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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

Original Application NO.575 of 1992.

Date of decision : November 19 , 1993.

Khial Patro ...

Applicant.

Versus

Union of India and others ...

Respondents

For the applicant ...

M/s.S.Kr.Mohanty,  
S.P.Mohanty, Advocates.

For the respondents ...

Mr.Ashok Misra,  
Sr.Standing Counsel (Central)


C O R A M:

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

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J U D G M E N T

K.P.ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985 the applicant prays to quash Annexures-3 and 5.



2. This application was filed by the applicant while he was working as Extra-Departmental Branch Post Master, Sihala Branch Post Office since 1.1.1965. The applicant was served with a notice dated 15.7.1992 contained in Annexure-3 Senior issued by the Superintendent of Post Offices, Berhampur (Gm) Division intimating him that his date of birth being 25.12.1927 he is to retire on superannuation with effect from 25.12.1992. Since, thereafter the applicant made a representation on 7.8.1992 to the Senior Superintendent of Post Offices, stating that his date of birth is 25.12.1931 as per the Horoscope available with him and as such his date of

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retirement on superannuation is 24.12.1996. By order dated 17.8.1992 contained Annexure-4 contained in ~~Annexure-4~~ the Senior Superintendent of Post Offices, Berhampur Division rejected the representation and directed the applicant to hand over charge on 24.12.1992. Hence, this application has been filed with a prayer to quash Annexures-3 and 5 and to give a declaration that the applicant is due to retire with effect from 25.12.1996 and accordingly his date of birth be corrected.

3. In their counter, the respondents maintained that the date of birth of the applicant as recorded in the Service Book being 25.12.1927, rightly the applicant has been asked to retire and hand over charge on 24.12.1992. The applicant has been making an attempt at a belated stage to get his date of birth changed so as to continue in service illegally till 25.12.1996. It is finally maintained by the respondents that the case being devoid of merit is liable to be dismissed.

4. I have heard Mr. S.P. Mohanty, learned counsel for the applicant and Mr. Ashok Kumar Misra, learned Senior Standing Counsel (Central) for the respondents. Annexure-R/3 is the attestation form filed on behalf of the respondents. I have carefully gone through the contents of the said annexure. Therein the date of birth has been given as 12.9.1924 and therein it is stated that he is not a Matriculate. Against the column meant for mentioning the name of the school or College with address the applicant states that he had read in the Board M.E. School at Sorada and he had passed the Class VI examination.



The applicant has signed this form and from his signature it appears that he is well acquainted with the English language and from the handwriting contained in the signature and the handwriting appearing in the attestation form while filling up different columns it appears to me that the columns were filled up by the applicant in his own hand which is not denied by the applicant. Not only the applicant has stated his date of birth to be 12.9.1924 but on the filling of the date of application he states that he is more than 40 years. This attestation form has been signed on 1.1.1965. Therefore, in the year 1992 the applicant is more than 67 years. The applicant does not file a copy of the school leaving certificate which would have contained his date of birth and on the basis of which his date of superannuation would have been determined. The applicant takes a plea that his certificate is not in his possession, and he relies upon a horoscope. I am of opinion that the applicant has intentionally withheld the material document that is, school leaving certificate, which, if filed might go against his case. The applicant does not appear to have come to the Court with clean hands. Law is well settled that equity does not support a person who comes with unclean hand. Withholding of the material document gave rise to grave suspicion in my mind regarding the truth of the case. One does not lack in experience that a horoscope can be manufactured at any point of time.

The applicant having declared in his own hand that



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his date of birth is 12.9.1924 the applicant should have been made to retire on superannuation on 12.9.1989. Not only in Annexure-R/3 the applicant has mentioned his age to be 12.9.1924 but in the descriptive particulars submitted by the applicant in his own hand contained in Annexure-R/2 he has stated that his date of birth is 12.9.1924. Therefore, he should have been made to retire on 12.9.1989. He should feel himself lucky that for some reason or the other he has overstayed for 3 years because of a wrong entry made in a particular register by some clerk that the date of birth of the applicant is 25.12.1927 and in order to cover up the lapses of the Office, the Senior Superintendent of Post Offices, Berhampur Division mentions that the date of birth of the applicant is 25.12.1927 and therefore, he should retire on 24.12.1992. Even if such unpardonable mistake has been committed by the Officers functioning in the Office of the Senior Superintendent of Post Offices, Berhampur Division, yet I cannot but hold that the date of birth of the applicant is 12.9.1924 and the applicant should have been made to retire on 12.9.1989. Therefore, I find no merit in this application which stands dismissed. No costs.



*[Handwritten Signature]*  
 19. XI. 93  
 .....  
 VICE-CHAIRMAN

Central Administrative Tribunal,  
 Cuttack Bench, Cuttack.  
 November 19, 1993/Sarangli.