

3

2

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.402 OF 1992
Cuttack, this the 29th day April, 1997

CORAM:

HONOURABLE SRI S.SOM, VICE-CHAIRMAN

...

Brajabandhu Pradhan,
aged 53 years,
son of Dhanu Pradhan
At/PO-Dhalpur, Dist.Phulbani Applicant

-versus-

- 1) The Union of India, represented by its Secretary, Department of Posts, Dak Bhavan, New Delhi.
- 2) Chief Post Master General, Orissa Circle, Bhubaneswar, District-Puri.
- 3) Director of Postal Services, Berhampur, Office of the Post Master General, Berhampur Region, At/PO-Berhampur, Dist. Ganjam.
- 4) Superintendent of Post Offices, Phulbani (Orissa) Division At/PO/Dist.Phulbani Respondents

For applicant - None.

For respondents - Mr. Ashok Misra

ORDER

S.SOM, V.C. In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has sought for orders quashing the order dated 29.5.1992 at Annexure-4 retiring him from Government service on superannuation with effect from 31.5.1992 afternoon. The application was admitted on 1.10.1992 and no stay was given. Thereafter the matter was not put up. On 18.3.1997 the matter was taken up. At the time of admission

also there was no appearance on the side of the applicant. Notice was sent to the applicant by Registered Post with acknowledgement due. From the service return, it is seen that the applicant received the notice on 27.3.1997, but today on being called the applicant was absent. As this is an old matter from 1992 and the applicant had never pursued the matter and has not appeared today even after receipt of notice, the matter was taken up in his absence.

2. The short facts of the case are that the applicant joined the Postal Department as a Postman on 7.6.1972. In the service record prepared at the time of his joining his date of birth was recorded as 23.5.1934, according to the applicant. It is stated by the applicant that the first page of his Service Book was destroyed and on 25.2.1992 he was asked to submit his original school leaving certificate. On the same day, he filed a representation to Superintendent of Post Offices, Phulbani (Annexure-2) stating that his date of birth has been wrongly noted as 23.5.1934 instead of 23.5.1939. He produced a school leaving certificate (Annexure-3) issued by Headmaster, Badhigaon U.P.School, showing his date of birth as 23.5.1939. This certificate has been issued on 12.8.1954 and copy of this is at Annexure-3. In the meantime, the applicant had been promoted as Overseer, Mails and was working at Boudhraj. By the impugned order at Annexure-4, the departmental authorities going by his date of birth as 23.5.1934 issued him retirement notice retiring him on superannuation with effect from 31.5.1992.

27.4.17

3. In the counter the respondents have asserted that the correct date of birth of the applicant is 23.5.1934 and notice has been correctly issued retiring him with effect from 31.5.1992 on his attaining 58 years of age. They have also stated that at the time of opening of his service record his date of birth was noted as 23.5.1934 and not 23.5.1939, as claimed by the applicant. They have also challenged the school leaving certificate on the ground that below the signature of the Headmaster the stamp of the school is not there. They have also doubted if at the relevant point of time there was any such school at Budhigaon.

4. I have carefully looked into the papers and I find that the applicant was well aware of the fact that his date of birth recorded in the departmental records was 23.5.1934. In an application for leave submitted by him on 16.2.1974, which is annexed to the counter, the applicant has filled up the date of birth in his own handwriting as 23.5.1934. Similarly in a declaration given by him as late as 17.3.1992 giving details of his family members, he has again mentioned in his own handwriting his date of birth as 23.5.1934. Annexed to the counter is also another document which is a check-list where the details of the applicant have been given. This also seems to have been signed by the applicant and here also his date of birth has been mentioned as 23.5.1934. From all the above, it is seen that the applicant himself has mentioned in the departmental records on several occasions that his date of birth is 23.5.1934.

*Yours M. J. M.
29.4.92*

6
10
It is only at the fag end of his service career ^{that} he has come up with the school leaving certificate showing his date of birth as 23.5.1939. According to Government of India instructions, he should have moved for changing his date of birth within five years from the date of his entry into Government service or from 15.12.1979, the date the concerned instructions came into force, whichever is later. Courts have also held that request for changing the date of birth at the fag end of service career should not be allowed.

5. In consideration of the above, I hold that the application is without any merit and the same is rejected. In the circumstances, however, there shall be no order as to costs.

Somnath Som
(S.SOM)
VICE-CHAIRMAN
29.4.97