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(12)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.16 OF 1987

Date of decision : February 28, 1989.

Sri Radhanath Samantray, aged about 52 years  
Son of Late Chakradhar Samantaray,  
Village-Ramachandrapur,  
P.O Rundala, P.S Patakura,  
District-Cuttack.

.... Applicant

Versus

1. Post Master General, Orissa,  
At/P.O/P.S. Bhubaneswar,  
District-Puri.
2. Superintendent of Post Offices,  
North Division, Cantonment Road,  
Cuttack.
3. Union of India represented through the  
Post Master General, Orissa,  
At/P.O Bhubaneswar, Distt. Puri.

... Respondents

Mr J.K Rath,  
Advocate

For Applicant

Mr A.B Misra,  
Senior Standing Counsel(Central)

For Respondents

C O R A M

THE HON'BLE MR.B.R PATEL, VICE-CHAIRMAN

AND

THE HON'BLE MR K.P ACHARYA, MEMBER (JUDICIAL)

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1. Whether reporters of local papers may be permitted  
to see the judgment ? Yes.
2. To be referred to the Reporters or not? No
3. Whether Their Lordships wishes to see the fair  
copy of the judgment ? Yes.

J U D G M E N T

K.P ACHARYA , MEMBER (JUDICIAL)

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant prays for a declaration that his date of birth is 19th January, 1934 instead of 19th January, 1921 and to further declare that the order passed by the competent authority retiring the applicant on superannuation in January, 1986 is illegal and to further direct that the applicant be deemed to be in service till the end of January, 1999 entitling him all the consequential benefits.

2. Shortely stated the case of the applicant is that he was appointed as an Extra Departmental Branch Post Master of Pundalo Post Office in the year 1953. According to the applicant, his date of birth is 19th January, 1934. The entry made in the Service Sheet of the Postal Department that the date of birth of the applicant is 19th January, 1921 is an incorrect entry and should not have been acted upon by the concerned authority. Under such circumstances, the order passed by the competent authority retiring the petitioner in January, 1986 is illegal and therefore, the applicant has filed this application with the aforesaid prayer.

3. In their counter the Opposite Parties maintained that the entry in the Service Sheet relating to the date of birth of the applicant is according to the statement made by the applicant and in token of its correctness, the

applicant having signed the same and having affixed his L.T.I, it is no longer open to him to challenge the same as the principle of estoppel applies in full force against the applicant and therefore the authorities rightly made the applicant to retire on superannuation in the month of January, 1986. It is further maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. J.K Rath, learned counsel for the applicant and Mr A.B Misra, learned Senior Standing Counsel for the Central Government at some length. Mr Rath strongly relied upon Annexure-5 , which is the transfer certificate issued by the Head Pundit of Pundalo U.P School certifying that the applicant had been admitted to the school on 25th January, 1939 and left the school on 21st January, 1942 and according to the entry in the admission register, the date of birth of the applicant is 19th January, 1934. It is, further certified that the applicant had read up to Class III. Vide order dated 20th May 1988 we were of opinion that the school admission register etc. should be produced before us and this should unfold the truth of the case. Notice was issued to the Head Master of Pundalo U.P school directing him to produce the admission register of January, 1939. The Head Master appeared before the Court and stated that such register is not traceable. In such circumstances the Court is now required to give a finding on the basis of other evidence available. Besides Annexure-5 there is nothing else to substantiate the contention of the

applicant that his date of birth is 19th January, 1934 and not 19th January, 1921. From Annexure-5 it transpires that the applicant read till Class III and had obtained this certificate on 21st January 1942. The Service Sheet signed by the applicant is dated 2nd December, 1953. The applicant has signed the Service Sheet in the presence of the Branch Post Master and has affixed his L.T.I. with the full knowledge that his date of birth is recorded as 19th January, 1921. No satisfactory reason could be given before us as to why the applicant acknowledged the correctness of the entry regarding his date of birth to be 19th January, 1921, even though by then he had obtained the School Leaving Certificate (Annexure-5). In all natural sequence of human conduct it is expected that the applicant would have stated his date of birth to be 19th January, 1934 on the basis of the contents of Annexure-5. This completely improbabilises the case of the applicant. That apart we find that there is considerable force in the contention of the learned Senior Standing Counsel that the principle of estoppel would apply to the applicant.

5. In the circumstances stated above, we find no merit in the case, which stands dismissed, leaving the parties to bear their own costs.



B.R. PATEL, VICE-CHAIRMAN

g agree.

*[Signature]*  
28/2/89.  
.....  
Member (Judicial)

*[Signature]*  
28.2.89  
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Vice-Chairman