

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

: Date of Decision: 8/9/99

OA No. 117 of 1993
with
MA No. 187/93

Shri Nagjibhai Dhanjibhai Parmar : **Petitioner (s)**

Mr. B.B. Gogia : **Advocate for the petitioner(s)**

Versus

Union of India & Ors. : **Respondent(s)**

Mr. R.M. Vin **Advocate for the respondent(s)**

CORAM

The Hon'ble Mr. V. Radhakrishnan : **Member (A)**

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the judgment?
 2. To be referred to the Reporter or not?
 3. Whether their Lordships wish to see the fair copy of the Judgment?
 4. Whether it needs to be circulated to other Benches of the Tribunal?
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Shri Nagjibhai Dhanjibhai Parmar,
Hindu, Adult, Aged about 56 years,
Occupation : Retired Rly. Employee,
C/O Jaisukhlal D,
Railway Quarter No. 77-C,
Satyanarayan Chowk,
Jetalsar, (JN) 360 366.
(Advocate : Mr. B.B. Gogia)

: Applicant.

VERSUS

1. Union of India,
Owning & representing
Western Railway,
Through
General Manager,
Western Railway,
Churchgate.
Bombay-400 020.
2. Divisional Railway Manager,
Western Railway,
Bhavnagar Division,
Bhavnagar Para.
(Advocate : Mr. R.M. Vin)

: Respondents.

JUDGEMENT
O.A. NO. 117 OF 1993
with
M.A. NO. 187 of 1993

Date : 8/9/99

PER : HON'BLE MR. V. RADHAKRISHNAN : MEMBER (A)

The applicant who was aggrieved by the action of the respondents, approached this Tribunal claiming the following reliefs :-

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(A) It may be declared that the speaking order of the Chief Personnel Officer, Western Railway, Bombay dated 27-2-1992 rejecting the request of the applicant for correcting his date of birth recorded in the records of the respondents from 13-2-1934 to 25-9-1936 is illegal, in-effective, null and void and the same may please be quashed and set aside and the respondents may please be directed to correct his date of birth in the records of the respondents from 13-2-34 to 25-9-1936 and grant him all attended benefits such as continuation of service, pay etc.

(B) Any other better relief/reliefs as the Hon'ble Tribunal may deem just and proper looking to the facts and circumstances of the case may kindly be granted to the applicant.

(C) Cost of the application may kindly be granted to the applicant.

The applicant states that he was working under respondents since 1954. Shortly after he joined service, once when he was working in night shift, a Traffic Inspector came and took his signature in the Service Book in a hurry on a blank form. The applicant signed in the service book in Gujarati. The applicant states that his date of birth was entered in the service book on the basis of medical certificate issued by the Railway Doctor. According to him, date of birth have been entered in the service book on the basis of school leaving certificate. He states that on the basis of school leaving certificate, his date of birth is 25-9-1936, but it was recorded

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in the service book as 13-2-1934. The applicant states that he submitted representations on 14-12-90, 15-1-91 and 15-1-92. He also raised the issue through a recognised trade union. However, the applicant's request for alteration of date of birth was rejected. The applicant challenges the order passed by C.P.O. and prays for alteration of date of birth recorded in the service book as 13-2-1934 to that of 25-9-1936. The applicant relies the judgement delivered by the Hon'ble High Court of Kerala in O.P. No. 4177 of 1969 on 19-12-1970 between T.P. Sukumaran and Dist. Supdt. Of Police, Kozhikode. He states that when he was appointed on 13-12-1954, he had not attained age of 18 years. According to him there was no age limit in Saurashtra Railways, when he joined first. The applicant feels that date of birth should be recorded on the basis of school leaving certificate, but the respondents had not taken any action to verify the same. He also says that his elder sister was borne on 15-6-1934. If it is so, as to how, difference of only 4 months in the date of birth of two children and hence his date of birth could not be 13-2-1934.

The respondents have contested the application. They have stated that date of birth of the applicant is 13-2-1934 and he has signed in the service book on 3-11-1954 without any objection. At the time of

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appointment, the applicant have given his date of birth as 13-2-1934 in his own handwriting.(Annexure R/2). Further he has shown his age as 20 years in the application of Peon/Pointsman/Hamal in September, 1954 (Annexure R/3) The applicant has signed in verification Form in column No.7 accepting his date of birth as 13-2-1934.(Annexure R/4) The respondents have also stated that the applicant had asked for alteration of his date of birth at the fag end of his service. He should have approached the authorities in time, not at the time of his retirement.

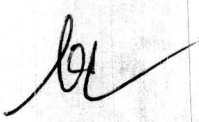
Mr. Gogia, learned advocate for the applicant argued that applicant was illiterate and signature was taken by the respondents in a hurry on a blank service sheet and date of birth was wrongly shown on the basis of medical certificate. (Annexure A/5). He also points out that illiterate staff can submit their representation at any time. There was no time-limit. He relies on circular issued by the Railway Board dated 25-10-1978. "It was agreed that a clarification would be issued that representations for alteration of date of birth from illiterate Class IV staff could be entertained without any time limit being stipulated for submitting such claims." (Annexure A/7). Accordingly, Mr. Gogia claims that the applicant's representation in 1990 for alteration of his date of birth can not be rejected on ground of delay. He

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also pointed out a judgement, T.A. No. 56 of 1990 decided on 27-2-1991 by Calcutta Bench that the representation for correction of the date of birth by illiterate employees could be made at any time before retirement and prayed for the application to be allowed.

The respondents stated that the applicant joined in 1954, but he represented to the department for alteration of his date of birth showing his school leaving certificate only before 2 years of his retirement and there was no justification for admitting his claim. They also pointed out that the birth certificate given in the case of his elder sister appears to be not genuine and it is not in the prescribed form.

We have heard both learned advocates and gone through the documents. The applicant started representing his case only in 1990 as pointed out by Mr. Vin. The school leaving certificate was prematurely obtained in 1958. The applicant could have well represented thereafter for alteration in date of birth. He did not do so. The representation made in 1990 appears to be after thought and no such representation filed before retirement can be entertained. Hon'ble Supreme Court has pointed out in many decisions that any change of date of birth just before retirement could not be admitted. In the case of Union of India V/S Harnam Singh 1993 (2)



S.C.C. 162, Hon'ble Supreme Court has pointed out that "inordinate and unexplained delay or laches on the part of the employee to seek necessary correction in the date of birth would justify the refusal of relief to him." In the present case, we see that first application for alteration of date of birth was made by the applicant only on 14-12-90 (Annexure A/I), when he was due to retire shortly, i.e. on 12-2-1992. There is no explanation for such delayed representation and change of date of birth. The applicant has only to suffer for such delays. Accordingly, we find, there is no merit in the O.A. O.A. dismissed. No order as to costs. **In view of the disposal of O.A. M.A./187/93 also stands disposed of.**



(V. Radhakrishnan)
Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No. 02117183 of 19 .

Transfer application No.

Old Writ Pet. No.

CERTIFICATE

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

Dated: 14/9/11

Countersigned:

Section Officer/Court Officer.

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Signature of the
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE

OA 117/93

NAME OF THE PARTIES N D. Parmar

VERSUS

W. J. Lundy Sons.

SR NO.	DESCRIPTION OF DOCUMENTS	PAGE
①	OA with Annexures.	4 to 35
②	May 18/93	36 to 38
③	Reply	39 to 43
④	Rejoinder.	50 to 52
	Judgment dt. 8/8/94	(7 pages)