

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
XXXXXXBXXXXXX

O.A. No. 695 OF 1989
XXXXXX

DATE OF DECISION 23-06-1989

Shri Vinodchandra Vadilal Shah Petitioner

Shri V.M. Dhotre Advocate for the Petitioner(s)

Versus

The Union of India & Ors. Respondent

Shri J.D.Ajmera 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

Vinodchandra Vadilal Shah,
residing at Q/8, Hariyant Flats,
(Harsiddhanagar), Near Bhuyangdev,
Society, Sola Road,
Memnagar,
Ahmedabad - 380 052.

... Applicant.

(Advocate : Shri V.M. Dhotre)

Versus

1. The Union of India,
(Notice to be served on :
The Secretary,
Department of Post,
New Delhi - 110 001.

2. The Post Master General,
Gujarat Circle,
Ahmedabad - 380 009.

3. The Senior Superintendent,
R.M.S. - 'AM' Division,
Ahmedabad - 380 004.

... Respondents.

(Advocate : Shri J.D. Ajmera)

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

O R A L - O R D E R

Date: 23/6/1989.

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

The petitioner Shri Vinodchandra Vadilal Shah, working as "Sorting Assistant," in Head Record Office (R), at Ahmedabad, has filed this application on 31.10.1988 under Section 19 of the Administrative Tribunals Act, 1985. He has challenged the validity of the order as contained in Memo No. Staff-24-20/VVS at Ahmedabad, dated 21.1.1988, issued by the Post Master General, whereby he rejected the petitioner's request for alteration in the date of birth. The said order (Annexure-A-4) reads as under :

"Repräsentation dated 24-10-87 of Shri V.V. Shah SA HRD Ahmedabad of RMS 'AM' Division to change his date of birth from 23-2-33 to 21-8-35 is examined with reference to the relevant records and certificate of registration, zerox copy of affidavit, school leaving certificate of Dariyapur School No.2 issued on 4-9-87 and the school leaving certificate of New High School Ahmedabad dated 29-5-54 showing date of birth as 23-2-33.

After due examination of all the records I REJECT the representation of the Official because :

- 1) SSCE Certificate which is a more reliable document for determining date of birth shows his date of birth as 23-02-1933.
- 2) The same date appears on 1st page of Service Book which has been accepted by him many times by signing the first page of service-book.
- 3) In most of the leave applications he himself wrote date of birth as 23-02-1933.
- 4) He failed to represent in time before being declared A.P. for change in date of birth. He has represented for the first time after over 30 years on the eve of his retirement.

His representation, therefore, does not merit any consideration and is rejected.

2. According to the case set up by the petitioner his correct date of birth is 21.8.1935 as per the School Leaving certificate issued by the school authorities of the "Dariyapur School No.2." It is alleged that through mistake his date of birth has been recorded as 23.2.1933 in his service book and even though he made representation to the competent authority along with the relevant material documents with affidavit for rectification in date of birth, the same has not been duly considered and it has been rejected without consideration. The petitioner therefore, prayed that the respondents be directed to alter his date of birth in the service book from 23.2.1933 to 21.3.1935.

3. The respondents in their counter dated 5.1.1989 denied the assertions and allegations made against them. According to them the applicant himself furnished the School leaving certificate issued by the "New High School, Ahmedabad," when he is initially recruited and on its basis his date of birth was recorded as 23.2.1933 in his service book which has been duly signed and verified by the petitioner himself on number of occasions from 1960-1981. It is submitted that the competent authority

(7)

on appreciation of all the relevant materials, has held that the duplicate certificate produced by the petitioner issued from Dariyapur School No. II, can not be accepted and the impugned order is recorded after considering the materials on record.

4. When the matter came up for hearing Mr.V.M.Dhotre, and Mr.Jagdish Yadav for Mr.J.D. Ajmera, the learned counsel for the petitioner and the respondents are heard. The materials placed on record are perused and considered.

5. The principal complaint of the petitioner is that the School leaving certificate regarding his date of birth as 21.8.1935 is a genuine one and the competent authority has committed a serious error in discarding the same, even though he had filed an affidavit in support of his claim. Mr.V.M. Dhotre while taking me through the Annexure A-5 strenuously urged that the petitioner had made an affidavit on 9.10.1958 wherein he had reiterated that his correct date of birth is 20.1.1935 as per the entry of the date of birth in the extract of the School Register and the zerox copy, and hence it cannot be said that the petitioner's claim was after thought. In his submission, the competent authority ought to have placed reliance on the School leaving certificate, and allowed the petitioner's representation.

6. At the out set it may be stated the fact that the Post Master General, Ahmedabad who is the head of the Department, is the competent authority to exercise the powers to direct the alteration in the matter of date of birth entered in the service book is not in dispute. Rule 79 (2) of the General Financial Rules lays down that the date of birth once entered in the service book or in other report cannot be altered except in case of a clerical errors without orders of the Head of the department. Similar provisions is laid down under Rule 281

of the (Posts and Telegraphs) Financial Hand Book,
Volume - I.

7. It is pertinent to note that the petitioner made representations for the first time under his letter dated 24.10.1987 for alteration in the date of birth : i.e., nearly after a period of 30 years of his service and that too on the eve of his retirement. It is conceded by the petitioner that he did furnish a true copy of the School leaving certificate duly issued by the Head Master of the New High School, Ahmedabad, which conveyed his date of birth as 23/2/1933 and the same was attested by him. It is also admitted that the petitioner had signed and attested the service roll wherein his date of birth was recorded as 23/2/1933 and endorsed verification on different dates namely 26/2/1966, 17/2/1971, 25/2/1976 and 23/5/1981 in token of his acceptance of the date of birth. It should be borne in mind that the testimonial including the School leaving certificate dated 5.9.1954, supporting the recorded date of birth i.e., 23/2/1933, runs entirely counter to the entry of date of birth shown in the duplicate certificate issued by Dariyapur High School - 2, obtained by the petitioner on 4.9.1987. Thus, the Post Master General, has committed no error in placing more reliance on S.S.C.E. Certificate of the petitioner, wherein his date of birth is admittedly recorded as 23.2.1933, and the same is found consistent with all other testimonials furnished by the petitioner and the gradation list produced by the Respondents. It seems the petitioner had made an attempt to get his date of birth changed in the S.S.C.E. Certificate, by approaching the Registrar of the S.S.C.E. Board, Poona. But he seems to have failed in his attempt. Presumably thereafter, he rest-contented with his date of birth indicated in S.S.C.E. Certificate and even did not move the competent authority for rectification in his date of birth.

8. It is borne out from the relevant provisions pertaining to the powers to be exercised in respect of the request from the Government servant for the alteration of the date of birth that it can be made only if it is established that a bonafide clerical mistake had been committed in recording the date of birth in the service book. The entry regarding the date of birth in the service book becomes final and is almost inviolate except in the special circumstances wherein it can be established that a bonafide clerical mistake had been committed.

9. In the case of the petitioner, his date of birth was recorded as 23/2/1933 in his service book which is duly signed by him. Admittedly, no objection was raised by him till 24/10/1987 i.e., nearly after 30 years in his service. The Respondent No.2, has examined all the records including the School Leaving Certificate produced by him in the year 1987 and having considered the same he has found no merit in the representations made by the petitioner.

10. The Respondent No. 2 has passed a speaking order (Annexure A - 4 dated 21.1.1986), in respect of the representation of the petitioner. Bearing in mind the facts discussed above and having regard to the rules governing the issue, it can not be said that the decision of the respondent No. 2 suffers from any infirmity.

(See Rasiklal Kishanlal Parekh Versus Union of India & Others. 1987 . (3) S.L.J. 174 C.A.T. and also D. Thiruvengadum Versus Union of India & Others., 1986 (4) S.L.R. 371 C.A.T. Madras). Thus, the respondent No. 2, does not seem to have committed any error in rejecting the petitioner's claim for alteration in the date of birth.

In this view of the matter, there are no valid grounds to interfere with the impugned order dated 21.1.1988 passed by the Postmaster General, rejecting the petitioner's request for rectification in the date of birth. The petitioner has failed to establish his claim. Accordingly, the application has no merit and is dismissed with no order as to costs.


(P.M. Joshi)
Judicial Member

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