

## CENTRAL ADMINISTRATIVE TRIBUNAL, CUTTACK BENCH

ORIGINAL APPLICATION NO. 284 OF 1992

CUTTACK THIS THE 26TH DAY OF NOVEMBER, 1996

PRONOUNCED IN THE OPEN COURTC O R A M:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

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Mahani Malik  
 Son of Hari Mallik  
 At: Attmala  
 PO: Jagatsinghpur  
 Dist: Cuttack

...

Applicant

By the Advocate:

M/s. Devanand Misra  
 A. Deo  
 B.S. Tripathy  
 P. Panda  
 D.K. Sahu

## -VERSUS-

1. Union of India, represented by its Secretary, Department of Posts, Dak Bhavan, New Delhi
2. Chief Postmaster General, Orissa Circle, At/PO: Bhubaneswar  
Dist: Puri
3. Senior Superintendent of Post Offices Incharge of Jagatsinghpur Sub-Division At/PO: Jagatsinghpur, District: Cuttack

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Respondents

By the Advocate:

Mr. Aswini Kumar Mishra,  
 Standing Counsel

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O R D E R

MR. N. SAHU, MEMBER (ADMN): Heard Shri B.S. Tripathy, counsel for the applicant and Shri A.K. Mishra, learned Senior Counsel for the Respondents. The prayer in this case is for a direction to quash the order of superannuation passed vide Annexure-3 dated 18.6.1992. The applicant

Kanasinghe

was working as Extra Department Mail Carrier, Sinthalo Branch Office in account with Jagatsinghpur Head Office. His date of birth as per the office record is 1.7.1927. He was directed to superannuate with effect from 30.6.1992 after-noon.

2. Shri B.S.Tripathy, counsel for the applicant states that under Annexure-2, the Superintendent of Post Offices, Cuttack(S) Division by his letter dated 19.1.1992 informed the applicant that his relevant joining papers were misplaced and therefore, his name could not find place in the gradation list of Mail Carriers. He was required to produce necessary papers for including his name in that gradation list. In accordance with this requisition, the applicant by Annexure-1 produced the School Leaving Transfer Certificate from Jhinkardiha L.P. School dated 8.6.1946. This certificate states the date of birth of the applicant as 4.2.1934. Inspite of this Annexure-3 dated 18.6.1992 was issued declaring the applicant's date of superannuation as 30.6.1992. In support of this School Leaving Certificate, learned counsel Shri Tripathy states that the department voluntarily expressed its inability to trace any document concerning the date of birth and therefore required the applicant to file evidence of date of birth. According to the Transfer Certificate, his date of birth was noted as 4.2.1934 and he would continue upto the age of 65

and therefore, his superannuation on 30.6.1992 was premature.

3. On behalf of the Respondents, Shri A.K.Mishra argued that Annexure-R/1 has been attested to be a true copy of Annexure-1 to the Original Application. But certain columns like column 12 where the character has been certified to be excellent, in the copy filed along with the Original Application is missing in the photostat copy filed before the Postal authorities. This itself proves that Annexure-1 produced before this Court along with the Application is not the original from which a photostat copy was produced before the authorities. Learned counsel for the Respondents also has taken me through Annexure-R/4 which is a letter dated 18.3.1958 addressed to the Senior Superintendent of Post Offices. It is stated that the applicant served under the Respondents for 10 years as a temporary Runner from time to time from 1937 to 1946. Even if the contention of the applicant that his date of birth is 1934 is taken to be correct, this would only indicate that he was hardly three years old when he started his career as a Runner. This is preposterous. Obviously the applicant had been making a false claim regarding his date of birth.

4. The applicant was initially appointed as E.D.M.C., J.S.Pur line with effect from 1.4.1953 and

and was subsequently ordered to work as E.D.M.C. Sithalo where he continued upto 30.6.1992 After-noon. A gradation-list of EDAs of J.S.Pur Sub-Division as on 1.4.1983 was prepared by the ASPOs Incharge in which the date of birth and date of appointment of the EDAs available at that time were noted. The applicant's name could not be filled in and the date of birth was left blank. Para-2 of the counter is extracted hereunder:

" The ASPOs I/C J.S.Pur requested the Postmaster J.S.Pur vide letter No.B/ED-Misc. dated 21.3.89 to intimate the date of birth and date of appointment of 34 EDAs including Shri Mohani Mallik the applicant. A copy of this letter was also endorsed to the SPOs CK South Divn. Vide letter No.A/R-Rlg. dated 23.10.89 the SPOs intimated the date of birth and date of appointment of 31 EDAs from the documents received direct and asked the ASPOs I/C J.S.Pur to take decision in respect of three EDAs including Shri Mohani Mallik by obtaining documentary evidence from them. The ASPOs I/C posted the dates of birth of EDAs as intimated by the SPOs CK(S) in the vacant column of the gradation list. The date of birth of Shri Mohani Malli has also been noted in the red ink as 1.7.27 in the said gradation list."

5. The above extracts show the circumstances under which the correct date of birth came to be recorded. The applicant cannot take advantage simply because his date of birth could not be traced out from one set of records. It is affirmed in the counter-affidavit that the date of birth of the applicant was available in the office record viz., Annexure-R/6, in the Office of A.S.P. I/c. J.S.Pur. With this evidence, there

*Swami*

appeared no other doubt in the minds of the Respondents about the correct date of birth.

6. At the time of applicant's entry into service in 1953, the Conduct Rules and Service Rules did not come into being. The present set of Rules came into force in 1964. Applicant was required to intimate his date of birth and other particulars thereafter. Along with other service particulars the date of birth is recorded and that was how Annexure-6, the Gradation list as on 1.4.1983 was prepared. The applicant knew pretty well his date of birth in the office records. If he had any doubt about the veracity of the entry, he should have filed a claim for change of his date of birth. Late in the day, taking advantage of some confusion in the Department, the applicant cannot file false evidence of another date of birth to suit his convenience. The Supreme Court has repeatedly held that claims for change of date of birth made at the fag end of service just before retirement should not normally be entertained. In view of the material submitted by the Respondents on the genuineness of Transfer Certificate, this petition has no merit, and is accordingly dismissed. No costs.

*Narasingha Sahu*  
( N. SAHU )  
MEMBER (ADMINISTRATIVE)

B.K.Sahoo//