

2
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 471 of 1993

Date of Decision: 16.9.1993

P.C. Gantayat

Applicant(s)

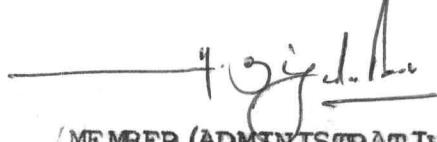
Versus

Union of India & Others

Respondent(s)

(FOR INSTRUCTIONS)

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


(MEMBER (ADMINISTRATIVE)

16 SEP 93

3
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Versus

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Respondents

For the applicant

M/s.Akhil Mohapatra
G.C.Patnaik
H.N.Mall
R.C.Sahoo,
Advocates

For the respondents

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C O R A M:

THE HONOURABLE MR.H.P. SINGH, VICE CHIEF

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN)

...

JUDGMENT

MR.H.RAJENDRA PRASAD, MEMBER (ADMN) In this application the petitioner, Shri P.C.Gantayat, Chief Ticket Inspector, S.E.Railway, posted at present ^{at} Berhampur Railway Station, has challenged the inclusion of his name at item 11 on page 6 of the Retirement Forecast for 1994, issued by the Divisional Personnel Officer, S.E.Railway, Khurda Road, vide his Memo No.P/KUR/Bills/REF.FC/94 dated 20.9.1991. According to the impugned Memo, the petitioner is to retire on superannuation on 1.6.1994 on the ground that his date of birth stands recorded as 31.5.1936.

16 SEP 93

4

2. Shortly stated, the petitioner was initially appointed as Ticket Collector on 17.12.1956. He claims to have entered his correct date of birth, i.e. 31.5.1937, in his original application while applying for the post. However, he furnished a wrong date, 31.5.1936, in the attestation form submitted to the concerned authorities on his entry into service. The error in date(s) of birth as given in the two documents was detected nearly nine years after his entry into service. A regular departmental inquiry was thereupon initiated against the applicant for furnishing false information regarding his date of birth. The enquiry ended in March, 1968, in the stoppage of his increments for seven years with cumulative effect. The petitioner appealed to the next higher authority in February, 1970, against the said punishment, but the appellate authority upheld the original punishment. The punishment ran its course in due time. Inexplicably, however, the incorrect date of birth, which was the sole cause for the disciplinary action, was never subsequently rectified in official records. The correct date of birth, 31.5.1937, was apparently never taken note of, although during the enquiry itself, it was conclusively proved that it was the correct date of birth.

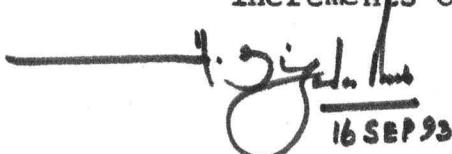
3. The applicant claims to have made several representations to the concerned authorities, during the currency of the punishment itself, and also after the expiry of its operation, to record the necessary alteration in his incorrectly recorded date of birth in the official documents. According to the applicant, he did not receive a reply to any of his representations. The official

thereupon called on the Divisional Railway Manager, Khurda Road, in the beginning of May this year, and requested that his representations may be disposed of. On being informed that his earlier applications were not traceable, he submitted another application on 14.5.1993, as advised by the D.R.M. His grievance in the present application is that even the latest representation submitted on 14.5.1993, has not evoked any response so far.

4. In the meanwhile, R-3 has issued the impugned order which is based on the earlier incorrect date of birth of the petitioner, and to which he has repeatedly drawn attention in his representations.

5. Under the circumstances, the petitioner apprehends that unless the orders concerning him in the impugned Memo are quashed, or his representations disposed of on the basis of facts by his departmental superiors, he will be compelled to retire from service on 1.6.1994, instead of 1.6.1995, which ought to be the correct date of superannuation according to the date of birth as recorded in S.S.L.C. Certificate and in the original application submitted by him while applying for the post. Hence the present prayer.

6. The facts of the case are simple. The official happened to furnish-either intentionally or through negligence - an incorrect date of birth after appointment at the beginning of his service career. For this lapse, he has paid the penalty in the shape of stoppage of increments of several years with a cumulative effect.


16 SEP 93

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7. During the departmental enquiry in connection with the proceedings initiated against him, it has been established that his correct date of birth is 31.5.1937. This was corroborated by the Headmaster, Board High School, Som peta, in which school the petitioner had studied for his matriculation. This fact was confirmed by the Superintendent, S.S.L.C. Board, Hyderabad, which conducted the matriculation examination. The SSLC Certificate itself records his date of birth as 31st May, 1937. The applicant recorded this date himself in his application while applying for the post.

8. Such being the facts, it is clear that the petitioner, who has already paid the penalty for his errancy in furnishing a wrong date of birth, cannot be penalised twice by being ordered to superannuate one year before ^{the} due date of his retirement. Such an action would neither be in keeping with natural justice nor maintainable on legal grounds, nor, for that matter, correct even purely on administrative grounds.

9. Under the circumstances, I would direct that the representation dated 14.5.1993, addressed to D.R.M., S.E.Railway, Khurda Road Division, be disposed of within a month of the receipt of this order. A suitable decision will have to be taken based on the facts of the case. No specific orders are passed against the impugned order No.P/KUR/Bills/RETEC/94 dated 20.9.1991, issued by the Divisional Personnel Officer, Khurda Road, in so far as it relates to the petitioner. The petitioner is free to agitate his

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16 SEP 93

grievance, afresh, if such a course at all becomes necessary after his case is decided by the D.R.M. as indicated above.

10. The petition is thus disposed of. No costs.



MEMBER (ADMINISTRATIVE)
16 SEP 93

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 16.9.1993/ B.K. Sahoo

