devisinh Sarvaiya
Officiating Assistant
Personnel Officer
Rajkot Division, Western
Railway, Rajkot.

.... Applicant

(Adv. P.V. Hathi)

Versus

1. The Union of India
(through the Secretary,
Railway Board, Railway Bhayvan,
New Delhi)

2. The General Manager,
Western Railway, Churchgate,
Bombay - 400 001.

3. Divisional Railway Manager,
Rajkot Division, Khoti Compound,
Rajkot - 360 001.

.... Respondents.

(Adv. B.R. Kyada)

O R A L - O R D E R

2/3/1988

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

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, on 24-7-1987, the petitioner Shri B.D. Sarvaiya of Rajkot has challenged the order dated 2-12-86 passed by the General Manager rejecting the petitioner's request to alter the date of birth. The petitioner claims that his correct date of birth is 7-7-1931 and not 1-8-1929 as recorded in the Service File. According to him, his date of birth was wrongly recorded in the School Registers including the Certificate issued by the Secondary School Certificate Examination Board, Bombay, and that has now been corrected and on the basis of the corrected school testimonials, he made representation, but the ^{✓ decided.} same has been ~~rejected~~. The respondents have contested the application and in their counter they have denied the averments and the allegations made against them. According to them the petitioner is not entitled to the reliefs as prayed for.

During the course of arguments it was submitted by

Mr.P.V.Hathi learned counsel for the petitioner that the General Manager, while rejecting the petitioner's request, ~~had~~ observed that the petitioner was entitled to make representation in case, he could get the date of birth corrected in the matriculation certificate issued by the Secondary School Certificate examination Board, Pune. According to Mr.Hathi he has now been able to obtain the necessary correction from the competent authority but before he could obtain such orders in this regard the petitioner is made to retire by the orders dated 17-6-1987. According to him, even during the pendency of this application the petitioner has made fresh representation in terms of the observations made by the General Manager in its order dated 2-12-1986. In the circumstances, he submits that the ends of justice would meet adequately if necessary directions are given to the competent authority to reexamine and reconsider the petitioner's claim for alteration in the date of birth. Mr.B.R.Kyada learned counsel for the respondents is also heard.

Rule 145 of Indian Railway Establishment Code which governs the procedure for recording the particulars required to be filled in, on the basis of the declaration of employee concerned in the Service record in respect of the date of birth and for its correction. As the petitioner was holding the post of Assistant Personnel Officer (A.P.O.), Rajkot Division, it is stated that he was a gazetted railway servant on the date of his retirement and the competent authority to decide the request for alteration in date of birth, is the Railway Board. In case of non-gazetted staff, such powers are required to be exercised by the General Manager or his delegate C.P.O.

The application is partly allowed. It is therefore directed that the petitioner shall make his additional representation to the competent authority alongwith the documents on which he relies

within three weeks from the date of this judgment and on receipt thereof, such competent authority of the Respondent Railway Administration shall decide the same afresh within four months by a speaking order and without taking into account the pleading of the parties in this proceeding and without being influenced by the impugned order passed earlier. Registry to send a copy of this judgment to the General Manager, Western Railway, Bombay.

With the aforesaid directions, the application stands disposed of. There will be no order as to costs.


(P.M. JOSHI)
JUDICIAL MEMBER

rajini.