

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No. 351 of 1994

Date of Decision: 26.9.1994

Brundabana Panda

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 of the Central Administrative Tribunals or not ? No.


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH

Original Application No. 351 of 1994

Cuttack this the 26th day of September, 1994

C O R A M:

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

...

Brundabana Panda
S/o. Late Banka Panda
Extra Departmental Delivery Agent
At/PO: Badapur, Dist: Ganjam (Orissa)

... Applicant/s

By the Advocate: Mr. Kamal Bihari Panda
Mr. Satyanarayan Mahapatra
Mr. Prasanta Kumar Panda
Mr. Biswanath Rath &
Mr. Jagannath Rath

Versus

1. Union of India, represented through
the Director General, Posts,
Department of Posts, New Delhi
2. Chief Post Master General, Orissa
PMG Square, Bhubaneswar, Dist: Khurda
3. Superintendent of Post Offices
Berhampur Division, At/PO: Berhampur
Dist: Ganjam
4. Sub-Divisional Inspector
East Sub-Division,
Paralakhemundi, Dist: Gajapati
5. Asstt. Superintendent of Post Offices (O)
Berhampur (Gm) Division, At/PO: Berhampur
Dist: Ganjam

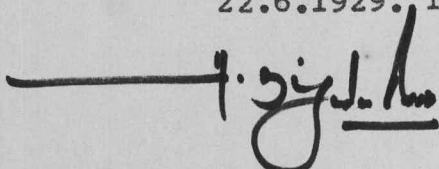
... Respondent/s

By the Advocate: Mr. Ashok Mishra,
Sr. Standing Counsel (Central)

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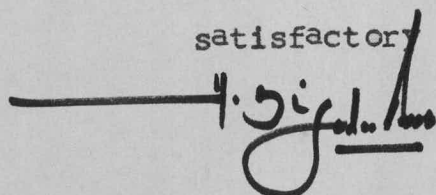
O R D E R

MR. H. RAJENDRA PRASAD, MEMBER (ADMN): Shri Brundaban Panda, the
applicant, was appointed as Extra-Departmental Delivery
Agent at Ch. Badapur on 10.12.1956. His date of birth,
as recorded in the official service documents, is
22.6.1929. The applicant, however, now claims that his



correct date of birth is 26.1.1930. According to the respondents he attained the age of superannuation on 21.6.1994, whereas, according to the applicant, he would be due to retire only on 25.1.1995.

2. The applicant relies on certain remarks of preliminary/^{nature} routine in the Inspection Reports on the said Branch Office as indicative of his correct date of birth. This is not accepted. The date of birth mentioned by the inspecting officer in course of a routine inspection is not a valid or acceptable proof of date of birth. The appropriate basis and source for determining the correct date of birth of an E.D. official would be (i) descriptive particulars; and (ii) attestation form, prepared at the time of recruitment. The respondents are unable to produce either of these two documents. On the other hand, their entire reliance is on a statement compiled by the Overseer Mails in April, 1994 and countersigned by the concerned Sub-Divisional Inspector (Postal). A similar statement had been compiled earlier in April, 1990. Neither of these two documents establishes with any degree of certainty the precise basis or source for the accuracy of the date of birth recorded therein. It is noticed that, in certain cases in these statements, the remark "verified with the Astrologer" is given. Such observation cannot constitute a reliable proof of date of birth. While this is so, the applicant too has not been able to furnish any satisfactory proof in support of his contention.

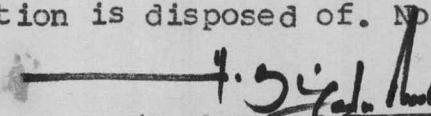


3. This is a case where the contentions of neither of the parties are supported by any documentary proof. Consequently any decision in this case has to be such that it accommodates the claims and satisfies the requirement of both the parties in equal parts.

The facts that the official has served the department for more than 38 years, apparently without any blemish, but did not represent for a change in date of birth at the appropriate stage, need to be mutually balanced. Similarly, the fact that the respondents have not been able to produce any satisfactory document in support of their side of the case, cannot be overlooked. Counterbalancing both sides of the argument, it is directed that the official be reinstated to service within 15 days of receipt of a copy of this order. He shall retire on 25.1.1995. It is also directed that he shall not receive any emoluments between 22.6.1994 until the date of his reinstatement. If, in the meanwhile, any-one has been selected for the post of E.D.D.A. of the said Branch Office in place of the present applicant, the same need not be cancelled and no fresh selection need be made. Any candidate who may have been selected thus could join the appointment on the retirement of the applicant on 25.1.1995.

4. Thus the application is disposed of. No costs.

B.K.Sahoo//


(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

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