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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 275 of 1992

Date of Decision: 24.9.1993

Brundaban Mohanty

Applicant(s)

Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? NO
2. Whether it be circulated to all the Benches
of the Central Administrative Tribunals or not ? NO

MEMBER (ADMINISTRATIVE)

24 SEP 93

KM 24-9-93
VICE-CHAIRMAN

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CUTTACK BENCH: CUTTACK

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Respondent(s)

For the applicant:

M/s. D.R. Patnaik
C.R. Kar,
Advocates

For the respondents:

Mr. Aswini Kumar Mishra
Standing Counsel
(Central Government)

C O R A M:

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

AND

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

JUDGMENT

MR. K.P. ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order contained in Annexure-7 rejecting the contention of the petitioner that his date of birth is 20.3.1930 and hence he should be made to retire on superannuation in the year 1995 instead of the year 1990.

V/N

2. Shortly stated the case of the petitioner is that he was appointed as Extra Departmental Mail Carrier of Baigani Branch Post Office within the district of Jagatsinghpur. According to the petitioner, his date of birth has been wrongly recorded as 14.8.1925, though, actually he was born on 20.3.1930. Hence the order passed by the competent authority making him to retire in August, 1990 should be quashed and a direction should be given to the opposite parties to correct the date of birth of the petitioner in the official record to the extent that the date of birth of the petitioner is 20.3.1930; and therefore, he should be made to retire on superannuation in March, 1995.

3. In their counter the opposite parties maintain that according to the declaration given by the petitioner, entry has been made in all official records that the date of birth of the petitioner is 14.8.1925 and he was rightly made to retire in August, 1990. Contention of the petitioner that his date of birth is 20.3.1930 is an after-thought and should not be acted upon, especially keeping in view the principles of estoppel. In a crux it is maintained that the case being devoid of merit is liable to be dismissed.

4. We have heard Mr. D.R. Patnaik, learned counsel for the petitioner and Mr. Aswini Kumar Mishra, learned Standing Counsel appearing for the opposite parties.

5. The petitioner has set up a case as per his horoscope that his correct date of birth is 20.3.1930.

No horoscope has been filed by the petitioner except



a bald and uncorroborated statement made by him. From Annexure-R/1, we find that the petitioner has read upto Class-V. No School Leaving Certificate has been filed by him. The petitioner is guilty of suppression and with-holding of a material document viz. School Leaving Certificate. The petitioner states that according to horoscope, his date of birth is 20.3.1930. Horoscope has not been filed by the petitioner for the reasons best known to him. This is also a clear suppression of a material document by the petitioner. From Annexure-R/1, it is found that the petitioner has given a declaration that his date of birth is 14.8.1925. Not only he has signed the declaration on 4th October, 1960, but he has also given his thumpimpressions in token of the correctness of the statement made therein. No reasons has been assigned by him as to the circumstances under which he had made a declaration that his date of birth is 14.8.1925. We think that there is substantial force in the contention of Mr.A.K.Mishra, learned Standing Counsel that principles of estoppel ^{Shands} ~~raise~~ ^{by} against the petitioner. Therefore, we find no merit in this application which stands dismissed leaving the parties to bear their own costs.

MEMBER (ADMINISTRATIVE)

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Central Administrative Tribunal

Cuttack Bench Cuttack

Cuttack Bench Cuttack
dated the 24-9-1983/B.K.S.

dated the 24.9.1993/B.K.Sahoo

VICE-CHAIRMAN

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