

Birth date (no)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

(4)

O.A. No. 68/89

~~EX NO~~

DATE OF DECISION 23.1.1992

Popatlal Girdharlal Shah Petitioner

Mr. S.S. Shah Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent

Mr. N.S. Shevde Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C. Bhatt

: Member (J)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *X*
3. Whether their Lordships wish to see the fair copy of the Judgement? *X*
4. Whether it needs to be circulated to other Benches of the Tribunal? *X*

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman

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

9/02/1989

Heard learned advocates Mr. S.S. Patel and Mr. N.S. Shevde for the petitioner and respondents respectively. Learned advocate for the respondents could not make any statement regarding the representation of the petitioner for which we had asked the respondents to decide before 15th January, 1989. Pending admission. Issue notice on the respondents to reply and also to report specifically regarding the orders passed on the representation of the petitioner. This reply be furnished to the ^{Registry} office of the Tribunal ^{> with copy to the petitioner} any time before ^{the} end of February, 1989. The case be posted on 16th March, 1989 when ~~for~~ admission and interim relief will be heard.

P.H. Trivedi

(P H Trivedi)
Vice Chairman

P.M. Joshi

(P M Joshi)
Judicial Member

*Mogera

CORAM : Hon'ble Mr. P.H. Trivedi .. Vice Chairman
 Hon'ble Mr. P.M. Joshi .. Judicial Member

16/03/1989

Heard learned advocates Mr. S.S. Shah and Mr. N.S. Shevde for the applicant and respondents respectively. Application admitted. Issue notice on the respondents to reply on merits within 30 days. The case be posted on 17th April, 1989 for further directions before Registrar.

So far as interim relief is concerned, learned advocate for the applicant presses for it on the ground that after making representation, he filed this application on 30.1.1989 and that he is retiring ~~at~~ the end of March, 1989 and the case ~~is~~ admitted and respondents ^{been} have given time to file reply and if no interim relief is available, the petitioner would be put to considerable jeopardy. He has cited judgments to show that ~~xxxxxx~~ the petitioner is entitled to represent before the competent authority and ^{as} that has not been decided, he should be protected. It was further stated that neither the service book nor matriculate ^{on} certificate which he has produced in the service record has ~~be~~ been taken into account by the respondents authority who are proceeding by birth date on their record without taking his plea for correction.

There are judicial ^{decisions} pronouncement to the effect that when there is a birth date on record, interim relief interfering with ^{it} pronouncement is not merited. Learned advocate's contention regarding correct date of birth ^{superior in this case the learned J. has dealt} deal with merit, and it can be heard when the case is heard on merit. The case therefore deserves to be

Popatlal Girdharlal Shah

..... Applicant

Vs.

Union of India & Ors.

..... Respondents

Mr. N.V.Shah for Mr. S.S. Shah : learned advocate for the applicant.

Mr. N.S. Shevde : learned advocate for the respondents.

O R A L O R D E R

O.A. 68 of '89

Date: 23.1.1992

Per : Hon'ble Mr. R.C. Bhatt : Member (J)

Mr. N.V. Shah for Mr. S.S. Shah learned advocate for the applicant has given today an application which is bearing the signature of the son of deceased applicant that the applicant has expired as back on 28th October, 1990. The applicant ^{is accompanied} ~~has accompany~~ by xerox copy of the death certificate of deceased applicant which shows that date of the death. This matter was pertaining to the birth date of the applicant and he having expired, his son deceased applicant, wants to withdraw this application. The cause of the applicant was a personal cause about the date of birth. He having expired the cause of action does not survive. Hence the application is disposed of as abetted. No order as to costs.

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

*Kaushik

admitted. So far as interim relief is concerned, the balance of convenience lies in not allowing it and if on the disposal of the case, the petitioner is upheld, necessary compensation can be given to him in the orders which are passed on the case itself. The plea for interim relief therefore is rejected.



(P H Trivedi)
Vice Chairman



(P M Joshi)
Judicial Member

*Mogera