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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.No. 18/92

in

O.A. No. 139/89

T.A. No.

DATE OF DECISION 1.5.1992

Vashram Jassa, Petitioner

Mr. M.M. Xavier, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. R.M. Vin, Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr.

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 ?

Vashram Jassa.

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Applicant.

V/s.

Union of India & Ors.

.....

Respondents.

Decision by circulation

R.A.No.18/92

in

O.A.No.139/89

Date: 1.5.1992.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

This review application has been filed by the original applicant against the order of the dismissal of O.A. 139/89 decided by me on 13th February, 1992. The applicant has stated in his application that the Tribunal dismissed the petition on the ground that the applicant had received undue advantage by declaring of his wrong year of birth at the time of entering in service, that he declared wrong year of birth at the time of entering his service so as to procure an appointment to which he was otherwise not entitled, ~~and~~ that the applicant now wants to take a double benefit by prolonging his tenure of service and that the School Leaving Certificate is not a conclusive evidence to come to the conclusion that the date of birth entered therein is correct. The applicant has averred in the review application that ~~the~~ whether the wrong date of birth was supplied by the applicant consciously and

fraudulently so as to get undue benefits and he has referred to the decision in the case of Shri Sikandar S. Mirza V/s. Union of India, in T.A. 284/86 decided by this Tribunal on 16th April, 1987. It is observed in para 4 of the said judgment that there should be sanctity in the date of birth which is recorded on the basis of the declaration on documentary evidence produced by the Government servant at the time of recruitment and if there has to be any change it should be applied for within a reasonable period of joining service and that too on irrefutable documentary and other evidence. It is further observed that if, however, it is found that the Government servant had consciously and fraudulently got a wrong date of birth entered at the time of recruitment in order to get some personal advantage, he should not be allowed to get it further changed to get a further extension in service or any other benefit. The applicant has averred in the review application that admittedly, in his case there is a bonafide mistake and for unexplained reasons assumed date of birth was relied upon by the Railway Administration although the applicant is shown to have studied in Standard 3. It is also averred that the rules provide that the respondents should call the applicant to produce documentary evidence in support of his declared

birth date and unless this is done there is no compliance of the rule and it would not be binding to the applicant. It is important to note that in the application, he had averred that he had studied upto Standard 3rd and he could be said as good as illiterate person and that he gave thumb impression when he joined the service. I have discussed this point in the judgment. The applicant had not produced any documentary evidence about his date of birth at the time of appointment. The C.P.O. in his order as observed that the pay fixation card of the service sheet indicating applicant's position in Ex-Kathiawar Railway scale of pay, his date of birth shown as 1st July, 1925 because in terms of old Rule 145 existing at the relevant point of time, the 1st July of that year had to be treated as the date of birth when the year is known but not the exact date. ~~xxx~~ The applicant though had studied upto 3rd Standard, he had concealed that position and he did not produce the school certificate at the time of appointment and now the applicant comes with the case that it was the duty of the respondents to call for the documentary evidence from the applicant. at first appointment The applicant ought to have stated that he had studied in the school but he had concealed that fact in order to get the appointment as if he is illiterate person. Now he cannot find fault with the appointing

authority. More over, the conduct of the applicant at the time of appointment in not giving school certificate cannot be considered as a bonafide mistake but as observed in the judgment in T.A.284/86 he wanted to get an advantage by getting an appointment on that ground ~~though~~ he was conscious of the fact that he was not entitled to be appointed. If the school certificate had been produced at the time of appointment he would not have been appointed in the Railway being under age i.e. 15 years. I have discussed that point also. The applicant in his review application has averred that neither the CPO nor the advocate for the respondents have at any stage to produce any evidence to show that existed minimum age limit for recruitment^{and} According to the applicant, on the contrary, it is a well known fact that there is no minimum age limit for the appointment in princily state. The applicant has gone completely on his impression. The burden was on him to prove that even though he was of an age of 15 years at the time of appointment, according to the rule of the erstwhile state, there was no bar to his appointment. The CPO has caragorically observed in his order as under :

"Probably, the employee might have cancealed his literacy standard and did not produce the school certificate at the time of appointment with a veiw to getting an employment on the Railway. Had he produced the school certificate

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at the time of his appointment, he would not have been appointed on the Railway being under age i.e. 15 years".

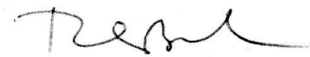
He has also held that even if appointed, his pay would have been reduced by Rs.1/- till he attained 21 years of age as per Rule 307 of WREM etc., Therefore, the applicant has taken an undue advantage by getting an appointment by concealing his birth date that to concealation the applicant cannot their turn of the respondents to produce the documentary evidence of the minimum age limit of the appointment. The applicant in his review has referred to Rule 307 of Western Railway Manual which relates the recruitment of Class IV services etc. The applicant has been trying to get double benefit by producing the school certificate which cannot be given. He has also in his review application averred that there is no provision which specifies that the service card is an authentic documents, but this point has no substance. He has also mentioned that the school leaving certificate according to the railway is a conclusive proof for recorded date of birth and is binding to the Government servant. The reference is also made to the decision in T.A. 854/86 and other judgments. I have discussed the same as to whether the school living certificate produced by the applicant is also not a conclusive evidence and also whether on

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the strength of that certificate the birth date of the applicant be altered in the service record and have given the reasons for rejecting the request of the applicant.

2. I have perused all the averments made in the review application and in my opinion none of the ingredient of order XLVII Rule 1 of Civil Procedure Code is attracted in this case and hence the review application is rejected.



(R.C.Bhatt)
Member(J)