

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

M.A.No. 466/1993
and
R.A.No. 35/1993
in
O.A. No. 548/1989
~~E.A. No.~~

17

DATE OF DECISION 30-9-1993.

Jagdishchandra Chandaram, Petitioner

Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

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 ? ✗

18

Jagdishchandra Chandaram.

.... Applicant.

V/s.

Union of India & Ors.

..... Respondents.

ORDER

M.A.No. 466/1993

AND

R.A.No. 35/1993

in

O.A.No. 548/1989

Date: 30-9-1993.

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

This Review Application made under Rule 17 of the Central Administrative Tribunals (Procedure) Rules, 1987, is disposed of by circulation. This review application is filed by the original applicant to review the judgment given by me in O.A. 548/89 on 28th April, 1992 on the grounds mentioned in the review application. The O.A. 548/89 was decided on 28th April, 1992 while the review application is filed on 3rd May, 1993, hence the applicant has filed M.A. 466/93 for condonation of delay in filing this application. Therefore, the first question would be whether the applicant has explained the delay by sufficient cause to condone the delay in filing this application. The applicant has mentioned in the M.A. that he received

..... 3/-

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the copy of the judgment of O.A. 548/89 on 5th May, 1992.

Therefore, he ought to have filed the review application by 5th June, 1992, but it is filed on 3rd May, 1993, ~~that~~ therefore, there is a delay of about 10 months and 28 days. The grounds mentioned for condonation of delay ^{are} ~~is~~ that the applicant after receiving the copy of the judgment went to Surendranagar to see his elder brother and asked the elder brother to supply him the service certificate, that the Railway Administration had not supplied the service certificate to his elder brother at the time of his voluntary retirement, that the said certificate was issued by the Divisional Office on 31st March, 1993 which is now produced with the Annexure along with M.A.,

This certificate now obtained, can not be taken into consideration at all. The applicant wants the condonation of delay on the grounds that the said certificate issued by the Divisional Office on 31st March, 1993 was received by his elder brother on 15th April, 1993 and it was handed over to the applicant on 19th April, 1993. It is mentioned in M.A that the service certificate is necessary for the evidence of the date of birth. ^{on the ground that} ~~his~~ his elder brother's date of birth is shown in Railway record as 19th December, 1934 so his date of birth cannot be on 19th December, 1931 as mentioned in service record

20

which is wrong. It is also mentioned in the M.A that applicant's mother was married to his father in 1933 and so before marriage in 1931 the applicant would not be borne. These are all the question regarding facts of the case, ~~there~~ ^{which} ~~this~~ is not sufficient ground for condonation of delay. The production of the certificate dated 31st March, 1993 now by the applicant would not amount to sufficient cause for condonation of delay of 10 months and 28 days. In my opinion, ^{moreover} none of the ingredients of Order XLVII Rule 1 of C.P.Code are ^{and this is no apparent error} applicable to the present case. Hence there is no merit either in M.A for condonation of delay nor in the R.A. M.A.466/93 is dismissed and the R.A.No.35/93 is also dismissed.

R.C. Bhatt
(R.C.Bhatt)
Member(J)

vtc.

5/5-10 589/88
13/12/88

Application u/s.19 of the Central Adm.Act 1985.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD.

Original Appln No. 548 1989

Applicant: Jagdishchandra Chandaram,
aged 54 years occupation service,
residing at 709/53 Shiyal's chawl
Kabirchowk Sabarmati, Ahmedabad. 380005.

Versus.

Respondents: 1) Union of India.

Owning and representing through
the General Manager, Head Quarter
Office, Churchgate Bombay 400 020.

2) The Divisional Rail Manager,
Rajkot Divisional office,
Western Railway, Kothi Kacheri
compaound Rajkot.

MAK
2/12/1

Copys served
HATy
Advocate
19/12/88

I n d e x

Sr. No.	Name of the documents relied on	Page From To	Annexure
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- | | | | |
|----|--|----------|-----|
| 1) | Application | 1 to 15 | |
| 2) | Xerox copy of the order passed by the Chief Personal Officer along with the towardsing letter of respondent no.2. | 16 to 18 | A1 |
| 3) | Xerox copy of the representation made by the applicant on 15.11.88 | 19, 20 | A2 |
| 3) | Xerox copy of the reply given by the applicant with reference to the letter received from Divil.Mech.Engineer Rajkot, | 21 to 23 | A3 |
| 5) | Xerox copy of the affidavit filed by the mother of the applicant in Gujarati along with the true translation into English. | 24, 25 | A4 |
| 6) | Xerox copy of the Affidavit of the applicant in Gujarati along with the transaction into English | 26 to 29 | A5. |

: 3 :

Page no Annexure
From To

- 7) Xerox copy of the birth certificate issued by the Nagarpalika Aburoad. 30 A6
- 8) Xerox copy of the School certificate of applicants elder brother Jagtapchanda 31 A7
- 9) Affidavit of the mother of applicant Shangari widow of Chanduram. 32, 33 A8
- 9) Affidavit of Lokhma Madhu Almodhia mother's brother brother of the applicant. 34, 35 A9
- 10) Affidavit of Jagup Chandaram brother of the applicant. 36, 37 A10
- 11) Affidavit of Suryoji Bhuraji father's friend of the applicant 38-39 A11
- 12) Affidavit of Chelaji Lunaji Neighbour of the mother of the applicant. 40 to 42 A12
- 13) Certificate issued by the Ex. Head Master in Gujarati alongwith the transalation into English. 43, 44, A13

Ahmedabad.

Date 12/12/89

Signature of the Applicant's Advocate.

Signature of the applicant.
(JAGDISHCHANDRA C)

BEFORE THE ADMINISTRATIVE TRIBUNAL AT AHMEDABAD

Original Appl No. 548 1989

Applicant: Jagdishchandra son of Chandaram.
aged about 54 years occupation service,
as a Loco Driver 'C' grade at
Sabarmati Loco Shed Ahmedabad, residing
at 709/53 Shivilals chawl, Kabirchowk
Sabarmati, Ahmedabad. 380005.

Versus.

Respondents: 1) Union of India,
Owning and representing through
the General Manager, Western Railway
Head quarter office Churchgate
Bombay 400 020.

2) The Divisional Rail Manager,
Rajkot Divisional Office
Kothi Kachari Compound,
Rajkot Division Western Rly.
Rajkot.

Details of the application.

1) Particulars of the order against which
the application is made:

The applicant had applied to the Rly. Adm. for the change of his date of birth which was not correct in Rly. record. The order was passed by the learned Chief Personal Officer Church gate Bombay received alongwith the letter no. EM/4 283/5/1 dt. 2.5.89 .The same is produced as Annexure A1 .The applicant being aggrieved. Annex.1A and dissatisfied with the above order has filed this application before the Hon'ble Tribunal for change of his date of birth in Rly. Record.

2) Jurisdiction of the Tribunal.

The applicant declares that the subject matter of the said order which he wants redressal in within the jurisdiction of the Hon'ble Tribunal.

3) Limitation;

The applicant further declares that the application is within the limitation prescribed in section 21 of the Adm. Tribunal Act 1985. The said order was intimated to the applicant by the letter dt. 25.5.89 hence this application is filed within the limitation period.

4) Facts of the case;

a) The applicant was appointed on 19.1.54 as a call boy in class IVth category. He was redesignated as a cleaner in class IVth category in 1958 at Loco shed Surenderanagar in Rajkot Division. He was promoted as a IIInd fire man in 1959 in Surednranagar Loco shed. He was promoted as a Ist fireman and transferred to Loco shed Sabarmati on 14.7.70, He was promoted as a shunter in 1984 at Sabarmati Loco shed subsequently he was promoted as a steam/Diesel driver grade 'C' at Sabarmati Loco shed on 30.12.87 He is at present working as a 'C' grade driver at Sabaramti Loco Shed. He was due to promotion for the post of Driver 'B' grade but was not promoted till date the reasons for not promoting him 'B' grade Driver is not known to him.

b). The applicant belong to koli caste, which is one of the backward class.

c) The applicant had studied upto Gujarati Xth (tenth) standard. He had studied as one subject as a English. He is only knowing how to sign in English. He is not reading speaking writing English. English subject was teaching to him from VIII standard, only so he was not knowing the correct English language.

d) The applicant had applied for the class IVth category service in the Rly. He was appointed as a call pay in class IVth category and posted at Surendranagar Locso shed. The applicant wants job, and he was not aware of the rules and regulations of the Rly. hence whatever documents were available with him he had produced the same before the Rly.

Adm. The date of birth shown in the School leaving certificate had produced by him at the time of his appointment. Hence he had signed the service book as per instructions of the clerk of the Divisional office at the time of his appointment. He was not aware of the correct facts of his date of birth so he had not applied earlier. There was no fault on his part for not applying earlier as he was not aware of his real date of birth.

e) The applicant came to know these facts for the first time in 1988 for his retirement on 31.12.89. He met with his elder brother who was working as a Driver grade 'C' at Surenderanagar. He told these facts to his elder brother Jagrup. He told that his date of birth is 19.12.34 and you cannot retire earlier, so he had applied to the Rly. Adm. by representation dated 15.11.88. The Xerox copy of the said representation produced as Annexure A2. Further details representation

Annex.A2.

submitted by the applicant on 24.1.89 in reply to Divisional Mech.Engineers letter dated 2/5 12.88. The xerox copy of the second representation is produced as Annexure A3.

Annex.A3

f) The applicant had submitted the affidavit of his mother Shangariben in Gujarati submitted alongwith his representation. The xerox copy of the affidavit in Gujarati alongwith the English translation are produced as Annex.A4.

Annex A4

The applicant had submitted the affidavit of him in Gujarati alongwith his representation. The xerox copy of the said affidavit in Gujarati alongwith the translation into English are produced as Annexure A5. The applicant had

Annex A5

submitted the certificate of his birth received by him from Nagarpalika Aburoad, Alongwith his representation. The xerox copy of the said

AnnexA6

certificate is produced as Annexure A6. The Applicant had submitted the copy of the school leaving certificate of his elder brother along with the representation. The xerox copy of the said school leaving certificate is produced

Annex A7

at Annexure A7.

g) The applicant further beg to submit that his date of birth was not correct date of birth as stated in the record of Rly.Adm.

The applicant beg to submit that he had made

further inquiries for the correct date of -
birth and contacted the ex head master of
Primary School Shri Chamanlal Dayashanker
Raval, who had issued a certificate in Gujarati
and in the said certificate it is mentioned -
by the ex head master that the record of the
said School was washout hence he could be in
a position to issue him correct date of birth
of the Primary School, where the correct date
of birth was washed out. The copy of the said
certificate issued by the ex. Head Master
in Gujarati alongwith the translation into
English is produced as Annexure A13.

g) The applicant beg to submit that the
record of the said school was spoiled hence
at the time of issuing the school leaving
certificate when the applicant completed his
study of Primary and joined the other school
there might be written in the said School
Certificate the date of birth as 19.12.31
instead of 19.12.35 hence the said date of
birth was continue as 19.12.31 so he might
have produced the same at the time of joining
the Rly. so he was not aware of the correct
date of birth so he was in impression that
he date of birth is 19.12.31 so he had attested
the same in the service sheet. He was quite young

and was 18 years. His father was expired and he wants job, so he had applied to the Rly. Adm. for the job he was not aware of the consequences of the same, also he was not aware of his correct date of birth. He came to know these facts in 1988 when he knew that his date of retirement is 31.12.89, so he had applied to the Rly. Adm. for first time for the change of his date of birth so there is no fault on the part of the applicant.

J) The applicant beg to submit that after the receipt of the rejecting order of the learned C.P.O. He had inquired the same. The applicant beg to submit that his mother is quite illiterate. After inquiry from his mother, his mother's brother, father's friend, and other he came to know that his mother was unmarried in 1931. She was married with his father in 1933, ^{after} and her marriage his elder brother Jagrup born after one year and applicant was born after two years hence the applicant beg to submit that he had filed the affidavit in detail of

Annex.A8

his mother Shangari and produced as Annexure A8 Had produced produced the affidavit of his

Annex.A9

mother's brother as annexure A9. He has produced

Annex A10

the affidavit of his elder brother as Annex A10 He had produced the affidavit of his father's

friend who was working with his father at Abu road Loco shed as Annexure A11. He had produced the affidavit of the neighbour, who was residing near his mother's native place as Annexure A12.

Annex.A11

AnnexA12

k) From the above facts it is clear that her mother was unmarried in 1931 how he can be born in 1931 His elder brother born on 19.12.34 - and his elder brother's date of birth is noted in Rly. record as 19.12.34 how his date of birth can be 19.12.31. His brother was not felling well so he had applied for the voluntary retirement and the same was accepted by the Rly. Adm. hence his case deserves to be considered.

1) The applicant beg to submit that the observations of the learned C.P.O. are not correct the details reply of the para-2 of the said order are already narrated in above foregoing paras hence the applicant is not repeating the same.

m) As regards the contents of the para 3 these observation are not correct, signing English does not confirm that the applicant ~~HE~~ knows English well and understand

the same well. The reply ⁱⁿ of the study upto Xth is already referred in earlier paras of this application.

n) As regards the contents of this para regarding the communication in English with the Rly. Adm., does not confirm that the applicant knows English well and understand the same. The language of the Rly. Adm. is English. even illiterate employee who is making thumb mark, signing in Hindi, Gujarati and other regional languages, are submitting their application in English hence the applicant had submitted the representation in English, cannot be consider that the applicant is knowing english language, and laterate person. From these facts the learned C.P.O. cannot come to the conclusion that the applicant is sufficiently literate to understand the implication of the entries in his S/~~xxx~~ sheet when he had signed. From these facts it is proved that these observations of learned C.P.O. are not correct.

o) As regards the contents of para 4 and 5 of the learned C.P.O. are not correct. The applicant beg to submit that he was not aware of the facts of his real date of birth. However the applicant beg to submit that there is nothing on record to prove that the applicant had given an opportunity for the change of birth as mentioned

in this para. The applicant beg to submit that he was not aware of these facts as he was performing running duties and he was performing his duty at ~~add~~^{haya}~~howa~~ so he was not informed regarding this facts for change of his date of birth. Further he beg to submit that he was going for medical examination as a running staff and he had signed the Medical certificates the applicant reply that he was not aware of the correct date of his birth so he had not applied earlier. From these facts the learned C.P.O. cannot come to conclusion that he had accepted the same throughout his service these observations are not correct as mentioned in earlier paras of this application.

P) As regards the contents of para -6 of the said order the applicant beg to submit that he was more than 18 years at the time of his appointment he was not be below 18 years, hence this rule will not be applicable to him hence the said observations of the learned C.P.O. are not correct .He he had already narrated the reply of this para in earlier part of this application hence he is not repeating the same.

Q) As regards the contents of para 7 of the said order the applicant beg to submit that he had produced his birth certificate Annexure A6 his elder brother's School leaving Certificate Annexure A7 his mother's affidavit annexure A4 ought to have consider instead of rejecting the same. The detail reply is already given by him in earlier part of this application.

R) As regards the contents of the para 8 the applicant beg to submit that he was not aware of these rules which are mentioned in this para nobody had explained him regarding this rules and he was not informed regarding these rules nothing on the record to prove that he was aware of these rules and he had informed about these rules hence the learned C.P.O. cannot come to conclusion, as mentioned in this para, hence these contentions are not correct.

S) As regards the contents of para 9 the applicant beg to submit that the order passed by the learned C.P.O. are not correct as mentioned by the applicant in this application.

T) The applicant had applied to the Hon'ble Tribunal to set aside the impugned order

⑧ 4 (U) The applicant could not get Ad-interim injunction as prayed by the applicant in this O.A. No. 545/89, hence the Pky. Adm. had retired applicant from his service on 31-12-89, & per letter no E/789/112/Settlement-let 21-12-89. Issued by the respondent no. 2, and Xerox copy of this letter is produced alongwith the list of the misc application as Annexure A14. The Foreman Subordinate had given him a letter vide dtg no E/Retirement-PC/1589. The Xerox copy of this letter is produced alongwith the ^{misc} application list of the misc application as Annexure A15. Both the letters: 12.12.89 by the applicant with Pdkist.

4 (V) The applicant beg to submit that the retirement given to him is not correct, as the salary and other allowances and wages may be paid to him from 1-1-80, to the date on which he may be taken on duty or till 31-12-93, Annexure A1 and prayed for the permanent - which is earlier and all the retirement benefits may be paid to the applicant on the basis of his retirement date i.e. 31-12-93.

injunction to the respondents not to retire him after 31.12.89 and continue him in service considering the correct date of birth as 19.12.1935 as stated in this application in the interest of justice equity good conscience and principle of natural justice. ⑧

5) The grounds for the relief with the
Legal provisions:

a) The applicant relies the Judgment of the Hon'ble High Court of Gujarat reported in GLH. 1983, page 600 in Baba Vishram's case versus Divisional Rail Manager Vodadra and other in special C.A.No.47 of 1983 decided on 18.2.83 by then their lordship Shri A.S. Qureshi.

b) Date of birth correction of No limitation prescribed in the rule, executive directions cannot introduce the limitation the same is reported in GLH 1983 page 428 in case of B.K. Suthar V/s. State Govt. of Gujarat.

c) There are so many others decisions of Hon'ble Central Adm. Tribunals High Courts of India and Supreme Court of India on this issue. The applicant beg to submit that the same

These are
cannot set
Tribunals
in M.A. No.

4. (15) The applicant is selected as a driver (A) vide respondent no 2's letter no. EOM/2025/5/5/1/1/1 dated 20-10-88. The reasons of the said letter is produced as Annexure A16. The applicant has to submit that the respondent no 2 selected as a driver grade A by the respondent no 2, but he was not promoted. The reasons may be known by the city Admin. Hence the applicant has to submit that the respondent no 2 directed to pay wages/salary, allowances etc. to the applicant of the driver grade A with effect from the date on which date his juniors are promoted in the post of driver grade A. The following senior employees are promoted as driver grade A. whose serial no 454 in seniority list.

2) Shri Keshendra S. will be produced at the time of hearing of this application. Promoted as a driver grade A by the respondent no 2. EOM/2025/5/5/1/1/1 dated 20-10-88. whose serial no 455 in seniority list.

3) Shri Mangal Singh, Shri Chander Singh, Shri S. S. are juniors to the applicant. Their names are shown in seniority list as 360, 456, 459 respectively. These persons are promoted as driver grade A vide above letter which is produced as Annexure A16. So the applicant is entitled on the wages/salary, etc. on the promotion of the driver grade A.

6) Details of remedies exhausted.

The applicant declares that he had availed of all the remedies available to him under the relevant service rules, the details are already mentioned in earlier paras of this application. The documents relied upon are produced as Annexure A1 to A13.

7) Matters no previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application writ petition or suit regarding the matter in respect of with this application has been made before any court or any other authority or any other bench of the Tribunal nor any such application writ petition or suit is pending before any of them.

8) Relief Sought:

In view of the facts mentioned in para 4 and 5 above the application prays for the following reliefs;

endments are as per above passed the order 15/89 on 11/7/90

MAK
(MAKALM)
Advocate for applicant
28/8/90

(d) Be please direct the respondents to arrange the salary wages, allowances etc, be paid to the applicant from 1-7-80 to the date on which he may be taken on duty and/or 31/12/83 which is earlier, and also direct the respondents to pay all the retirement benefits to the applicant as due on 31/12/83

(e) Be please direct the respondents to promote the applicant as Senior grade A, and be further directed¹⁴ them to pay him salary/wages, allowances etc. including all the retirement benefits from the date on which his seniors are promoted as senior grade A.

a) Be please set aside the order passed by the learned Chief personal officer for not considering his correct date of birth which is 19.12.35 as correct date of birth and the date of birth shown in the Rly. record (i.e. 19.12.31) is false and wrong be pass an order according.

(f) Be please pass an order in the favour of applicant
at 12-1-84

b) Be please pass an order for the cost of this application in favour of applicant and against the respondents.

This amendment is carried over as per Hon'ble Tribunal Pass the order in M.A no. 155/89 on 11-2-90

c) Be please pass any just and deem fit order as the Hon'ble Tribunal may consider

MAK
cm Akerday
Acheron
Applicant
a 28/8/90

9) Interim order if any prayed for

Pending final decision on the application the applicant seeks the following interim relief.

a) Be please pass an order for the stay of the operation of the order passed by the learned Chief Personal Officer (Annexure A1) and further injunction may please be award to the respondents that they may not retire the applicant on 31.12.89 and continue the applicant in Rly. Service till final decision of this application and further the respondent

may be directed to pay all the wages allowances and other benefits which the applicant is entitled.

11) Particulars of the postal order filed in respect of the application filed.

- 1) Number of postal order. DD 794932
- 2) Date of the postal order. 11-12-89
- 3) Name of the issuing post office. General Post Office Ahmedabad

List of the enclosures.

- 1) Application.
- 2) Index.
- 3) Annexures A1 to A13.
- 4) Postal order of Rs.50/-
- 5) Vakilpatra.

Ahmedabad.

Date 12/12/89

I, Jagdishchandra son of Chandram age 54 years working as Diesel/Steam Driver as grade 'C' at Sabarmati loco shed sabarmati Ahmedabad, residing at 709/53 Shivilal's chawl, Kabirchowk, Sabarmati Ahmedabad do hereby verify that the contents of para 1 to 6 are true to my personal knowledge and para 7 to 11 believed to be true on legal advice (i.e. para 1 to 12) and that I had not suppressed any material fact.

Ahmedabad.

Date 12/12/89

Signature of the applicant.
(JAGDISHCHANDRA C.)

7

To BE BOOKED UNDER FS

16

Annexure A)

No EM 283/51

Date 2-5-89

From: D-RM(E)

To LF SBI

RJT

AV

SUB:- Alteration in date of Birth NG staff mech. deptt case of
Shri Jagdishchandra c Driver c under LF SBI

Ref: Employees representation date 15-11-88 AND 24-1-89 The -
Speaking order passed by CPO C.E.G. in connection with the
above subject is sent here with which may please be handed
over to the Shri Jagdishchandra c Driver c AND is acknow-
ledgement - send to this his office

DA speaking order in original (DRM(E) RJT
Copy to the CRM(E) C.E.G. in reference to this
letter No EM 289/16/7 VOL. I Date 15/3/89.

Received Annexure
04/5/89

LF SBI
8/5/89
13723
8/5/89

True copy
MT
Advocate

(17) (19)

I have gone through the representation of Shri Jagdishchandra C., Driver 'C' LF SBI working under DRM(D) RJT for alteration in recorded date of birth from 19.12.1931 to 19.12.1935 on the basis of municipal birth certificate, Abu Road, dated 27.1.88 and his affidavit and his mother's affidavit dt.16.8.1988 & dt. 2.11.1988 respectively.

2. It is seen from the S/Sheet of Shri Jagdishchandra that he was initially appointed on this Railway on 19.1.1954 as a call boy. His date of birth is recorded as 19.12.1931 in figures as well as in words, authority for which is quoted as school certificate. Although, this school certificate is not available in the S/Sheet/P.File, it is seen that the recorded date of birth has been attested by Railway Authority and accepted as correct by Shri Jagdishchandra by assigning his signature in English. In view of this it is not understood how the employee makes a statement that he did not produce any school certificate at the time of his appointment. The date of birth so recorded is binding on the employee in terms of Rule 145(3) RI then in force. There is no clerical error, erasing or overwriting in his recorded date of birth.

3. Col.No.14 of S/Sheet meant for indicating educational qualifications shows that the employee has studied upto English X. It is also seen from his Personal File that he has been communicating with the Administration in English in all service matters. Even representations for change in date of birth are made in English. Thus the employee was sufficiently literate to understand the implication of the entries in his S/sheet when he had signed the service sheet.

4. In accordance with Board's directives all literate employees who were in service on 31.12.71 were given a final opportunity to make representation, if any, against the recorded date of birth, latest upto 31.7.1973. Even though, these instructions were widely publicised Shri Jagdishchandra did not make any representation till 15.11.88 when he submitted his first representation.

5. It is also seen from his personal file that he had been medically examined at frequent intervals. In all these certificates, he has got his age recorded as per his date of birth recorded in his S/Sheet i.e. 19.12.31. These medical certificates have also been signed by the employee. Thus there is a sufficient proof available on the record to prove that Shri Jagdishchandra was aware of his age and he accepted the same throughout his service.

6. If the date of birth claimed by the employee as 19.12.35 is accepted his age would have been 18 years and 1 month at the time of his appointment and as such he would have been fixed at a lower stage by one rupee for each year by which the age fell below 21 years in terms of Rule 307 of WREM. It is seen that no such reduction was made and the employee had already gained benefit in fixation of pay by declaring and accepting the recorded date of birth.

7. Another ground on the basis of which the employee has disputed the correctness of his recorded date of birth is Municipal birth certificate and Surendranagar High School birth certificate of his elder brother. From perusal of the Municipal Certificate, it is seen that his birth was registered in the Municipal Office on 27.1.88. As regards the School

Certificate of his elder brother in the absence of complete details about his date of admission etc. no comments can be made. Therefore, these two certificates cannot have any precedent over the document on the basis of which his date of birth was recorded in the service sheet as per school certificate at the time of appointment. The affidavits now produced by the employee and his mother cannot also be accepted at this point of time to consider the employee's request for alteration in recorded date of birth as the recorded date of birth has been accepted by the employee for all these years.

8. In terms of Rule 225(4) of RI (1985 edition) the date of birth as recorded in accordance with extant rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall, however, be open to the General Manager/Chief Personnel Officer in the case of Group 'C' and 'D' Railway servants to cause the date of birth to be altered in the following types of cases :

- i) Where in his opinion it had been falsely stated by the Railway servant to obtain an advantage otherwise inadmissible, provided that such alteration shall not result in the Railway servant being retained in service longer than if the alteration had not been made, or
- ii) Where in the case of illiterate staff, the General Manager is satisfied that a clerical error has occurred, or
- iii) Where a satisfactory explanation (which should not be entertained after completion of the probation period or three years service whichever is earlier) of the circumstances in which the wrong date came to be entered is furnished by the Railway servant concerned, together with the statement of any previous attempts made to have the record amended.

None of the above conditions is satisfied in this case.

9. In the circumstances quoted above, I do not find any ground to accede to the request of Shri Jagdishchandra C. Driver 'C' for alteration in recorded date of birth from 19.12.31 to 19.12.35.

Em
C. P. O.

*True copy
of the
order
issued*

Annexure A2 (19)

From: Jagdishchandra c. Mandijwal.
Driver 'C' Loco Sbi, Ahmedabad.
Rajkot (division)

Date 15-11-88

To,
The Div. Mechanical Engr. (Loco)
Rajkot.

Ref : Your letter NO. EM/949/5/1 VOL II Temp.
31/11/87.

Sub : Error in Date of Birth - Jagdishchandra
S/o Shri Chandaram Driver (C) Loco Sabarmati.

Respected Sir,

With reference to the above I lay the following
few lines for favour of consideration and needful correction in my Date of Birth.

That my birth place is Abu Road, and we are two
living sons of my father, wherein my elder brother Shri
Jagroopsinh son of Shri Chandaram Driver 'C' at
Surendranagar. His date of birth is 19/11/1934.

Whereas by mistake my date of birth shown in the
record of as 19/11/1931. This mistake came to my notice
only through your above letter, as such I consulted my
mother, as my father has expired who was also an employee
of this division, and she (my mother) declared through
an affidavit showing my correct date of birth which
is 19/11/1935. And shri Jagroopsinh is my elder brother.
This had been further supported by the birth certificate
issued by Abu Road Municipality

20

: 2 :

Looking to the fact my Date of birth can never be earlier to my elder brother, so that I humbly request to you and needful corrections may please be done in my Date of birth as declared in the affidavit and Municipality certificate.

Hoping to be favorable reply as early as possible.

Yours Faithfully,

Jagdish Chandra
(Jagdishchandra C. Mandijwal)

I have produced the following certificates and affidavits which is supported to my date of birth.

Encl :

1. Affidavit of my mother (certified copy)
2. Birth date certificate of Abu Road Municipality.
(original) (certified copy)
3. Affidavit of my self.
4. Birth date certificate of my elder brother
(certified copy)

True Copy
17/7/21
Acharya

Amended A3 (21)

From:

Jagdishchandra C. Mandijwal,
Driver 'C' Loco Sbi, Ahmedabad.
Rajkot (Division).

Date: 24.1.1989.

To,

The Divisional Railway Manager, (E),
Divisional Office,
Rajkot.

Sub: Your letter dated 2/5.12.1988 being
No. EL/J/140 and representation submitted
by me to the Div. Mechanical Engineer
(Loco) Rajkot dtd. 15.11.88.

Respected Sir,

This has reference to your letter dated 2/5.12.88 bearing No. EL/J/140 pursuant to my representation dtd. 15.11.1988 whereby I have requested to alter my date of birth from 19.12.1931 to that of 19.12.1935 which is recorded in the service book/service sheet.

By the aforesaid letter I have been asked to furnish the original school certificate alongwith xerox copy duly attested by gazetted officer in order to examine the case further. By the said letter I am also asked to explain as to why the representation in question has not been submitted earlier.

In this connection I state that at the initial entry in the Railway Department, I did not produce any school certificate on the basis of which the wrong date of birth i.e. 19.12.1931 is displaced. I state that the real date of birth is 19.12.1935 and, therefore, by a representation dated 15.11.1988, I have requested to make the necessary changes in the service record with regard to date of birth. Alongwith the said representation I have tendered affidavit of my mother, birth date certificate granted by Abu Road

Municipality, affidavit of mine and birth date certificate of my elder brother. I say that I am not in a position to get any school certificate which shows the correct date of birth i.e. 19.12.1934 despite the marathon efforts made on my part. Without prejudice to what I have stated above, I crave leave to produce the school certificate in the event I get the same.

But however, with great reverence and ^{regard} ~~entreaty~~ I request your Honour to be kind enough to consider my representation dated 15.11.1988 on the basis of the documents which I have tendered alongwith the said representation. I further say that in any event my date of birth which is shown as 19.12.1931 cannot be true and correct one for the simple reason that the birth date certificate dtd. 31.12.1987 issued by Principal of Sheth N. T. M. High School Surendranagar which shows the birth date of my elder brother Jagroop Chanda as 19.12.1934. In otherwords, it is submitted that my birthdate shown as 19.12.1931 in the relevant service record cannot be correct in the light of my elder brother's date of birth being 19.12.1934.

I say that the reason as to why I could not prefer the representation in question earlier is that only recently i.e. by a letter dated 31.11.1987 being No. EM/949/5/1 Vol. II Temp. I came to know that I am going to be retired by the end of year 1989. I also state that when this fact of my being retired in the year 1989 was brought to the notice of my mother and elder brother Jagroop Chanda, they informed me that ~~xxxx~~ my correct date of birth is

(23)

19.12.1935 and they further informed me that my date of birth cannot be earlier to that of my elder brother ^{Besides being a layman, expertise is wanted to ascertain exact date} Jagroop. I hope that this explanation will suffice the query with regard to not making the representation earlier.

I, therefore, entreat your Honour to consider my representation dtd. 15.11.1988 in the light of the documents furnished by me alongwith the said representation expeditiously, & further in the light of the fact that I am going to be retired by the end of year 1989. Hoping ~~you~~ from you a positive reply in regard to the change of date of birth. You are also requested to decide my representation earlier preferably ~~probably~~ within 15 to 20 days, if the same is not done, & I will presume that your honour is not ~~entrusted~~ interested in deciding my representation in question.

Thanking you,

Yours faithfully,

Jagdish Chandra
(Jagdishchandra C. Mandijwal)

Copy to:

The Div. Mechanical Engr. (Loco),
Rajkot.

*True Copy
M. Y. S.
Advocate*

Amount Rs. 24 10 RS.

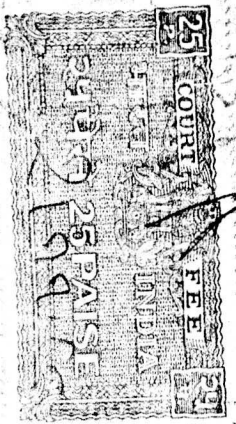


८५९ २१९१८८
 मालिक नाम... सीनगारीजी अ. १८१२
 माल २३२३००००... ००१७८१३३ ५०१२११
 रजिस्ट्रार... १८८८८८ २१००००००
 रजि. नं. १८८८८८ २१००००००

Amount

०००० ०००० ००००
 ०००० ०००० ००००
 ०००० ०००० ००००

जोड़िका



आज के आगे सीनगारीजी अ. १८१२
 रजि. नं. १८८८८८ २१००००००
 माल २३२३००००... ००१७८१३३ ५०१२११

आज के आगे जोड़िका...
 जोड़िका म. १८८८८८ २१००००००

जोड़िका जोड़िका...
 जोड़िका जोड़िका...

जोड़िका जोड़िका...

Solemnly affirmed by the
 Signatory...

I certify that
 by me

Advocate

११. २ १८८८८८ २१००००००

२१००००००
 Date २/४

Amount
 Rate

Rate of Savings
 bond...

The...

(25)

Annexure A/4

English Translation from Gujarati

Stamp of Rs.10.00

Affidavit

I, Shangariben Chandram aged 75 years,
Hindu religion caste koli residing at Surendranagar
do hereby solemnly affirmed that:

I have two sons Elder son is Jagrup chanda younger
son is Jagdishchandra Chandaram.

Elder son Jagrup's date of birth is 19.12.1934
younger son Jagdischandra is on year younger whose
date of birth is 19.12.1935 through an oversight his
date of birth shown in School register as 19.12.31
is wrong. Jagdish's correct date of birth is 19.12.35.

This affidavit is sworn as a mother.

I declare the above facts are correct on oath.

Surendranagar.

Dt. 2.11.88

Thumb mark of
Shangariben Shandaram.

Solemnly affirmed before me by the signatory
Identified by Shri H.H.Mehta Advocate
Surendranagar.

Surendranagar,

Dt. 2.12.88

True translation from
Gujarati.

(M.A.)
M.A.Kadri
Advocate.

26

Measure 15 10RS.



Handwritten notes in Gujarati script.

Book No. 4
Page No. 36
Serial No. 402930
Receipt No. 402938
Date 16-8-1988

Signature

એકીડેવીટ



અમો નીચે સહી કરનાર જગદીશચંદ્ર મંડીજવાલ, ઉ.વ.પુષ્ટ
ધંધો-નોકરી, રહે-શીવલાલની ચાલી, કબીર ચોક, સાબરમતી
અમદાવાદના તે અમારા ધર્મના ગોગંદ ઉપર આ એકીડેવીટ કરી
જણાવીએ છીએ કે...

અમો હાલમાં અમારા ઉપર જણાવેલા સરનામે રહીએ છીએ.
અમારો જ-મ તારીખ ૧૯-૧૨-૧૯૩૫ ના રોજ આબુ રોડ મુકામે
થયેલ છે અને ત્યારબાદ અમો સાબરમતી અમદાવાદમાં આવીને
સ્થાયી થયેલ છીએ. અમો રેલવેમાં નોકરી કરીએ છીએ અને
રેલવેમાં ~~સ્થાયી~~ મુકામે ~~કરવે~~ મુકામે અમારી જ-મ તારીખ ૧૯-૧૨-૩૧
ના રોજ લખાવેલ છે અને જેથી અમોને નોકરીમાંથી લેટર નંબર.
તા. ૩૧-૧૨-૧૯૮૭ નું ઈ.એમ. ૯૯૪/૭૭૫૭૦૯૫, આઈ ટેમ્પરરી
લીસ્ટમાં અમારું રીટાયરમેન્ટ આવેલ છે-એ સહી સહી સહી



27



(૨)

જોડે અને ગેરકાયદેસર છે. -

વધુમાં અમારી જ-મ તારીખ જે રેલવે મુજબ ૧૯-૧૨-૧૯૩૧ લખાવેલ છે તે ખોટી છે અને અમારી જ-મ તારીખ ૧૯-૧૨-૧૯૩૫ છે તે સાચી અને ખરી છે અને જેથી અમારે અમારી સાચી જ-મ તારીખ રેલવેને જણાવવાની હોઈ સદરહુ એકીડેવાટ કરવાની જરૂર પડેલ છે.

સદરહુ એકીડેવાટ અમારે રેલવેમાં રાજકોટ ડીવીઝનમાં અમારી ખરી જ-મ તારીખ લખાવવાની હોઈ કરવાની જરૂર પડેલ છે.

ઉપર લખેલ તમામ હકીકત સાચી અને ખરી છે.

અમદાવાદ.

તા. ૧૬-૮-૮૮.

[Signature]

Identified by me
[Signature]
(M.B. Jha)



Solemnly affirmed by
Shri *Jegdishchandel*
who is identified by
Shri Advocate
M. B. Jha
who is personally
to me

C. D. Ghori
C. D. GHORI
NOTARY

Attested

[Signature]

Addl. Ctr. Survey Superintendent
Ahmedabad

Translation from Gujarat to English.

I, Jagdishchandra Mandyvel aged adult, occupation service, residing at Shivilal's chawl, Kabir chowk, Sabarmati, Ahmedabad do hereby solemnly affirm that:

At present I am residing at above address my birth date is 19.12.35 born at Aburoad. Then I am permanently residing at Sabarmati Ahmedabad I am serving in Railway and through oversight my date of birth 19.12.31 is wrongly written in Railway so that I have received a letter no. EM-994/Vol-5/1 temporary dated 31.12.87 from Rly. for my retirement in temporary list.

Addition to above my date of birth 19.12.31 as per Rly. Record is not correct. My correct date of birth is 19.12.35 which is true and correct.

I had filed this affidavit to inform the Rly.

This affidavit is to be produce in Rajkot Divisional office Rly. for the change of my date of birth.

What is stated above is true and correct.

Ahmedabad.

Date 16.8.88

Identified by me.

Sd/-(M.B.Jha)

Advocate.

Attested by
Sd/-

Addl City

Survey Supdt.

Ahmedabad.

Sd/- Jagdishchandra.

Solemnly affirmed by Shri

Jagdishchandra Medywel

who is identified by

Shri Advocate M.B.Jha

Advocate who is personally
known to me.

Sd/- C.D.Gori

Notary.

True translation from

Gujarati

M.A.Kadri
(M.A.Kadri)

Advocate.

Annexure ~~A7~~ A7

Duplicate S.L.C.

30

of No. 11513

89-90

197-197

Leaving Certificate

Prescribed by Rule 11, Chapter 1 of the Grant in-aid Code)

Sheth N. T. M. High School, Surendranagar.

Register No of the Pupil-

11513.

DUPLICATE

1. Name of Pupil in full— *Rathod Jagrup Chauda*
2. Race and caste (with sub-Caste) —
3. Place of birth— *Abu Road.*
4. Date of birth, month and year, according to Christian era.
(In words and figures) — *19-12-1934.
Nineteen December Nineteen -
thirty-four*
5. Last school attended— *Re-admitted (No. 11139)*
6. Date of admission— *18-9-1951.*
7. Progress— *Fair*
8. Conduct— *Good.*
9. Date of leaving school— *30-11-1951.*
10. Standard in which studying and since when.
(in words and figures) — *IX (E) since the date of
Admission to class.*
11. Reason of leaving school— *To go elsewhere*
12. Remarks—

Certified that the above information is in accordance with School Register.

Dated *6-10-1989*

Principals
PRINCIPAL.

SHETH N. T. M. HIGH SCHOOL,
SURENDRANAGAR.
SCHOOL Head Master

Class Master
Class Master



4. माता का नाम व रहस्यवाची प्रश्न : ३१ गायत्री
5. रहस्यवाचक संख्या : २०२३५
6. गणितीयकरण की संख्या : ११३
7. पिता/माता का रहस्यवाची प्रश्न : २७-१-०६

21/12/20

Attest

me

31

प. सं. सु. सं. - 1100-1438, 900-73

अपराधिका ३

उपस्थान करवा

मार्च १९९९ एच. एच. एच. - निदेशिका

समय और प्राप्ति उपस्थितता अधिनियम, १९६९ की धारा १

जन्म का प्रमाण

प्रमाणित किया जाता है कि निम्नलिखित जानकारी सत्य है

.....सिमरी की पुत्र तहसील के डा. पुत्र

१. नाम श्री. राजाजी शंकर कौशिक

२. पुत्र या स्त्री पुत्र

३. जन्म की तारीख १९.१२.१९८५

४. जन्म का स्थान मुम्बई

५. पिता का नाम व सम्बन्ध श्री. राजाजी शंकर कौशिक

सारी करने वाले अधिकारी के हस्ताक्षर

पट्टा नं. १००

सारी करने वाले अधिकारी के हस्ताक्षर

सं. १००
राजस्थान

(प्रमाणित अधिकारी)
समस्याविका, आर

सं. १०० प्रतिनिधि

राजस्थान

(प्रमाणित अधिकारी)
समस्याविका, आर

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD.

O.A. NO. _____ 1989

Applicant: Shri Jagdishchandra Chandaram.
Vs.

Respondents: Union of India and other.

I SHANGARI widow of Chandaram Prema aged 75 years, occupation nil, residing at ~~at~~ Khatikhad Ramnagar, behind blind School, at Surendranagar, do hereby solemnly affirmed that:



1) I was married with chandaram Prema at the age of 19 or 20 years.

2) I was living at Aburoad Luniapura with my late husband after marriage.

3) Lakhma Modhu is my real brother who is 2 years younger than me.

4) Jagrup born after one year of my marriage, and Jagdish born after two years of my marriage.

5) Jagrup is my elder son and Jagdish is my younger son.

6) Both sons born at Aburoad.

6) I am living at Surendranagar with my elder son Jagrup.

8) This affidavit is to be produced before the Hon'ble Central Adm. Tribunal at Ahmedabad in connection with the application filed by Jagdish for change of his date of birth in Rly. record.

9) Whatever stated above are true and correct as per my knowledge and I believe the same as correct and true as per my belief.

10) This affidavit is sworn on 23 November 1989 at Surendranagar.



Surendranagar.

Date 23 11.89

RTM of
San Shanganvi
w/o Chandrabam

Tegrap C7

Identification by me and Interpretation by me

*10-H. Patel
M.A., LL-B Advocate
Surendranagar*

Solemnly affirmed before me by
Bhai Sanganvi w/o Chandrabam
who is identified by Shri K.H. Patel, under
whom I personally know.
Dr 23-11-89

Signature
Clerk of the Court,
Civil Judge, Senior Division
Surendranagar.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
AT AHMEDABAD.

O.A.No. _____ 1989

Applicant: Jagdishchandra Chandaram.
Versus.

Respondents: Union of India and others.

I, LAKHAMA son of MADHU AMLODHIA aged 73 years, occupation retired life, residing at Gujar, Dhanti Ajmer, Rajasthan do hereby solemnly affirmed that:-

1) Shri Jagdishchandra is a son of my real sister Shangari, wife of Chandaram.

2) Shri Shangari is my real sister, and I am two years younger than my sister Shangari.

3) She married with Chandram at the age of 19 years or 20 years, She was living with her husband after marriage at Abu-road.

4) Jagrup is a son of Chandaram and my sister Shangari who born after about one year of their marriage life. Jagrup born at Abu-road.



दि. ३३
महाराष्ट्र


OATH COMMISSIONER, AHMEDABAD

95
: 2 :

5) Jagdish born after Jagrup after about w
two years of thier marriage life.

6) I was going to Aburoad .My brother-in-law
and my sister were living in Uniapura at
Abu Road.

7) Jagdish is younger than Jagrup.

8) This affidavit is to be produced before
the Hon'ble Central Adm. Tribunal at Ahmedabad
in connection with the application filed by
Jagdischchandra for his change of date of
birth in Rly.record.

9) Whatever stated above are true and
correct, as per my knowledge and I believe
the same as true and correct as per my belief.

10) The affidavit is sworn on 30th November
1989 at Ajmer.

Ajmer.

Date 30 -11-89

मि. जे.
म. रंजना.

[Handwritten signature]
2257 Date 30/11/89
Affidavit duly sworn before me by
Shri
S/o Shri
Identified by Shri
who is personally known to me.
30/11/89
JAGDISH CHANDRA
JAGDISH CHANDRA

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

O.A. NO. 89

Applicant: Jagdishchandra Chandaram.

Vs.

Respondents: Union of India and others.

I, Jagrup son of Chandaram aged 55 years, occupation, voluntary retired, residing at Kharikhad, Ramnagar, Behind Blind School, Surendranagar, do hereby solemnly affirmed that:



- 1) Jagdishchandra is my real younger brother, I am elder brother of Jagdishchandra.
- 2) My date of birth is 19.12.1934 I am born at Aburoad.
- 3) My brother Jagdish is one year younger. He born in December 1935 at Aburoad.
- 4) My School leaving certificate is correct and the date of birth shown in this certificate is correct.
- 5) My mother's name is Shangari and my father's name is chandram.

: 2 :

6) The date of birth of my brother cannot be 19.12.1931 but the same should be 19.12.35.

7) I was serving in the Rly. in Loco shed Surendranagar I was not keeping well so I had applied for the voluntary retirement I am voluntary retired from Rly. Service. My date of birth shown in Rly. Record as 19.12.34 hence my younger brother cannot be retired earlier than me.

8) My mother is leaving with me at Surendranagar.

9) The date of birth of Jagdish written in Rly. record is not correct so he had filed an application before the Hon'ble Central Adm. Tribunal at Ahmedabad for the change of his date of birth in Rly. record so I had sworn this affidavit which is to be produced before the Hon'ble Central Adm. Tribunal at Ahmedabad.

10) Whatever stated above are correct and true as per my knowledge and I believe the same as correct and true as per my belief.

11) This affidavit is sworn on 23 Nov. 1989 at Surendranagar. Tagroop Chandan

Surendranagar. Tagroop
dt. 23-11-89

Solemnly affirmed before me by
Shri Jagdish Chandan
who is identified by Shri
whom I personally know.
23-11-89
Clerk of the Court
Civil Judge, Senior Division
Surendranagar



Identified by me and ~~Tagroop~~ Interpretation
is explained by me K. H. Patel
Advocate Surendranagar

Suraj Bhuja
 Residence Luniapuri (Abu Road)
 Value of Stamps 2/11/89
 (H. M. Mardia)
 Stamp Vendor ABU ROAD (Raj.)



BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD.

O.A. No. 1989

Applicant: Jagdishchandra Chandaram.

Versus.

Respondents: Union of India and other.

I, SURAYAJI son of BHURAJI aged 80 years, occupation retired life residing at Shiva-mandir Luniapura, Abu-road Rajasthan do hereby solemnly affirmed that:

1) I know Shri Jagdishchandra Chandaram applicant personally.

2) His father was working with me He was senior to me .We both were working in Loco shed Abu-road.

3) I had attended the marriage ceremony of Chandaram. He married with Shangari. We both were residing in same locality. I had homely relation with Shri Chandaram. Chandaram was residing in my locality.

शपथ-पत्र का हिन्दी
 अनुवाद कर सुनाया एवं
 समझाया जिसे तसे
 होना स्वीकार किया

Jayantilal Khandelwal
 Advocate



: 2 :

4) Shri Jagrup is elder brother of Jagdishchandra Shri Jagrup born at Abu-road after about one year of their marriage.

5) Shri Jagdishchandra born after Jagrup. I know this facts personally Jagdish chandra is real younger brother of Jagrup.

6) This affidavit is to be produced before the Hon'ble Central Adm. Tribunal at Ahmedabad in connection with the application filed by Shri Jagdishchandra for change of his date of birth in Rly. record.

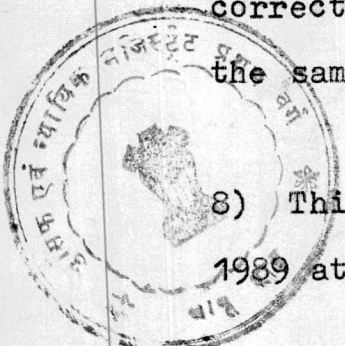
7) Whatever stated above are true and correct as per my knowledge and I believe the same as true and correct as per my belief.

8) This affidavit is shorn on 06-November 1989 at Aburoad.

Date 6-11-89

Identified by
[Signature]
AIV

[Signature]



महोदय जी को सूचित है कि
मैं श्री [नाम] निवासी [पता] का
पहले श्री [नाम] के साथ
बन्धे में रहने पर विवाह किया है
जो पट्टकर मालाई व सम्पत्ति गई तो मालाई
वही होता है जो स्वामी किया कर
क्या-क्या प्रमाणित किया जाता है।

~~महोदय को सूचित है कि
मैं श्री [नाम] निवासी [पता] का
पहले श्री [नाम] के साथ
बन्धे में रहने पर विवाह किया है
जो पट्टकर मालाई व सम्पत्ति गई तो मालाई
वही होता है जो स्वामी किया कर
क्या-क्या प्रमाणित किया जाता है।~~

निष्पक्ष एवं न्यायिक मजिस्ट्रेट 6-11-89
[Signature]
6/11/89

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

O.A. NO. 89

Applicant: Jagdishchandra Chandaram.

Versus.

Respondents: Union of India and others.

I, CHETAJI son of LUNAJI, aged 90 years, occupation nil, residing at Chokshi's chawl, Near Patel Mill, Rakhial Road, Ahmedabad.

do hereby solemnly affirm

1) I know Jagdishchandra personally, as my native place and native place of Jagdish's mother Shangari is near each other.

2) I had homely relation with Shangari's father, I was visiting her residence whenever any occasions occurs and Shangari's father and other relatives were also coming to my - residence, hence I know Jagdishchandra personally.

3) I was present when Shangari married with Chandaram, I had attended their marriage ceremony.



2)

: 2 :

4) After marriage Shangari was ^{residing} ~~working~~ at Abruroad with her husband (I was also going to Abroad).

5) Shri Jagrup is elder son of Shangari and Chandaram. Shri Jagrup born after one year of their marriage and Jagdish born after two - years of their marriage.

6) I had attended the marriage ceremonies of Jagrup and Jagdish.

7) I am going to Surendranagar to see - Shangari who leaves with her elder son Jagrup at Surendranagar.

8) Chandaram was working in Loco shed Abnroad and retired from this shed and he expired. I had attended the death ceremony of Chandaram.

9) I know personally that Shri Jagrup is elder son of Chandram and Jagdish is younger son of Chandaram.

10) This affidavit is to be produced before the Hon'ble Central Adm. Tribunal

: 3 :

at Ahmedabad as Shri Jagdish had filed the application before the Hon'ble Tribunal for change of his date of birth in Rly record.

11) Whatever stated above are true and correct, as per my knowledge, and I believe the same as correct as per my belief.

12) This affidavit is sworn on November 1989 at Ahmedabad.

Ahmedabad.

Date 11.11.89
6/12/89

solemnly Affirmed at
Ahmedabad.

Asst. Superintendent
City Civil Court,
Ahmedabad.

11-11-89

Chetaji Lunaji Maharaj

sworn before me,
Chetaji Lunaji
identified by
Advocate *P.B. Mahavay*,
I personally know.

6/12/89
12.12
Asst. Superintendent
City Civil Court,
Ahmedabad.

*Identified
by me*

*Public
Admission
6/12/89*

Explained in Hindi

43

Amesbury 13

2012/03/25

62-92-92-11

43

222 271

2223

215

2114

51

201207

112123

212

222 222 222

4015 27

$$x_i \in \mathbb{R}^n \quad \text{with} \quad \sum_{i=1}^n x_i = 0$$

Min. 815, 11 21

Shin
3214142
21915

True translation from Gujarati

Surendranagar

Date 11.1.88

This is to certify that the record of Private School washed out hence certificate cannot be traceable so please do needful in the matter. The name Jagdish Chanda is correct I know him as my student.

Sd/- Chimanlal Dayashanker Raval
Ex-Head Master Private School.

True translation

(M.A.Kadri)

Advocate.

48

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

O.A. No. 548 of 1989

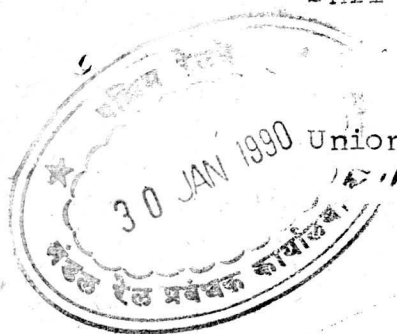
Shri Jagdishchandra Chandaram Applicant.

Vrs.

Union of India & Others Respondents.

Reply by the Respondents.

1. At the outset the Respondents states and submits that the application of the Applicant is not maintainable and tenable under the provisions of the Central Administrative Tribunal Act and deserves to be dismissed limne.
2. With reference to para No. 1, it is true that the applicant had applied for alteration in his date of birth which was recorded in his service sheet at the time of his appointment. After giving the application, the same was examined by the Chief Personnel Officer CUG and it was rejected as per the speaking order passed by the competent authority. Not only this, the same was communicated by letter dated 2-5-1989 and it is attached herewith marked Annexure A-1. Looking to the speaking order it is self explanatory and therefore it does not require further remarks.
3. With reference to para 2 and 3, this Hon'ble Tribunal has no jurisdiction to entertain this application and the same is time barred. The above contentions may be considered at the time of hearing this application.
4. With reference to para 4(a), the averments made in the said para are not correct and ^{are} ~~is~~ denied hereby. It is true that the applicant was appointed on 19-1-1954 and thereafter he was promoted as IInd Fireman w.e.f.



98-2-90
Copy served to
Mr. M. A. Keshvi
2
along to B R Keshvi
24 8-2-90

BMK

2-8-1959 and promoted as fireman w.e.f. 24-7-70 and not from 14-7-70. Thereafter he was promoted as STR on 2-8-83 and not from 19-8-1984. Thereafter subsequent promotion as Driver 'C' was given w.e.f. 23-11-1987 and not on 30-12-1987. It is further stated that as per the Fourth Pay Commission report, the Grade of Driver 'C' pay scale Rs. 330-560(R) and Driver 'B' Scale 425-640(R) are merged into a single scale of Rs. 1350-2200 (RP) w.e.f. 1-1-86 and hence the question of his promotion as Driver Grade-'B' does not arise.

5. With reference to para 4(b), the averments made therein are not correct and denied hereby. It is further submitted that as per the entry recorded in the service sheet of the applicant, his caste is shown as Rajput and not as Kolli as mentioned by him. So far as reservation in the matter of caste is concerned for a person belonging to Scheduled Caste community, his caste in his service sheet is shown as Rajput. And therefore, the Petitioner cannot make grievance without giving strict proof that he belongs to the Scheduled caste community and that he is entitled for promotion on that grounds.

6. With reference to para 4(c), the Petitioner has studied up to English Std. X as per educational qualifications shown in his service sheet. The contention made by the applicant were not accepted by the Chief Personnel Officer in his speaking order on the grounds mentioned in that Speaking order and therefore, it does not require any more comments except that he has studied upto Std. X.

7. With reference to para 4(d), the averments made

are
therein ~~is~~ not correct and ~~is~~ denied hereby. If your Honour looks to the page of the service sheet it will appear that at the time of his appointment the Petitioner had produced his School Leaving Certificate and on the basis of the School Leaving Certificate produced by him his date of birth was recorded as 19-12-1931 and the same has been signed by him. A true copy of the same is enclosed marked as Annexure A-2.

8. With reference to para 4(e), the allegations made are not correct and ~~is~~ denied hereby. The Respondents have made it very clear in the speaking order passed by the Chief Personnel Officer CCG and therefore, no further reply is necessary at this stage because they are concocted, after thought and not based on any evidence or records.

9. With reference to para 4(f) the allegations made are baseless and not admitted. It is irrelevant particulars given by the applicant without any support of documentary evidence and therefore the same is not correct and is denied hereby.

10. With reference to paras (g) to (j) they are nothing but the repetition of the earlier allegations. The Chief Personnel Officer has rightly rejected after quoting the existing rules and under authority by passing the speaking order. Not only that he has discussed all the points raised by the Petitioner in the application made by him and therefore the same cannot be considered afresh by this Hon'ble Tribunal. Not only this, whether the speaking order is right or wrong, the same cannot be decided by this Hon'ble Tribunal and this Tribunal

cannot sit and decide the findings of facts but the same can be decided only by the competent authority and that is decided and therefore the application of the applicant deserves to be dismissed.

11. With reference to para 5(a) to (c) the allegations made are not accepted.

12. With reference to para 6 to 11 the allegations are not correct and ^{are} ~~is~~ denied hereby. The Respondents want to make it very clear that the Petitioner has already retired from service on his attaining the age of superannuation on 31-12-1989 AN on the basis of the date of birth recorded in his service sheet. The payment has been made and all his pensionary benefits has also been given. Once the Petitioner himself has accepted the above ~~date of birth~~ benefits, it does not lie in his mouth to say that his date of birth is not correct. In this case the Principle of Promissory Estoppel would apply as the Petitioner cannot pick and choose both the benefits and at the same time make allegations that he was entitled for promotion in service and further more that his date of birth is not correct.

13. For the above reasons and the reasons that may be urged at the time of hearing this application, the application of the Petitioner deserves to be dismissed.

Ahmedabad.

Dt: 9-2-90

(B.R. Kyada)
Advocate for respondents.

For and on behalf of the Union
of India.

[Signature]

Divisional Railway Manager (E)
Western Railway, Rajkot.

VERIFICATION.

I, Divisional Railway Manager (E), Western Railway, Rajkot, respondent do hereby solemnly affirm and state that what is stated hereinabove is true to my knowledge, information and belief and I believe the same to be true.

Ahmedabad.

Dt: 9/2/40

[Signature]
Divisional Railway Manager (E)
Western Railway, Rajkot.

Reply/Rejoinder/written submission
filed by Mr. B. R. K. Yadav
learned advocate for petitioner/
Respondent with second set.
Copy served/not served & other side

9/2/40

[Signature]
Dy. Registrar C.A. II
Ahmadabad

Western Railway

Divisional Office,
Rajkot. Dt. 2.5.89.

No.EM 283/5/2

To,

LF - SBI.

Sub:- Alteration in date of birth - NG staff -
Mech. Deptt. - Case of Shri Jagdishchandra, C.,
Driver 'C' under LF-SBI.
Ref : Employee's representation dt.15.11.88 and 24.1.89.

.. .. .

The speaking order passed by C.P.O.-CCG in connection with the above subject is sent herewith which may please be handed over to Shri Jagdishchandra C. Driver 'C' and his acknowledgment sent to this office at once.

Sd/-

for DRM (E) RJT.

DA : Speaking order in original.

C/-

The CME (E) CCG in reference to his letter
No.EM283/16/7 Vol. I dt.15.3.89.

सहायक कार्मिक अधिकारी,

राजकोट

Assistant Personal Officer,
RAJKOT

True copy
Mr. B. R. H. 28/9
AR

copy.

Dated. 15/3/1989.

EM.283/16/7 Vol.I.

From. The CME(E)CCG.

To:- The DRM(E)RE.

Sub:- Alteration in date of birth No staff Mech.deptt-case of Shri-Jagdishchandra Driver 'C' under LF SBI.

Ref:- Your letter No.BL/J/140 dt. 16.2.89.

The speaking order passed by CPO-CCG in connection with the above subject is sent herewith for information and necessary action. The employee concerned may be advised accordingly under advise to this office.

The service sheet and personal file of the employee are returned herewith .Please acknowledge the receipt.

Sd/-
for CME(E).

Encl. Speaking order.
2 copies in original
service sheet
personal file.

सहायक कार्यालय अधिकारी

Assistant Personal Officer
RAJKOT

True copy
Mr. A. R. Khurana
etc.

I have gone through the representation of Shri - Jagdishchandra.C. Driver 'C' LF SBI working under DEM(E)RJT for alteration in recorded date of birth from 19.12.1931 to 19.12.1935 on the basis of municipal birth certificate. Abu Road, dated 27.1.88 and his affidavit and his mother's affidavit dt. - 16.8.1988 & dt. 2.11.1988 respectively.

Although this school certificate

2. It is seen from the S/Sheet of Shri Jagdishchandra that he was initially appointed on this Railway on 19.1.1954 as a call boy. His date of birth is recorded as 19.12.1931 in figures as well as in words, authority for which is quoted as school certificate. It is not available in the S/Sheet/P.File, it is seen that the recorded date of birth has been attested by Railway Authority and accepted as correct by Shri Jagdishchandra by assigning his signature in English. In view of this it is not understood how the employee makes a statement that he did not produce any school certificate at the time of his appointment. The date of birth so recorded is binding on the employee in terms of Rule 145(3) R1 then in force. There is no clerical error, erasing or overwriting in his recorded date of birth.

3. Col.No.14 of S/Sheet meant for indicating educational qualifications shows that the employee has studied upto English.X. It is also seen from his personal file that he has been communicating with the Administration in English in all service matters. Even representations for change in date of birth are made in English. Thus the employee was sufficiently literate to understand the implications of the entries in his S/Sheet when he had signed the service sheet.

4. In accordance with Board's directives all literate employees who were in service on 31.12.71 were given a final opportunity to make representation, if any against the recorded date of birth, latest upto 31.7.1973. Even though, these instructions were widely publicised Shri Jagdishchandra did not make any representation till 15.11.88 when he submitted his first representation.

5. It is also seen from his personal file that he had been medically examined at frequent intervals. In all these certificates he has got his age recorded as per his date of birth recorded in S/Sheet i.e. 19.12.31. These medical certificates have also been signed by the employee. Thus there is a sufficient proof available on the record to prove that Shri Jagdishchandra was aware of his age and he accepted the same throughout his service.

6. If the date of birth claimed by the employee as 19.12.35 is accepted his age would have been 18 years and 1 month at the time of his appointment and as such he would have been fixed at a lower stage by one rupee for each year by which the age fell below 21 years in terms of Rule 307 of WREM. It is seen that no such reduction was made and the employee had already gained benefit in fixation of pay by declaring and accepting the recorded date of birth.

7. Another ground on the basis of which the employee has disputed the correctness of his recorded date of birth is Municipal birth certificate and Surendranagar High School birth certificate of his elder brother. From perusal of the Municipal Certificate, it is seen that his birth was registered in the municipal office on 27.1.1935. As regards the School certificate of his elder brother in the absence of complete details about his date of admission etc. no comments can be made. Therefore, these two certificates cannot have any precedence over the document on the basis of which his date of birth was recorded in the service sheet as per school certificate at the time of appointment. The affidavits now produced by the employee and his mother cannot also be accepted at this point of time to consider the employee's request for alteration in recorded date of birth as the recorded date of birth has been accepted by the employee for these years.

...ion) the date of
... be open to rules shall be held to be
... ordinarily be permitted
... case of Group 'C' and General Manager/Chief
to cause the date of birth to be altered in the railway servants
cases. ... following types of

i) Where in his case it had been falsely stated by the Railway servant obtain an advantage otherwise inadmissible provided that alteration shall not result in the Railway servant being in service longer than if the alteration had not been made or.

ii) Where in the case of illiterate staff, the General Manager is satisfied a clerical error has occurred or.

iii) Where a satisfactory explanation (which should not be entertained at completion of the probation period or three years or whichever ever is earlier) of the circumstances in which the wrong date came to be entered is furnished by Railway servant concerned, together with the statement any previous attempts made to have to record amended.

None of the above conditions is satisfied in this case.

9. In the circumstances quoted above. I do not find any ground to accede to the request of Shri Jagdishchandra.C.Driver 'C' for alteration in recorded date of birth from 19.12.31 to 19.12.35.

True copy
Mr. B. R. Khosla
17/2

=0=

General Officer,

RAJKOT

St. 187/90

(25)

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

M.A. NO. 185/89

in O.A. No. 548/89

Applicant: Jagdishchandra Chandaram.

Versus.

Respondents: Union of India and other.

Sub:-Amendment application.
=====

That the applicant had filed the original application No. 548/89 for the change of his date of birth in Rly. record also prayed for Ad-interim injunction against his retirement. Hon'ble Tribunal was pleased to admit this original application but no interim injunction was granted so the Rly. Adm. had retired him on 31.12.89, hence this amendment application filed by him and prayed the following amendment in original application No. 548/89 as under:

2) After para ~~5~~ 4(~~7~~) the following paras(~~5~~) (~~6~~)(~~7~~) may be substituted as under;

MAK

Recd 10/1/90
L. B. K. G. S.
Adm. & Recd.
2-5-90

para 4(v) The applicant could not get the ad-interim injunction as prayed by the applicant in this O.A.No.548/89 hence the Rly. Adm. had retired the applicant from the Rly. service on 31.12.89, as per letter No.E/789/1/12/Settlement dt. 21.12.89, issued by the respondent no.2 and the xerox copy of the said letter is produced alongwith the list of this application as Annexure A-14. Loco Foreman Sabarmati had given him a letter vide its no.E/Retirement/L/SBI Dated 31.12.89. The Xerox copy of this letter is produced alongwith the list of this application as Annexure A.15. Both the letters received by the applicant with protest.

ANNEX A14

ANNEX A15

3) 4(v) The applicant beg to submit that the retirement given to him is not correct so the salary and other allowances and wages may be paid to him from 1.1.90 to the date on which he may be taken on duty of till 31.12.93, which is earlier and all the retirement benefit^{el} may be paid to the applicant on the basis of his retirement date i.e. 31.12.93.

4) 4(v) The applicant was selected as a Driver grade 'A' vide respondent no. 2's

(2)

ANN A16

letter no.EM/1025/5/5/Vo.IV.dt. 20.10.89
the xerox copy of the said letter is produced
as Annexure A/16.The applicant beg to submit
that the applicant was selected by the
respondent no.2 as a driver grade 'A' but
he was not promoted,^{the} reasons may be
known by the Rly.Adm., hence the applicant
beg to submit ^{that} the respondent may be directed
to pay the wages salary allowances to the ^{etc.}
applicant of the driver grade 'A' with
effect from the date ~~on~~ on which date his
juniors are promoted for the post of Driver
grade A . The following juniors employees
are promoted as Driver grade A.

- 1) Shri Gulab P. Promoted as a driver grade
'A'1986, whose Sr.no.454 in
seniority list.
- 2) Shri Keshavlal S.Promoted as a driver Grade A
as per memo no.EM/859/5/10 of
8.12.88 whose Sr.No.455 in
seniority list.
- 3) Shri Mangilal B, Jiwabhai C, and Govindbhai
S, who are junior to the applicant, Their nos.
are shown in seniority list as 360, 458, and 409
respectively. These persons are promoted as a
Driver grade 'A' vide above letter produced
as Annexure A/16 so the applicant is entitled

Ann V - A16

for the benefit of the wages salary etc. for
the promotion of the ^{driver} grade 'A'.
↓

5) In relief para 8 the following paras,
d, e, and f, may be substituted.

d) Be pleased direct the respondents to
arrange the salary, wages, allowances, ^{etc} be
paid to the applicant from 1.1.90 to the
date on which he may be taken on duty and/or
till 31.12.93, which is earlier and also
direct the respondent to pay all the
retirement benefits to the applicant
as due on 31.12.93.

e) Be please to direct the respondents
to promote the applicant as driver grade
'A' and further direct them to pay him,
wages, salary, allowances, etc. including
all retirement benefits from the date
on which his junior were promoted as
driver grade 'A'.

f) Be please pass an order for the
payment of interest at 12% p.a.

6) The above amendments are formal,
and does not change the nature of original
application of the applicant.

(5)

: 5 :

7) The above amendments may be allowed in the interest of justice.

Ahmedabad.

Date: ~~30/4/90~~

3/5/90

M. Y. A. M. A.

Jagdishchandra

(JAGDISHCHANDRA C)

Verification

I, the applicant Jagdishchandra son of Chandraram aged 54 years occupation nil residing at 709/53 Shivrul's chawl, Kabir chwok, Sabarmati, Ahmedabad do hereby verify that the contents of para 1 to 6 are true to my personal knowledge and I believe to be true on legal advice, and that I had not suppressed any material facts.

Ahmedabad.

Date: ~~30/4/90~~

3/5/90

Jagdishchandra

(JAGDISHCHANDRA C)

(5)

BEFORE THE CENTRAL ADMITRIVUNAL AT AHMEDABAD.
O.A.No. 548/89.

Applicant: Jagdishchandra Chandaram.

Versus.

Respondents: Union of India and others.

Sub: Rejoinder.

The applicant beg to submit his rejoinder of the reply filed by the respondents as under:

- (1) That the applicant had explained the reply of the respondents and file this rejoinder.
- (2) The contents of the reply filed by the respondent are not correct,.The applicant denied the same except which are specifically admitted in this rejoinder.
- (3) The contents of the para-1 of the reply are not correct.No specific denial had mentioned in this para regarding non meantability of the application.No provision or section has mentioned in

*Filed in court
by Advocate Mr. S. S. Chaudhary
for applicant on 21/4/92*

the reply, general denial cannot be considered hence these contents of this para are not correct.

(4) As regards the contents of the para-2 the respondent had admitted the facts mentioned in the para 1 of the application. The contents of last two lines of this para are not correct. The applicant beg to submit that the said order was not correct hence the application had filed this O.A. ^{Handled in} against ~~the~~ before the Tribunal, - ~~against the said order~~ for quashing and setting aside the said order.

(5) The contents of the para-3 of the said reply are not correct. The contents of the para 2 and 3 of the application are correct. The applicant further beg to submit the no specific contentions has been taken by the respondents regarding jurisdiction and limitation hence these contents are not correct. The applicant supports the contents of para 2 and 3 by ~~the~~ rejoinder.

(6) The contents of para 4,5 ^{of the reply to} are not correct, ^{by his application} the contents of para 4(a) ~~and~~ (b) ^{are} are correct. There may be typographically mistakes for the promotions of the applicant does not change the

4

: 3 :

nature of the application. The contents of the para-5 of the reply regarding his cast² are not correct. The contents of para 4(b) of the application are correct and he supports these contentions by way of this rejoinder.

(7) The contents of the para-6 of the reply are not correct. It is admitted position that he had studied upto ^{10th} ~~X~~. The applicant beg to submit that at the time of the appointment in Rly. he was appointed in class IVth service. The applicant supports the said contents of para 4(c) ^{in his application} by way of this rejoinder that the same are true and correct.

(8) The contents of the para 7 of the reply are not correct. The applicant beg to submit that the respondents had not produced the copy of the service sheet as Annexure R2. The applicant beg to submit that the copy which is given to him does not disclose the Annexure A2. as the copy of the service book. The annexure A2 is the order of the learned C.P.O. hence these contentions are not correct. The respondent had stated these facts regarding the production of documents as Annexure A2 are false. This clearly

proves that the verification made by the respondents are not correct. The applicant beg to submit that when the service sheet is not produced by the respondent as Annexure A2 hence no reply on these points are given by the applicant. The applicant beg to submit that he *keeps* ^u his right reserve for giving the reply on these contentions as and when the same is produced by the respondents. The contents of para 4(a) ^u of his application ^u are correct and the applicant supports the same by way of this rejoinder.

(9) The contents of the para 8,9 are not correct and the contentions of para 4(e) and 4(b) ^u are ^u correct and the applicant supports the same by way of this rejoinder.

(10) The contents of para 10 of the reply are not correct. The contents of para 4(g) to 4(f) ^u of his application ^u are correct and the applicant supports the same by way of this rejoinder. The applicant beg to submit that the chief personal officer had not rightly rejected the representation hence he had filed this of application for setting aside the order. ^u Rest contentions of this para are not correct. The applicant beg to submit that the Hon'ble Tribunal had wide powers and Hon.

5

: 5 :

Tribunal had set quashed and set aside the order of the Rly Adm. for rejecting the alterations in date of the birth of the employees. The applicant relies the contentions of his O.A. decided by the various Tribunals. In view of these decisions of the Hon'ble Tribunals these contents are not correct.

(11) The contents of para 11 of the reply are not correct. The legal contentions mentioned in paras 5 to 5(c) are correct and he supports the same by way of this rejoinder.

(12) The contents of para 12 of the reply are not correct. The applicant beg to submit that the contents of para 6 to 11 of this application are correct and he supports the same by way of this rejoinder. The applicant beg to submit that he had filed this application when he was in service, The applicant beg to submit that he had applied the ^{interim} Indian relief regard-
^{Contentions} ing ~~contentions~~ of his service but the same interim relief was not granted by the Hon. Tribunal so the applicant was ^{returned} ~~returned~~ on 31.12.89, as mentioned in this para. The rest contentions are not correct. The applicant beg to submit that the applicant had submitted the amendment application before the Hon. Tribunal.

; 6:

The Hon'ble Tribunal was pleased to allow the same. The applicant had served copy of the amended application to the respondents advocate on 15.10.90. No reply is filed by the respondent of the amended application so these contentions are not correct.

(13) The contents of para 13 of the reply are not correct the application may ^{not} be ^Wdeserve to be dismissed as mentioned in this para.

(14) In view of the above facts and the facts mentioned in the original application. The applicant beg to submit that the said O.A. may please be allowed with costs and may please be awarded all the relief prayed by him in original application.

Ahmedabad.

Date: 16-4-92

Produced on 21-4-92

Verification

I, Jagdishchandra Chandaram aged 56 years occupation nil residing at 709/53 shivlal's chawl Kaberchowk Sabarmati Ahmedabad do hereby verify that all the above contents of this rejoinder are true to my personal knowledge and believe to be true on legal advice that I had not suppressed any material facts.

Ahmedabad:

dt. 21-4-92

Jagdish Chandra

(JAGDISHCHANDRA)

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Application No. RA/35/93 in MA/466/93 in CA/548/89 of 199
Transrer Application No. _____ Old writ Pet. No.

C E R T I F I C A T E

Certified that no further action is required to be taken
and the case is ift for consignment to the Record Room (Decided).

Dated : 11/10/93

Countersigned :

Arizend
11.11.93
Section Officer/Court Officer

Sign. of mm the Dealing Assistant.

INDEX SHEET

4.028 cm.

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

R.A.No. 35/93
IN
O.A.No. 548/89

Placed below is a Review Petition filed by Shri M. A. Kadarji (Applicant/
Respondents in JA/TA No. 548/89) seeking a review of
the order dated 28/04/92 passed by this Tribunal in the
above noted case.

As per Rule 17(ii) and (iii), a review petition shall
ordinarily be heard by ^{the} same Bench which passed the order
and unless ordered otherwise by the Bench concerned, a review
petition shall be disposed of by circulation where the Bench
may either dismiss the petition or direct notice to ^{be} ~~the~~ issued
to the opposite party.

The Review petition is therefore, submitted for orders
of the Bench consisting of Hon'ble Mr. R.C. Bhatt, J.M.

which pronounced the Order sought to be reviewed.

Filed under
R.A. St. No. 23 1992

Submitted,

The Appl. Adv. has been
Filed this Appl. which dismissed
on 28/4/92 by this Tribunal; order
sent here with.

Order dt 28/4/92, received by
Lum on 06/5/92. Appl. Filed on 03/5/93,
therefore Appl. is beyond time.

M.A. for cond. of delay Filed along
with R.A.

For orders please.

WJ
07/9 use

SOC/J —

DY Reg. CJ —

① Judgement in OA is passed
by Hon'ble Mem(J) Shri R.C. Bhatt.

M.A. for cond. of delay in
R.A. is filed by the applicant.

R.A. may be circulated to
Moo R.C. Bhatt for consideration.

cBhatt
10-9-93

DR / (J) Prator
13-9-93

Hon. Mr. R.C. Bhatt:

RASH/23/93
14/05/93

(69)

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

Review Appln No. 35 /1993.
in
O.A. No. 548/89.

Applicant: Jagdishchandra Chandaram.

Versus.

Respondents: Union of India and other.

I n d e x

Sr. No.	Name of the documents relied on	Pages From to	Annexures
1)	Application ^u alongwith the ^u affidavit - u	1 to 10	
2)	The order passed by the Hon'ble Tribunal in O.A. No. 548/89	^u 11 to ^u 23	A1
3)	The xerox copy issued by the Divisional Office Rajkot of the service certificate of Shri Jayrup C.	^u 24.	A2
4)	The xerox copy of the reply filed by the respondents alongwith the enclosures in O.A. No. 548/89	^u 25 to ^u 33	A3

Ahmedabad.
date; 3-5-93

Advocate In Applicant
cm Arachy
Advocate In Applicant

Advocate In Respondent
Advocate In Respondent

0/822/93

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MA Kushi
Rul
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(6)

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

REVIEW APPLICATION NO. _____/93.

in

O.A. 548/89.

Applicant: Jagdishchandra Chandaram aged
adult occupation nil, residing
at 709/53 Shivilal's chawl,
Koberchowk, Sabarmati, Ahmedabad.5.

Versus.

Respondents: 1) Owning and representing through
The General Manager, Western Rly.
Churchgate Bombay 400 020.
2) The Divisional Rail Manager,
Western Railway Rajkot, Division
Kachari
Koti/Compound Rajkot.

Sub: REVIEW APPLICATION

The applicant beg to submit as under:

(1) That the applicant had filed the O.A.No.548/89
before the Hon'ble Tribunal for change of his date
of birth in Rly. record.

(2) The applicant had submitted the representation
for change of his date of Birth in Rly. record,

alongwith this representation he had produced ^{and} he had submitted the birth date certificate issued by the Abu-road Municipality Affidavit of the applicant, affidavit of ^{his} mother, and copy of the school leaving certificate of his elder brother.

(3) The Learned C.P.O had not considered his request for change of his date of birth and rejected his representation.

(4) The applicant had filed the O.A.No.548/89 before the Hon'ble Tribunal and challenge the order passed by the learned C.P.O. The Applicant had produced the affidavit of his mother, his affidavit, his mother's brother, his elder brother, his father's friend, his relatives also he had produced the copy of his elder brother's ~~xxxxx~~ School Leaving certificate copy of his birth certificate issued by the Abu Road Municipality, and the certificate issued by the Head Master.

(5) The respondents have filed the reply and denied the averments mentioned in the application.

(6) The order passed by the Hon'ble Judicial member and rejected the said application.

These are facts of the applicant:

(7) The applicant beg to submit that the respondents had misrepresented and suppressed the facts on verification of this reply.

(8) The applicant had specifically mentioned in his application para 4(e) that his elder brother who was working as Driver ^{C. M.} his date of birth is 19.12.34. when his elder brother is in service so he cannot be retired ^{early} then his elder brother. The respondents had generally denied these facts no specific denial has been mentioned even the Rly. Adm. had not cared to verify his elder brother's date of birth shown in Rly. record hence the respondent had misguided and suppressed the facts of his elder brother's date of birth shown in Rly. record.

(9) The respondents had mentioned in para-7 of the reply that true copy of the service sheet of the applicant is produced as Annexure A-2. The respondents had not produced intentionally the true copy of the service sheet of the applicant. Intentionally produced the copy of the order passed by the learned C.P.O. The respondent had suppressed the facts of his service sheet. This clearly proves that the -

respondents wants to misguide the Hon'ble Tribunal not producing the true copy of the service sheet of the applicant. This clearly proves that the respondents had intentionally suppressed these facts before the Hon'ble Tribunal. In verification the respondents had purposely not mentioned that the respondent had not suppressed ^{any material in} the facts. This verification is not complete as per Adm. Tribunal Act 1985 hence the reply cannot be considered.

(10) Further the applicant beg to submit that the learned Advocate who appeared on behalf of the respondents had not cared to produce the correct Annexure A-2 is produced before the Hon'ble Tribunal. The said learned Advocate had also infringed and violated the provisions of the Adm. Tribunal Act 1985. The applicant beg to submit that the learned Advocate had argued before the Hon'ble Tribunal and misguided misrepresented to the Hon'ble Tribunal.

(11) The applicant respectfully beg to submit that the observations made by the Hon'ble Judicial Member observed that ^{the} mother of the applicant is illiterate so generally and illiterate

woman would not remember the georgian calander date, months and year though she might remember the date, month, and year of regional calender. In this respect the applicant humbly beg to submit that in 1920 or so, the girls were not going to school, particularly in village the girls never going to school. The parents of the girls were not sending the girls in these days in school as they were finding shamners and not good to send the girls in School, particulars in villages, such ^{as practice where} were the applicants mother was residing her parents had not sent him in school, his mother is ^{very} cleaner, and intependent, as she was residing with his elder brother at Surendarnagar, so she was knowing the date of his elder brother, The applicant was born after one year on same date of his elder brother, so she had mentioned these facts in her affidavit. Further the applicant is younger than his elder brother, so and further he had produced the other affidavits, and copy of the school leaving certificate in which his elder brother's date of Birth shown as 19.12.34. In all other affidavits it is clearly mentioned that the applicants is really younger, brother.

(12) The applicant respectfully submit the observations of the Hon'ble Judicial member of

this Tribunal are not correct. The Hon'ble member ought to have believed the applicant on these point instead of rejecting these documents, would have believe the applicant on these documentary evidence.

(13) Further the applicant beg to submit that it is an admitted position that the applicant is younger than his elder brother who ^{was} ~~is as~~ working as Driver 'C' in Rajkot Division so the applicant cannot retire before his elder brother.

(14) Further the applicant beg to submit that he had produced the letter of the Head Master, in which the applicant was study ^{was} ~~was~~ spoiled so there may be mistake shown in the school leaving certificate issued in his favour ^{which} ~~may~~ be wrong and wrongly his date of birth shown as 19.12.31. The applicant ought to have believed on this point, and would have allowed this application instead of dismissing the same by the Hon'ble Tribunal.

(15) The applicant beg to submit that he had produced the copy of the service certificate dt. 31.3.93, issued by the Divisional office Rajkot in favour of his brother. From the perusal of this certificate the date of his elder brother

brother's date of Birth is shown as 19.12.34 and it is admitted position that the applicant is younger than his elder brother, so the Hon. Tribunal would have believe the applicant and his application would have allowed instead of dismissing the same.

Annex A1

Annex A2.

Annex A3.

(16) The applicants had produced the following documents the copy of the order of the Hon'ble Tribunal as Annexure A1. The copy of the reply filed by the respondents as Annexure A2. alongwith the enclosers. The xerox copy of the service certificate issued by the office of the respondent no.2 as annexure A3.

(17) The applicant beg to submit that the respondents have not produced the copy of the service sheets of the applicant alongwith their reply intentionally. In this connection the applicant beg to submit that in column no.3, for entry for the date of birth, His thumb marks may be taken at the time of his appointment in class IVth service and may have verified this thumb mark of the applicant in column no.3. of the said service sheet, ^{by his Superior} ~~so~~ from this it appears that the Rly. Adm. may have considered him illetrate staff at the time of his first appointment in Rly. service. In view of these facts the respondents

have intentionally deleberately not produced the service sheet of the applicant, as mentioned in para-7 of their reply. This clearly proves that though the respondents have mentioned in their reply regarding the production of the service sheet of the applicant Produced as Annexure A2, ~~in their reply.~~ *the copy of the appellate authority, M/ No. 548/89 of the applicant, hence the cause of action has been arisen in this review application of the applicant.*

(18) The applicant had filed separate an application for condonation of delay for filing this review application.

(20) The cause of action has arisen when the Hon'ble Tribunal had dismissed the application No. 548/89 of the applicant, hence the cause of action has been arisen in this review application of the applicant.

(20) Therefore the applicant prays that:

(a) That the Hon'ble Tribunal may please be consider this review application and set aside the order passed by the Hon'ble Tribunal and allow this review application and may please be restore the original application and allow the original application.

(b) Any other order which is deem just fit and proper may please be passed.

(c) The cost of this application may please be awarded if found fit by the Hon'ble Tribunal.

(21) In support of this review application the applicant had filed the separate affidavit ^u 22 The applicants Advocate was in original application and continue in this application so he had not filed the ^{fresh u} Vakilpatra.

^u 22 In view of the facts mentioned above the applicant beg to submit that this is a review application may please be allowed and may please be set aside the order passed by the Hon'ble Tribunal, ^u in the interest of justice, equity and good conscience. ^u

VERIFICATION

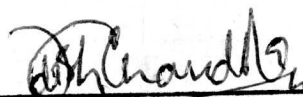
I, Jagdishchandra son of Chandaram aged adult occupation nil residing at 709/53 Shivilal chawl, Sabarmati Ahmedabad do hereby verify that the contents of paras 1 to ²³ 22 are true and correct as per my knowledge and believe to true on legal advice, and that I have not suppressed any material facts.

Ahmedabad.

Date: 3.5.1993.


(M.A. Kadri)

Applicants Advocate.





(66)

BEFORE THE CENTRAL ADM. TRIBUNAL

AT AHMEDABAD.

R.A. No. _____ 1993.

in O.A.No. 548/89.

Applicant: Jagdishchandra Chandram

Versus.

Respondents: Union of India of other.

I, Jagdishchandra chandram aged about adult occupation nil residing at 709/53 Shivlaj Chawl Kabir chowk, Sabarmati Ahmedabad do hereby solemnly affirmed as under:

(1) That the applicant had filed the Review application before the Hon'ble Tribunal. All the contents mentioned in this ^{in person} application are true and correct, as per my belief and knowledge and I believe the same are true as per legal advice.

This affidavit is made for Producing the same before the Hon'ble central Adm. Tribunal at Ahmedabad.

Whatever stated above are true and correct, as per knowledge. ^{and} solemnly

This affidavit is solemnly affirmed by me at Ahmedabad on 1st May 1993.

Ahmedabad.
Dt 1-5-93

X Jagdishchandra
Identified by me
MAK
Chandram
Advocate



Subscribed and affirmed before me
by Jagdishchandra - Chandram
who is identified by Shri
Advocate Shri M. K. Mak
and I personally know
Date: 1-5-93
Superintendent Registrar
Civil Court, Ahmedabad

11/11/92

(11)

(C2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 548 of 1989
~~11/11/92~~

DATE OF DECISION 28-4-1992.

Shri Jagdishchandre Chadaram Petitioner

Shri M.A. Kadri Advocate for the Petitioner(s)

Versus

Union of India & Ors Respondent

Shri B.F. Kyada Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. F.C. Shett

: Member (J)

The Hon'ble Mr.



TRUE COPY

M.A. Kadri
(M. A. KADRI)
ADVOCATE

Jagdishchandra Chandaram
709/53 Shivalal's Chawl
Kabirchowk
Sabarmati
Ahmedabad-380 005.

CS

: Applicant

(Advocate : Shri M.A. Kadri)

VS.

1. Union of India, through
The General Manager,
Head Quarter Office,
Churchgate,
Bombay-400 020.
2. The Divisional Railway Manager,
Rajkot Divisional Office,
Western Railway,
Kothi Kacheri, Compound,
Rajkot.

: Respondents

(Advocate : Shri B.F. Kyada)

J U D G E M E N T

C.A. No. 548 of 1989

Date : 28-4-1992.

Per : Hon'ble Shri R.C. Bhatt

: Member (J)

This application under Section 19 of the Administrative Tribunals Act, 1985, is filed by the applicant seeking the relief that the order passed by Chief Personnel Officer for not considering the applicant's correct date of birth as 19.12.1935 and considering the date of birth shown in the Railway record, 19.12.1931, which is false and

wrong, be quashed. The respondents have resisted the application by filing reply that the Chief Personnel Officer has rightly rejected the representation of the applicant and has rightly held that the date of birth of



... 3/-

the applicant shown in the service sheet on the strength of his School Leaving Certificate, produced by him showing his date of birth as 19.12.1931, is correct. It is contended that the Chief Personnel Officer has given detailed speaking order meeting with all the grounds of representation of the applicant and has rightly held that there was no ground to accede to the request of the applicant for alteration in recorded date of birth from 19.12.1931 to 19.12.1935. The applicant has filed rejoinder controverting the contentions taken by the respondents in their reply.

2. The applicant was appointed on 19.1.1954 as Call Boy in Class IV category and then was redesignated as Cleaner in 1958 at Loco Shed Surendranagar in Rajkot Division of the respondents Railway. The applicant has averred in his application that he had studied upto Xth Standard in which one subject was English, that he was only knowing how to sign in English and he was not knowing the correct English language. He has averred in the application that as he wanted job and as he was not aware of the Rules and Regulations of the railway, he produced whatever documents were available with him before the Railway. He has averred in the application that the date of birth shown in the School Leaving Certificate was produced by him at the time of his appointment, hence, he signed the service book as per the instructions of the Clerk of the Divisional



(69)

(14)

Office at the time of his appointment. Thus the applicant comes with the case that he had produced the School Leaving Certificate at the time of joining the service in which his date of birth was shown, and he had also signed the service book at the time of his appointment. The applicant has produced at annexure A/1 the impugned order of the Chief Personnel Officer dated 15.3.1989 with covering letter from dated 2.5.1989 in which it is mentioned that the service sheet of the applicant shown at the time of his appointment on 19.1.1954, his date of birth is recorded as 19.12.31 in figures as well as in words. The said recorded date of birth had been attested by Railway Authority and accepted as correct by the applicant by putting his signature in English. Thus, it is clear that the applicant had submitted his School Leaving Certificate at the time of his appointment which showed his date of birth as 19.12.'31, and he signed it accordingly showing as correct in the service sheet also. The applicant gave first representation, vide annexure A/2 dated 15.11.1988, in which he has mentioned that it was by mistake that his date of birth was shown in the record as 19.11.1931 and that his correct date of birth was 19.11.1935. Thereafter he made another representation vide Annexure A/3 on 24.1.1989 in which he has mentioned as under :-



" In this connection I state that at the initial entry in the Railway Department, I did not produce any school certificate on the basis of which the wrong date of

birth i.e. 19.12.1931 is displaced."

The Chief Personnel Officer has rightly observed that in view of the fact that the service sheet shows the recorded date of birth of the applicant as 19.12.1931, which also bears the signature of the applicant in English, it is not understood how an employee made a statement that he had not produced any School Leaving Certificate at the time of his appointment. The date of birth was recorded in the service sheet on the strength of the School Leaving Certificate produced by the applicant. Although this School Leaving Certificate was not available in the service sheet, the applicant himself in his application in para 4 (d) has stated that he had produced the School Leaving Certificate at the time of his appointment. ~~However~~, in the representation dated 24.1.1989, he took a summersault by making false statement that he did not produce any School Leaving Certificate on the basis of which the wrong date of birth i.e. 19.12.1931 was displaced. Thus the applicant has not come before this Tribunal with clean hand and it would be very unsafe to put any reliance on his statement at its face value. The applicant's mother has made an affi-

avit on 2.11.1988, the copy of which is produced at annexure A/4, in which she has mentioned that her ^{other} son Jagrup's birth date is 19.12.1934 and the younger one Jagdishchandra's birth date, i.e. the applicant's birth date is 19.12.1935, and that it was by mistake that the



(20)

(16)

date of birth of the applicant was shown as 19.12.1931 and that the correct date of birth is 19.12.1935. It is important to note that the applicant was to retire on 31.12.1989 and the affidavit of the mother was made on 2.11.1988. The learned advocate for the applicant submitted that the mother of the applicant is illiterate and she has put thumb mark in her affidavit, annexure A/4. If the applicant's mother is illiterate, it is difficult to accept her version remembering the date of birth of the applicant as 19.12.1935, remembering the event that the date of birth of the applicant was by mistake shown as 19.12.1931 in the school and also remembering the date of birth of her another son, Jagrup, as 19.12.1934. Generally an illiterate women would not remember the Gregorian Calendar ^{date,} month and year, though she might remember the date, month and year of regional calendar. The applicant has produced his affidavit at annexure A/5, the affidavit of his maternal ^{uncle} at annexure A/9, the affidavit of his brother at annexure A/10, one another copy of affidavit of his mother, Smt. Shahgari, at annexure A/8, the affidavit of two other persons, Surayaji and Bhuraji, at annexure A/11, the copy of one certificate of Ex-Head Master of private school at Surendranagar, dated 11.1.1988, ~~stating~~ that the record of private school is washed out hence certificate of the applicant is not traceable. This certificate does not



show to which school the Ex-Head Master refers nor the certificate leads to any definite conclusion. No reliance could be placed on this certificate nor reliance could be placed on the affidavits produced by the applicant to come to the conclusion that the applicant's date of birth was 19.12.1935.

3. Learned advocate for the applicant vehemently put reliance on the certified copy of the birth certificate from Nagar Palika, Abu Road, in which his date of birth is shown as 19.12.1935. Learned advocate for the applicant submitted that the Chief Personnel Officer ought to have put reliance on the certified copy of the birth certificate from the Nagar Palika. He has also put reliance on the School Leaving Certificate of Sheth N.T.M. High School, Surendranagar, showing that the applicant's brother Rathod Jagrup's birth date recorded in that certificate was 19.12.1934, and that Jagrup was the elder brother of the applicant. The Chief Personnel Officer has observed in para 7 of his order that from the Certificate of the Nagar Palika, i.e., Municipality, it is clear that the date of birth of the applicant was registered in that office on 27.1.1988. Learned advocate for the applicant submitted that the entry of the applicant in his School Certificate as 19.12.1931 produced at the time of his appointment could not be considered as conclusive, but it was rebuttable

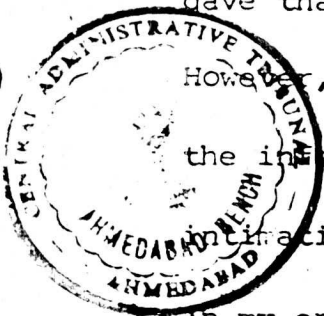


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(18)

in view of the certificate from the Nagar Palika which shows the applicant's date of birth as 19.12.1935, and reliance is placed on the decision in K.U.Jain Vs, Union of India & Ors (1989) 11 ATC 365. In that case, the employee had satisfactorily proved by corroborated evidence that the early pages of the School Register mentioned the correct date but the later pages thereof showed wrong date of birth, which was carried over to Matriculation Certificate in which the date of birth was recorded. In the instant case, the question is whether the certificate from the Municipality, produced at annexure A/6, showing the date of birth of applicant as 19.12.1935 should be accepted as conclusive evidence? Generally ~~that~~ the entry in the Birth and Death Register of the Municipality or the City Survey is preferred to the entry of Birth date in the School Leaving Certificate, but, in the instant case one has to examine on which date this entry was made. Learned advocate for the applicant has fairly conceded that this certificate, annexure A/6, of the Municipality of Abu Road was on the strength of the date of birth given on 27.1.1988. One does not know who gave that date of birth to the said Nagar Palika.

Howe~~ver~~, the fact remains that it was only on 27.1.1988 the information was supplied to the Nagar Palika, Abu Road, indicating that the applicant's date of birth was 19.12.'35 In my opinion, the entry of this type in the certificate



given after about 53 years after the date of birth of a person cannot be relied upon as conclusive piece of evidence. The applicant was to retire in 1989 and just in previous year, this date of birth of the applicant was supplied to the Nagar Palika, and on the strength of that certificate the applicant wants to establish that the date of birth in the School Leaving Certificate as 19.12.1931, was wrong and the date of birth shown in the Municipal Certificate, annexure A/6, is correct. I do not accept this certificate as conclusive piece of evidence and the Chief Personnel Officer has not committed mistake in rejecting the same rightly on the ground that the said entry of birth was registered in the Municipality Office on 27.1.1988. As regards School Leaving Certificate of the applicant's brother, in the absence of complete details about his date of admission etc., the Chief Personnel Officer has not made any comment on it. Learned advocate for the applicant submitted that the applicant was younger brother and the date of birth of the elder brother, Jagrup, shown in the School Leaving Certificate, annexure A/7, as 19.12.1934 should be accepted as correct. He submitted that the applicant's mother has made an affidavit, annexure A/8, that Jagrup was born after one year of her marriage while Jagdish was born after two years of her marriage, that she had married at the age of 19 or 20 years. He submitted that when the applicant's mother had married at



72

20

the age of 19 or 20 years, it is not possible to believe that the applicant was born in 1931. The affidavits of the applicant, his brother, his mother and two others are not of much importance because of the fact that the main source of the date of birth of the applicant is not satisfactory and the most important document on which the applicant relies is annexure A/6, i.e., the extract from the birth certificate of Abu Road Municipality is not reliable because as observed above the entry in that certificate was made on 27.1.1988. Therefore, such a certificate clouds to some what much suspicious and less evidential value, and therefore, it is not accepted as conclusive evidence.

4. Learned advocate for the applicant submitted that the Chief Personnel Officer rejected the applicant's representation for correction of his date of birth on the ground that as per the previous directives that all literate employees who are in service on 31.1.2.1931 were given opportunity to make representation, if any, against the recorded date of birth, latest upto 31.7.1973, but the applicant did not make any such representation till 15.11.1988. He submitted that this approach of the Chief Personnel Officer was wrong in view of the decision in Sikenderbeg S. Mirza Vs. Union of India & Crs. reported in (1990) 14 ATC 20, A 'bad' Bench, in which it was held that deadline for applying for correction fixed by administrative instruction was not



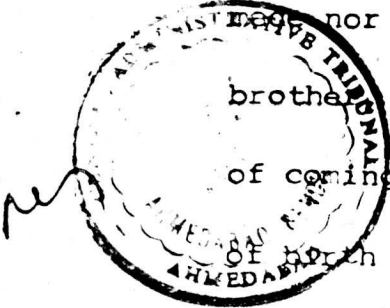
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legal. Reference is made to para 145 of the Railway Establishment Code as amended in 1971. It is true that the applicant was entitled to make representation even after 31.7.1973 as he was in service before 31.12.1971, however, the Chief Personnel Officer has considered the evidence produced by the applicant viz., his Birth Certificate, the School Leaving Certificate of his brother and other evidence and has rejected the representation on merits.

5. Learned advocate Mr. Kyada for the respondents submitted that though the applicant came with the case that he had produced the School Leaving Certificate at the time of his appointment as he was not aware of the Rules and Regulations of the Railway, the applicant has made a false statement in his representation, annexure A/3 dated 24.1.1989, that he did not produce any School Leaving Certificate at the time of his appointment. He submitted that the Chief Personnel Officer also criticized this conduct of the applicant, and therefore according to him the statement made by such an employee cannot be accepted at its face value. He submitted that the birth certificate from the Municipal Office produced by him at annexure A/6 has no evidential value in view of the fact that it was almost at the time of retirement that he made attempt to get his entry in the Certificate showing his date of birth

73

(25)

as 19.12.1935. He submitted that this conduct of the applicant should be condemned because there would hardly be an instance where after about 50 years of his birth in almost in an year previous to his year of retirement the applicant gives the date of his birth in the Municipality. He submitted that when such an attempt is made by the employee, then such certificate should be discarded. He submitted that no reliance should be placed also on the School Leaving Certificate of the applicant's brother Jagrup and also on the several affidavits produced in this case, which can be prepared at any time, and this is only ^{an} after thought to get extension in his service. He, therefore, submitted that the Chief Personnel Officer has not committed any illegality in rejecting the representation of the applicant. Having heard learned advocates and having perused the documents, I hold that the applicant has failed to establish that his date of birth was 19.12.1935. As observed above, the birth certificate annexure A/6 is not conclusive piece of evidence in view of the circumstances and the year in which the entry was made, nor the School Leaving Certificate of the applicant's brother, annexure A/7, could be relied for the purpose of coming to the conclusion that the applicant's date of birth should be subsequent to it, nor the affidavits in that regard could be relied to hold that the appli-





can't's date of birth was 19.12.1935. The result is that applicant shall have to be dismissed. Hence the following

O R D E R

The application is dismissed with
no order as to costs.

Sd/-
(R.C. Bhatt)
Member (J)

Prepared by i

Compared by

TRUE COPY

Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench

TRUE COPY
MD
CH. KADRE
ADVOCATE

*Ani.

WESTERN RAILWAY

Service Certificate

Serial No. 86 Station Looc shed SURR Dated 31-3-93 DM Office Office

1. Name JAGROOP C.
2. (1) Father's name CHANDA
(2) Caste RAJPUT
3. Date of birth 1-12-34
4. Identification marks (if any) 1. THREE MOLE ON LEFT HAND.
2. ONE SMALL MOLE ON RT EAR.
5. Department in which employed MECHANICAL
6. Period of Service. From 2-5-55 to 9-10-88
7. Appointment when leaving service SHUNTER
8. Rate of pay on leaving service RS. 1480/-
9. Reasons for leaving service VOLUNTARY RETIRED
10. Time keeping Good
11. Employee's signature or thumb print Jagroop

Signature of Employer

Designation SR. DIVISIONAL MECHANICAL ENGINEER

RAJPUT

COPY

MCC

ADVOCATE

(25)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL AT AHMEDABAD.

O.A. No. 548 of 1989

(25)

Shri Jagdishchandra Chandaram Applicant.

Vrs.

Union of India & Others Respondents.

Reply by the Respondents.

1. At the outset the Respondents states and submits that the application of the Applicant is not maintainable and tenable under the provisions of the Central Administrative Tribunal Act and deserves to be dismissed limbo.

2. With reference to para No. 1, it is true that the applicant ^{had applied} for alteration in his date of birth which was recorded in his service sheet at the time of his appointment. After giving the application, the same was examined by the Chief Personnel Officer CUG and it was rejected as per the speaking order passed by the competent authority. Not only this, the same was communicated by letter dated 2-5-1989 and it is attached herewith marked Annexure A-1. Looking to the speaking order it is self explanatory and therefore it does not require further remarks.

3. With reference to para 2 and 3, this Hon'ble Tribunal has no jurisdiction to entertain this application and the same is time barred. The above contentions may be considered at the time of hearing this application.

4. With reference to para 4(a), the averments made in the said para are not correct and ^{are} ~~is~~ denied hereby. It is true that the applicant was appointed on 19-1-1954 and thereafter he was promoted as IInd Fireman w.e.f.

For M.A. Kulkarni
11/11/89

2-8-1959 and promoted as fireman w.e.f. 26-7-70 and not from 14-7-70. Thereafter he was promoted as STP on 2-3-83 and not from 19-8-1984. Thereafter subsequent promotion as Driver 'C' was given w.e.f. 23-11-1987 and not on 30-12-1987. It is further stated that as per the Fourth Pay Commission report, the Grade of Driver 'C' pay scale Rs. 330-560(R) and Driver 'B' Scale 425-640(R) are merged into a single scale of Rs. 1350-2200 (RP) w.e.f. 1-1-86 and hence the question of his promotion as Driver Grade 'B' does not arise.

5. With reference to para 4(b), the averments made therein are not correct and denied hereby. It is further submitted that as per the entry recorded in the service sheet of the applicant, his caste is shown as Rajput and not as Kolli as mentioned by him. So far as reservation in the matter of caste is concerned for a person belonging to Scheduled Caste community, his caste in his service sheet is shown as Rajput. And therefore, the Petitioner cannot make grievance without giving strict proof that he belongs to the Scheduled caste community and that he is entitled for promotion on that grounds.

6. With reference to para 4(c), the Petitioner has studied up to English Std. X as per educational qualifications shown in his service sheet. The contention made by the applicant were not accepted by the Chief Personnel Officer in his speaking order on the grounds mentioned in that speaking order and therefore, it does not require any more comments except that he has studied upto Std. X.

7. With reference to para 4(d), the averments made

(27) (76)

^{at}therein ^{of}is not correct and is denied hereby. If your Honour looks to the page of the service sheet it will appear that at the time of his appointment the Petitioner had produced his School Leaving Certificate and on the basis of the School Leaving Certificate produced by him his date of birth was recorded as 19-1-1931 and the same has been signed by him. A true copy of the same is enclosed marked as Annexure A-2.

8. With reference to para 4(e), the allegations made are not correct and is denied hereby. The Respondents have made it very clear in the speaking order passed by the Chief Personnel Officer CCG and therefore, no further reply is necessary at this stage because they are concocted, after thought and not based on any evidence or records.

9. With reference to para 4(f) the allegations made are baseless and not admitted. It is irrelevant particulars given by the applicant without any support of documentary evidence and therefore the same is not correct and is denied hereby.

10. With reference to paras (g) to (j) they are nothing but the repetition of the earlier allegations. The Chief Personnel Officer has rightly rejected after quoting the existing rules and under authority by passing the speaking order. Not only that he has discussed all the points raised by the Petitioner in the application made by him and therefore the same cannot be considered afresh by this Hon'ble Tribunal. Not only this, whether the speaking order is right or wrong, the same cannot be decided by this Hon'ble Tribunal and this Tribunal

cannot sit and decide the findings of facts but the same can be decided only by the competent authority and that is decided and therefore the application of the applicant deserves to be dismissed.

11. With reference to para 5(a) to (c) the allegations made are not accepted.

12. With reference to para 6 to 11 the allegations are not correct and ^{are} denied hereby. The Respondents want to make it very clear that the Petitioner has already retired from service on his attaining the age of superannuation on 31-12-1939 AN on the basis of the date of birth recorded in his service sheet. The payment has been made and all his pensionary benefits has also been given. Once the Petitioner himself has accepted the above ~~maximum~~ benefits, it does not lie in his mouth to say that his date of birth is not correct. In this case the Principle of Promissory Estoppel would apply as the Petitioner cannot pick and choose both the benefits and at the same time make allegations that he was entitled for promotion in service and further more that his date of birth is not correct.

13. For the above reasons and the reasons that may be urged at the time of hearing this application, the application of the Petitioner deserves to be dismissed.

Ahmedabad.

Dt: 9-2-40

(B.R. Kyada)
Advocate for respondents.

For and on behalf of the Union
of India.

K Divisional Railway Manager (F)
Western Railway, Rajkot.

VERIFICATION.

I, Divisional Railway Manager (E), Western Railway, Rajkot, respondent do hereby solemnly affirm and state that what is stated hereinabove is true to my knowledge, information and belief and I believe the same to be true.

Ahmedabad.

Dts: 9. 2-90

Divisional Railway Manager (E)
Western Railway, Rajkot.

FREE COPY
note
DRD
STATE

Western Railway

No.EM 283/5/1.

Divisional Office,
Rajkot. Dt. 2.5.89.

To,

LF - SBI.

Sub:- Alteration in date of birth - NG staff -
Mech. Deptt. - Case of Shri Jagdishchandra C.,
Driver 'C' under LF-SBI.
Ref : Employee's representation dt.15.11.88 and 24.1.89.
.. .. .

The speaking order passed by C.P.O.-CCG in connection
with the above subject is sent herewith which may please be
handed over to Shri Jagdishchandra C. Driver 'C' and his
acknowledgement send to this office at once.

DA : Speaking order in
original.

Sd/-
For DRM(E) RJT.

C/-
The CME(E) CCG in reference to his letter
No.EM283/16/7 Vol. I dt.15.3.89.

COPY
Note
E

31

79

copy.

EM.283/16/7 Vol.I.

Dated.15/3/1989.

From. The C.M.(I)CCG.

To:- The D.M.(I)RE.

Sub:- Alteration in date of birth of Staff Mech.dept-cs of Shri-
Jagdishendra Driver 'C' under LE-MI.

Ref:- Your letter No. ML/J/140 dt. 16.2.89.

The speaking order passed by C.M.-CCG in connection with the
above subject is sent herewith for information and necessary
action. The employee concerned may be advised accordingly under
advise to this office.

The service sheet of personal file of the employee are returned
herewith. Please acknowledge the receipt.

a/-
for C.M.(I).

Encl. Speaking order.
2 copies in original
service sheet
personal file.

12/3/89

Ass. Secy. (I) Office
Rajkot

ORIGINAL COPY

MR

I have gone through the representation of Shri Jagdishchandra C. Driver 'C' of BBI working under DM(A)RST for alteration in recorded date of birth from 19.12.1931 to 19.12.1935 on the basis of municipal birth certificate. Abu Road, dated 27.1.88 and his affidavit and his mother's affidavit dt. - 16.8.1988 & dt. 2.11.1988 respectively.

2. It is seen from the S/Sheet of Shri Jagdishchandra that he was initially appointed on this Railway on 19.1.1954 as a call boy. His date of birth is recorded as 19.12.1931 in figures as well as in words, authority for which is quoted as school certificate, is not available in the S/Sheet/File, it is seen that the recorded date of birth has been attested by Railway Authority and accepted as correct by Shri Jagdishchandra by assigning his signature in English. In view of this it is not understood how the employee makes a statement that he did not produce any school certificate at the time of his appointment. The date of birth so recorded is binding on the employee in terms of Rule 145(3) RI then in force. There is no clerical error, erasing or overwriting in his recorded date of birth.

3. Col. No. 14 of S/Sheet meant for indicating educational qualifications shows that the employee had studies upto English X. It is also seen from his personal file that he has been communicating with the Administration in English in all service matters. Even representations for change in date of birth were made in English. Thus the employee was sufficiently literate to understand the implication of the entries in his S/Sheet when he had signed the service sheet.

4. In accordance with Board's directives all literate employees who were in service on 31.12.71 were given a final opportunity to make representation, if any against the recorded date of birth, latest upto 31.7.1973. Even though, these instructions were widely publicised Shri Jagdishchandra did not make any representation till 15.11.88 when he submitted his first representation.

5. It is also seen from his personal file that he had been medically examined at frequent intervals. In all these certificates, he has got his age recorded as per his date of birth recorded in his S/Sheet i.e. 19.12.31. These medical certificates have also been signed by the employee. Thus there is a sufficient proof available on the record to prove that Shri Jagdishchandra was aware of his age and he accepted the same throughout his service.

6. If the date of birth claimed by the employee as 19.12.35 is accepted his age would have been 13 years and 1 month at the time of his appointment and as such he would have been fixed at a lower stage by one rupee for each year by which the age fell below 21 years in terms of Rule 307 of WREM. It is seen that no such reduction was made and the employee had already gained benefit in fixation of pay by declaring and accepting the recorded date of birth.

7. Another ground on the basis of which the employee has disputed the correctness of his recorded date of birth is Municipal birth certificate and Surendranagar High School birth certificate of his elder brother. From perusal of the Municipal Certificate, it is seen that his birth was registered in the municipal office on 27.1.88. As regards the School certificate of his elder brother in the absence of complete details about his date of admission etc. no comments can be made. Therefore, these two certificates cannot have any precedent over the document on the basis of which his date of birth was recorded in the service sheet as per school certificate at the time of appointment. The affidavits now produced by the employee and his mother cannot also be accepted at this point of time to consider the employee's request for alteration in recorded date of birth as the recorded date of birth has been accepted by the employee for all these years.

8. In terms of rule 225(4) of RI (1985 edition) the date of birth as recorded in accordance with extant rules shall be held to be binding and no alteration of such date shall ordinarily be permitted subsequently. It shall however, be open to the General Manager/Chief Personnel Officer in the case of Group 'C' and 'D' Railway servants to cause the date of birth to be altered in the following types of cases.

- i) Where in his opinion it had been falsely stated by the Railway servant to obtain an advantage otherwise inadmissible provided that such alteration shall not result in the Railway servant being retained in service longer than if the alteration had not been made or.
- ii) Where in the case of illiterate staff, the General Manager is satisfied that clerical error has occurred or.
- iii) Where a satisfactory explanation (which should not be entertained after completion of the probation period or three years service whichever is earlier) of the circumstances in which the wrong date came to be entered is furnished by the Railway servant concerned, together with the statement of any previous attempts made to have the record amended.

None of the above conditions is satisfied in this case.

9. In the circumstances quoted above, I do not find any ground to accede to the request of Shri Jagdishchandra.C. Driver 'C' for alteration in recorded date of birth from 19.12.31 to 19.12.35.

=0=

RAJROV

[Signature]

MAH/301/93

14/5/93

35

(S)

BEFORE THE CENTRAL ADM. TRIBUNAL

AT AHMEDABAD.

M.A.No. 466 /93.

in R.A.No. 35 93.

in O.A.No. 589/89

548

Applicant: Jagdishchandra Chandaram.

Versus.

Respondent: Union of India and other.

I n d e x

Sr. No.	Name of the documents relied on	Page nos. From to.	Annexures
---------	---------------------------------	--------------------	-----------

- | | | | |
|----|--|--------|--|
| 1) | Application | 1 to 5 | |
| 2) | The xerox copy of the service certificate of Jagrup C. issued by the Divisional office Rajkot dt. 31.3.93. | 6 | |

A1

Ahmedabad.

Date: 3.5.1993.

(Signature)
Applicant.

(Signature)
(M.A.Kadri)

Applicant's Advocate.

2 to

MA Kadr

2-
309

(83)

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

M.A.No. 466 /93.

in R.A.No. 35 93.

in O.A.No. 548/89.

Applicant: Jagdishchandra Chandaram aged,
about adult occupation nil
residing at 709/53, Shival, chawl, Kabir
~~Kir~~ chowk, Sabarmati, Ahmedabad.

Versus.

Respondents: 1) Owning and representing through
The General Manager, Western Rly.
Head Quarter Office, Churchgate
Bombay 400 020.

2) The Divisional Rail Manager,
Western Railway, Divisional Office,
Rajkot, Division, Kothi ~~Kadari~~, ^{Kachari}
compound, Rajkot.

Sub: Delay condonation Application
in support of the review application.

The applicant beg to submit as under:

(1) That the applicant had filed the review

application for setting aside of the order passed by the Hon'ble Tribunal passed in O.A. 548/89. by the Hon'ble Judicial Member on 28.4.92.

(2) That the applicant beg to submit that the respondents had misguided, misrepresented and suppressed the material facts of the date of Birth of elder brother of the applicant who was working as Driver 'C' in Rajkot Division and whose date of birth was entered in the record of the Divisional Office Rajkot as 19.12.34. The respondents had filed the reply and in para 7 of the reply, the respondent no.2 who ~~had filed the reply~~ had intentionally and deliberately denied these facts, which ~~was~~ ^{are} mentioned in his application at para 4(e) these facts have suppressed by the respondent no.2 and in verification nothing has been mentioned regarding the suppression of the material facts which are compulsorily mentioned by the respondent no.2 as per Adm. Tribunal Act 1985.

(3) The applicant had received the copy of the order on about 5th May 1992 through his Advocate, so the applicant went to surendernagar to ^{see} his elder brother and asked the elder brother to supply him the service certificate, ^{as} the

ad The said certificate was handed over to the applicant on 19.4.93. The applicant contacted his advocate alongwith the said certificate on 22.4.93, his advocate was busy in part heard matters, so he could not draft the review application hence the same is filed to day after drafting and typing the xerox copy of the said service certificate is produced as

annexure A.1.

(4) This service certificate is necessary for the evidence of his date of birth, as his elder brother's date of Birth is shown in Rly. record as 19.12.34 so his date of Birth cannot be on 19.12.31 as mentioned in service record ^{which is} is wrong. Further applicants mother was married to his father in ^{1933, ✓} 1993, so before marriage in 1931 the applicant cannot be borne so there was necessary of this service certificate of his elder brother, without this service certificate applicant cannot

file the review application before the Hon'ble Tribunal, hence this application condonation of delay for filing the review application is filed by the applicant.

(5) The cause of action as arisen when the applicants elder brother had applied for his service certificate, to the Divisional office, at Rajkot, and the same was issued to his elder brother and after receipt of the said service certificate this delay condone application is filed before the Hon'ble Tribunal, the cause of action has arisen for filing this application before the Hon'ble Tribunal.

(6) Therefore the applicant therefore prays as under:

(a) Be please allow this delay condonation application and condone the delay about one year for filing the review application in the interest of justice ~~and~~ equity and good conscience.

(b) Be please award the any other order which is deem fit and just proper in this matter.

28

: 5 :

(c) The cost of this application may be awarded as the respondents have not given the service certificate in time.

(7) In view of the facts mentioned in this application the applicant beg to submit that this application may please be allowed and his review application may please be considered and may please be allowed.


(8) The affidavit is filed.

Verification

I, Jagdishchandra son of Chadram^{ah} aged adult occupation nil residing at 709/53 shivlal^{son} chawl kabir chowk Sabarmati Ahmedabad do hereby verify that the contents of para 1 to 8 are true to my personal knowledge and believe to be true on legal advice and that I have not suppressed any material facts.

Ahmedabad.

Date: 3-5-93



Applicant.

M. T. V.
cm. Atcheli
Applicant's Advocate



38
(4)

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

R.A.No. 466 92.93

in O.A.No. 548/89.

Applicant: Jagdischandra Chandaram.

Vs.

Respondents: Union of India and other.

I, Jagdischandra Chandaram aged about adult,
occupation nil residing at 709/53 Shival^u chawl
Kabir ch^uek Sabarmati Ahmedabad do hereby solemnly
affirm as under:

1) That the applicant had filed the M.A. Application
for ^ucondonation of delay before the Hon'ble Tribunal.
All the contents mentioned in this application are
true and correct, as per my belief and knowledge,
and I believe the same are true as per legal advice.

This affidavit is made for producing the same
before the Hon'ble central Adm. Tribunal at Ahmedabad.

Whatever stated above are true and correct.
as per my knowledge.





38
(4)

BEFORE THE CENTRAL ADM. TRIBUNAL AT AHMEDABAD.

R.A.No. 466 92.93

in O.A.No. 548/89.

Applicant: Jagdischandra Chandaram.

Vs.

Respondents: Union of India and other.

I, Jagdischandra Chandaram aged about adult,
occupation nil residing at 709/53 Shivlal chawl
Kabir ^{new} chok Sabarmati Ahmedabad do hereby solemnly
affirm as under:

1) That the applicant had filed the M.A. Application
for ~~Condonation~~ ^{waiver} of delay before the Hon'ble Tribunal.
All the contents mentioned in this application are
true and correct, as per my belief and knowledge,
and I believe the same are true as per legal advice.

This affidavit is made for producing the same
before the Hon'ble central Adm. Tribunal at Ahmedabad.

Whatever stated above are true and correct.
as per my knowledge.

This affidavit is solemnly affirm by me at
Ahmedabad on 1st May 1993.

Ahmedabad.

1-5-93

Jagdischandra
Applicant.

Solemnly affirmed before me
by Shri Jagdischandra Chandaram
who is identified by Shri
Advocate Shri M. K. Acharya.
I personally know

Identified
by me

M. K. Acharya
Advocate

1-5-93 P. 1-5-93

perintendent Subordinate
Civil Court, Ahmedabad

WESTERN RAILWAY

Service Certificate

Serial No. 86DRM OFFICE 131 OfficeStation Looc SHED SUNDated 31-3-931. Name JAGROOP C.2. (1) Father's name CHANDA(2) Caste RAJPUT3. Date of birth 1-12-344. Identification marks (if any) WITH THREE MOLE ON LEFT HAND
2. ONE SMALL MOLE ON RT EAR.5. Department in which employed MECHANICAL6. Period of Service. From 25-5-55 to 9-10-887. Appointment when leaving service SHUNTER8. Rate of pay on leaving service RS. 1400/-9. Reasons for leaving service VOLUNTARY RETIRED10. Time keeping Good11. Employee's signature or thumb print Jagroop C.Signature of Employer [Signature] 19/3/93Designation SR. JUNCTIONAL MECHANICAL ENGINEER
RAJPUT