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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO: 12 OF 1992

Date of decision: 13.7.93

Shri Brajendra Kumar Sahoo ^{chand}

... Applicant

-Versus-

Union of India and others


... Respondents

(For instructions)

1. Whether it be referred to the reporter or not? *yes*
2. Whether it be circulated to all the Benches *yes* of the Central Administrative Tribunal or not?


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

13.7.93.


(K. P. ACHARYA)
VICE CHAIRMAN

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Union of India and others ... Respondents

For the Applicant : M/s Devan Mishra, Deepak Mishra
R.N. Naik, A. Deo, B.S. Tripathy
P. Panda, Advocates.

For the Respondents : Mr. Ashok Mishra, Senior
Standing Counsel (Central)

C O R A M:

THE HONOURABLE MR. K.P. ACHARYA, VICE CHAIRMAN

A N D

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER (ADMN.)

J U D G M E N T

K.P. ACHARYA, V.C.

In this application under section 19 of the Administrative Tribunal Tribunals Act, 1985, the Petitioner prays for a restraint order to be issued to the Opposite Parties restraining them from retiring the petitioner with effect from 9th January, 1992.

2. Shortly stated the case of the petitioner is that he is functioning as Extra Departmental Branch Post Master, Nachinda Extra Departmental Branch Post Office in account with Mamarda Sub Post Office

within the District of Balasore. According to the Petitioner his date of birth is 19th June 1929. But according to the Opposite Parties, as per the service book, the date of birth of the petitioner and is 10th January, 1927. Therefore, the petitioner has been asked to vacate the office on 9th January 1992. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that in Annexure 2 the Petitioner had already given declaration that his date of birth is 10th January, 1927 and therefore, the date of birth should not be changed or altered. It is further maintained by the Opposite Parties that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. Deepak Misra learned counsel for the petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central). During the course of argument, Mr. Ashok Mishra learned Senior Standing Counsel submitted that the genuineness of the Matriculation Certificate cannot be ⁱⁿ doubt and in the matriculation certificate (original of which was placed before us by Mr. Deepak Misra) it is submitted that the date of birth of the petitioner is 19th June, 1929. This certificate has been granted by the Utkal University. We ^{have} ~~are~~ carefully perused the matriculation certificate and we have absolutely

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no doubt about the genuineness of this documents. Law is well settled by a plethora of judicial pronouncements by the Apex Court that the date recorded in the matriculation certificate or in the School Leave Certificate would be the basis on which the date of birth has to be determined. Of course the court can consider the other surrounding circumstances to arrive at a just conclusion as to whether the date of birth pleaded by the petitioner is correct or not. But in the peculiar facts and circumstances of this case, and keeping in view of the genuineness of the matriculation certificate, we have no iota of doubt in our mind to hold that the date of birth of the petitioner is 19th June, 1929. Opposite Parties have also filed a copy of the decision taken by the Government of India, contained in Annexure R/4. Therein the Government has also said that the age recorded in the matriculation certificate or School Leaving Certificate would be the basis for determining the age of a particular Government servant. In view of the aforesaid facts and circumstances, we have least iota of doubt in our mind to hold that the date of birth of the petitioner is 19th June, 1929 and accordingly the service book of the petitioner be corrected and the petitioner should be made to retire on 18th June, 1994. It is submitted that the petitioner is now continuing in service in view

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of the interim order issued on 7th January, 1992.

5. Thus, the application is accordingly disposed of. No costs.


Member (Administrative)

13.7.93


Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack, K. Mohanty/
13.7.93

