

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI~~

O.A. No. 101 OF 1987. ~~198~~
~~Exxon~~

DATE OF DECISION 15-2-1991

U.G. Mulchandani, Petitioner

Mr. M.D. Rana Advocate for the Petitioner(s)

Versus

The Union of India & Ors. Respondent s.

Mr. P.S. Champaneri for Advocate for the Respondent(s)
Mr. P.M. Raval.

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
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*

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U.G. Mulchandani,
Superintendent,
Central Excise and Custom,
Una, Dist: Junagadh.

.... Petitioner.

(Advocate: Mr. M.D. Rana)

Versus.

1. The Union of India
notice to be served through
the Ministry of Finance,
Revenue Department,
New Delhi.

2. Collector of Customs &
Central Excise, Karansinh
High School Road, Centre
Point Building,
Rajkot.

.... Respondents.

(Advocate: Mr. P.S. Champaneri
for Mr. P.M. Raval)

J U D G M E N T

O.A.No. 101 OF 1987

Date: 15-2-1991

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The applicant ex-employee of the Customs and Central Excise Department had, when he entered Government service as a junior clerk in June, 1950, registered 8th March 1929 as the date of his birth. By this date of birth, the applicant was due to complete 58 years of his age in March 1987 and superannuate. Less than one year before his superannuation on the basis of the date of birth so registered, the applicant addressed to the Collector of Customs & Central Excise, Rajkot, a representation dated 23.4.1986 to admit 27.5.1930 as the date of his birth on the ground that his original horoscope

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was misplaced while migrating in 1948 from Sind in the wake of the partition of India and the communal riots and the horoscope "now traced out" reveals the correct date of birth as 27.5.1930" as against 8.3.1928" (Ann. A).

2. It is noticed that page three of the original application gives 27.3.1929 as the birth date entered in the service records. However, the respondents, on page 2 of their counter, mentioned 8.3.1929 as the date of birth as it appears in the service record of the applicant.

3. The original application avers that the applicant, at the time of joining service, "had made oral declaration about his birth date" on which oral declaration 27.3.1929 was recorded as the birth date. As mentioned earlier, the respondents brought on record 8.3.1929 as the date of birth appearing in the record.

4. In a matter as above, the first question that arises is whether any rules provide for alteration of the date of birth given, as in this case, by the employee himself at the time of his entry into service, after over 35 years of service and less than one year before his superannuation though the alleged incorrect date of birth was given at the time of entry into service by the applicant himself. No light on this basic question has been thrown in pleadings and in submissions on behalf of the applicant. The learned counsel

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Shri Champaneri for the respondents relying upon the precedent reported in Maniklal V/s. Union of India, ATR 1987(1) CAT 105, submitted that the criteria laid down in Note 5 of FR 56 have to be fulfilled for alteration of date of birth.

These are: if

- (a) a request in this regard is made within five years of his entry into Government service ;
- (b) it is clearly established that a genuine bonafide mistake has occurred; and
- (c) the date of birth so altered would not make him ineligible to appear in any School or University or Union Public Service Commission examination in which he had appeared, or for entry into Government service on the date on which he first appeared at such examination or on the date on which he entered Government service.

All the three criteria have to be satisfied by the applicant. In this case before us, criteria at (a) and (b) are clearly not satisfied in so far as the request for alteration of date of birth came to be made by the representation dated 23.4.1986, after over thirty five years of the applicant's entry into service, and, there is no question of the occurrence of a genuine bonafide mistake as the applicant had himself registered the date of birth at the time of his entry into service and abided by the declaration for well over thirtyfive years. Even if such a bonafide mistake has occurred corrective steps have to be taken by the government servant by a request in this regard made within five years of his entry into government service.


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5. As the application is such as does not satisfy the criteria in Note 5, supra, it is liable to be dismissed. In view of this, it is not necessary to consider the various infirmities Mr. Rana said the impugned order of 24-12-1986 passed by the respondents on the applicant's representation dated 24.4.1986 for alteration of date of birth suffers from.

6. In view of the above, the application is liable to be dismissed. We hereby do so without any order as to costs.


(R.C. BHATT)
Judicial Member


(M.M. SINGH)
Administrative Member.