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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

Original Application No.51 of 1992

Date of decision: September 15, 93

Banshidhar Jena Applicant
vs.
Union of India & Others Respondents

(FOR INSTRUCTIONS)

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

— H. Rajendra Prasad —
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

15 SEP 93

km 15/9/93
(K. P. ACHARYA)
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO:51 OF 1992

Date of decision : September 15, 1993

Banshidhar Jena ... Applicant
Versus
Union of India and others ... Respondents
For the Applicant ... M/s. K. N. Jena, A. K. Mohapatra,
D. K. Mohapatra, K. Jena,
R. Rath, Advocates.
For the Respondents ... Mr. Ashok Misra,
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.)

JUDGMENT

K. P. ACHARYA, V.C. In this application under section 19 of the Administrative Tribunals Act, 1985, the petitioner prays to quash the order passed by the competent authority retiring the petitioner with effect from 21st January 1992.

2. According to the petitioner he was functioning as Extra Departmental Branch Post Master of Gopabandhu Nagar Branch Post Office in the District of Balasore.

According to the Petitioner his date of birth is 13th June, 1929 and according to the Department, the date of birth of the petitioner, as entered into the service book is 17th December, 1926. Now the petitioner wants correction of the date of birth. Hence this application has been filed with the aforesaid prayer.

3. In their counter, the Opposite Parties maintained that the date of birth of the petitioner being 17th December, 1926, as entered into the service book, he was rightly retired on 28th January, 1992 though he should have retired little earlier in the month of December, 1991.

4. We have heard Mrs. Rath learned counsel for the Petitioner and Mr. Ashok Misra learned Senior Standing Counsel (Central) appearing for the Opposite Parties.

5. Law is well settled that the School Leaving Certificate or the Matriculation Certificate are the valuable documents on which date of birth of a particular Government employee could be appropriately adjudicated. Law also lays down that the Courts can act on the Horoscope provided that the evidence is unimpeachable. In the present case, according to the petitioner, the Horoscope and the School Leaving Certificate were lost during the cyclone which occurred in the year 1971. Nothing stood in the way of the petitioner to obtain a duplicate School Leaving Certificate from the School. He has not done so. So

far as the horoscope is concerned, the petitioner's counsel relied upon the Horoscope contained in Annexure 7. In this document, contained in Annexure 7 the petitioner Shri Banshidhar Jena has signed. It has not been signed by the Astrologer who had prepared the horoscope. In view of the clear admission that the original horoscope was lost during the cyclone which occurred in the year 1971, possibility of manufacturing another horoscope to suit the case of the petitioner cannot be overruled. Of course by this we do not mean to say that the petitioner has manipulated this horoscope. But the possibility cannot be overruled. We say so because before ordering change of date of birth, the court must place implicit reliance on the unimpeachable documents supporting the case of the petitioner. Here in this case, the horoscope relied upon by Mrs. Rath learned counsel appearing for the petitioner cannot be held to be an unimpeachable document, free from any blemishes so as to give a decree in favour of the petitioner. Hence we find no merit in this application which stands dismissed. NO costs.

..... MEMBER (ADMINISTRATIVE) 15 SEP 93

Central Administrative
Cuttack Bench, Cuttack/
September 15, 1993.



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VICE-CHAIRMAN

15/9/93