

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 174 of 1993

Date of Decision: 20.10.1993

Nityananda Mohanty

Applicant

Versus

Union of India & Others

Respondents

For the applicant

M/s. Devanand Misra
Deepak Misra
R.N.Naik, A. Deo,
B.S.Tripathy
P.Panda,
D.K.Sahoo,
Advocates

For the respondents

Mr. Ashok Mishra
Sr. Standing Counsel
(Central)

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THE HONOURABLE MR. H. RAJENDRA PRASAD, M.L.M.EER (ADMN)

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JUDGMENT

MR. H. RAJENDRA PRASAD, MEMBER (ADMN) : In this application, Shri Nityananda Mohanty, Extra Departmental Delivery Agent, Kalakala Extra Departmental Branch Post Office in Cuttack (South) Postal Division, has prayed for the quashing of orders issued by the Sub-divisional Inspector of Post Offices, Cuttack Central Sub-Division, directing the applicant to get himself relieved immediately on the ground that he had already crossed the statutory age of superannuation for Extra Departmental Agents as per the departmental regulations. The applicant prays further that the respondents be directed to retain him in service till he attains the age of sixty-five years, which, according to his calculations, will be on 28th October, 1994.

Signature

The application was admitted on 6.4.1993 but no interim orders were passed.

2. Briefly stated, the applicant claims that -

- i) his real date of birth is 10.10.1929;
- ii) the date of birth recorded in official documents, viz., 10.10.1927, is incorrect;
- iii) no document was called for from him to establish his date of birth at the time of his original recruitment;
- iv) at a time when he was expecting to be called upon to produce documents in support of his date of birth, the impugned orders were served on him, instead;
- v) he represented to the concerned authorities for a correction of his date of birth as it stood recorded in the official documents of the department;
- vi) he does not possess any school-leaving certificate in support of his claim but has produced a horoscope to back-up his contention; and
- vii) that he has not yet been relieved of his duties.

3. He asserts that the impugned order, being arbitrary and illegal, deserves to be quashed.

4. The respondents counter the applicant's claim by stating that -

- a) the applicant had indicated his age as 27 years, and the date of birth as 10.10.1927, in the Descriptive Particulars furnished at the time of his initial engagement;
- b) the date of birth as recorded in the official documents was one that was indicated by the applicant himself;
- c) there was neither a need nor a provision for calling for additional documents or further proofs when the applicant's age and date of birth stood duly recorded in the official documents for more than thirty eight years;
- d) the applicant actually evaded his relief

10/10/1927

by remaining absent unauthorisedly from 3.4.1993 onwards, apparently with the intention of invoking the intervention of the Tribunal by filing an application, which he did on 5.4.1993; and

e) since the applicant had absented without prior notice, or by the grant of a proper leave of absence, or by nominating a substitute, and had avoided compliance of valid superannuation orders, a suitable candidate had had to be regularly selected and appointed in his place to carry on the essential day-to-day duties at the post office.

5. The learned Senior Standing Counsel for the respondents urged that, there being not the slightest force or merit in the arguments advanced by the applicant in support of his claim for a change in his date of birth, the application should be dismissed.

6. I have carefully considered the facts of the case. It is revealed that the date of birth of Shri Nityananda Mohanty, the present applicant, was recorded as furnished by the official himself. He has not produced any school-leaving certificate to establish or support his assertion that 1929, and not 1927, was the year of his birth. The horoscope belatedly produced by him in support of his claim is an unreliable document and unacceptable as a dependable basis for a change of the year of his birth. His representation to the concerned authorities for a correction of the date of his birth, as it stood entered in his service-records, more than thirty-five years ago, was also hopelessly belated and did not obviously merit consideration. The representation was not even made prior to the period of five years from the date of his impending retirement.

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6. There is no merit at all in the applicant's claim or argument and these are not based on any acceptable documents or proof. The application is, therefore, disallowed. No costs.



34/R.Rajendra Prasad
MEMBER (ADMINISTRATIVE)
20 OCT 93

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 20.10.1993/B.K.Sahoo