

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXX~~

O.A. No. ~~XXXXXX~~ 106 198
~~XXXXXX~~

DATE OF DECISION 20-1-1989

Shri Soma Nagar Petitioner

Mr. R.R. Tripathi Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. R.M. Vin 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*

Soma Nagar,
Building No.190,
Railway Colony,
Nehrunagar,
SURAT.

... Applicant

(Advocate : Mr.R.R.Tripathi)

Versus

1. Union of India,
through the Divisional Railway Manager, (Est),
Western Railway,
Bombay Central.

2. Inspector of Works,
Western Railway,
Surat.

.... Respondents

(Advocate : Mr.R.M.Vin)

Date : 20/1/1989

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

In this application the petitioner Shri Soma Nagar, (now a retired employee of Western Railway) has challenged the validity of the decision dated 26.1.1988 (Annexure-A.3), taken by the Divisional Railway Manager (DRM)(E), BCT., where by he rejected the petitioner's request for alteration of date of birth. The petitioner claims that his actual date of birth is 28.12.1936 and his date of birth recorded in his service sheet as 23.3.1930 is wrong. The respondents railway administration in their counter have denied the petitioner's claim. According to them the decision taken in this regard does not deserve to be interfered as it is based on the documents on record including the service sheet.

2. When the matter came up for hearing Mr.R.R.Tripathi and Mr.R.M.Vin the learned counsel for the petitioner and the respondents, respectively, are heard. The materials placed on record including the petitioner's affidavit have been perused and considered.

3. A short question raised by Mr.R.R.Tripathi during

(b)

the course of his arguments that even though, he made representations on 11.1.1988 (Annexure -A.2) the same has not been decided by the competent authority. According to him the Divisional Railway Manager, who rejected the petitioners' representation under his letter dated 26.1.1988, is not the competent authority under the rule governing the field and therefore, either the General Manager or his delegate be directed to hold the enquiry into the matter and decide the representation of the petitioner in light of the ~~certificate~~ ^{affidavit and application Annexure 4} relied upon by him. This question has been agitated in number of cases and it has been consistently held that the competent authority to alter the date of birth is the Railway Board, in case of Gazetted Officers, and the General Manager, in case of Non-Gazetted Staff. This power of the General Manager has been subsequently delegated to the Chief Personnel Officer vide Railway Boards' letter No. E(NG), 64, BRI/2 of 16.11.1964.

4. Now, admittedly the petitioner, being a member of the Non-Gazetted Staff his representation dated 11.1.1988 has not been considered either by the General Manager or by the Chief Personnel Officer (C.P.O.) and the same therefore has remained undecided so far, as envisaged in the Rule 145 (3). It is now well established that when a government servant makes a request for a change in his date of birth, the authorities are required to consider the request objectively and on merits. It is equally true that the order that may be passed by the competent authority, although administrative in character, must be a speaking order and should state the reason in support of the conclusions mentioned therein.

5. In the facts and circumstances of the case discussed above, in my opinion either General Manager or the Chief Personnel Officer should decide the petitioner's representation dated 11.1.1988 without being influenced by the order dated 26.1.1988 (Annexure-A-3) passed by the Divisional Railway Manager (E) BRC. In the result, the application is partly allowed. It is therefore, directed that either the General Manager or the Chief Personnel Officer should determine the petitioners' representation and decide the same within 6 months from the date of this order by a speaking order. In case the petitioner desires to file any supplementary representation, it is directed that he should submit the same alongwith the documents relied upon by him, within 3 weeks from the date of this order, directly to the General Manager. It is further ordered that in case the petitioner's claim for correction of birth date is established, the competent authority will give effect to such correct birth date by giving all the consequential benefits on the basis thereof.

The application, therefore, stands disposed of with the directions indicated above. There will be however no order as to costs.

(P.M.JOSHI)
JUDICIAL MEMBER