

13

(13)

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 167 OF 1995

Cuttack, this the 9th day of May, 1997

LAXMIDHAR PATEL

....

APPLICANT

VRS.

UNION OF INDIA

....

RESPONDENT

(FOR INSTRUCTIONS)

- 1) Whether it be referred to the Reporters or not? Yes
- 2) Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

Somnath Som
(S. SOM) 9-5-97
VICE-CHAIRMAN

14
14

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 167 OF 1995
Cuttack, this the 9th day of May, 1997

CORAM:

HON'BLE SRI S.SOM, VICE-CHAIRMAN

....

Laxmidhar Patel, aged about 56 years,
son of late Kusa Patel,
Village/P.O-Bhalupatra, Jharsuguda-768 220,
Sambalpur, Now working as Branch Post Master,
At-Bhalupatra, Jharsuguda-768 220, Sambalpur ... Applicant

-versus-

Union of India, represented through

1. Director of Postal Services,
Department of Posts,
Office of C.P.M.G., Orissa,
Bhubaneswar.

2. Chief Post Master General,
Bhubaneswar, District-Khurda.

3. Senior Superintendent of Post Offices,
Sambalpur Division, Sambalpur-768 001.

4. Post Master, Jharsuguda-768 201,
Sambalpur

.... Respondents

Advocates for applicant -

M/s B.Patnaik,
M.K.Badu, P.K.Panda

Advocate for respondents -

Mr.Ashok Misra,
Senior Panel Counsel.

ORDER

S.SOM, VICE-CHAIRMAN

In this application under Section 19 of the Administrative

Tribunals Act, 1985, the applicant, who was Extra-Departmental
Branch Post Master, Bhalupatra Branch Office, has prayed for
correcting his date of birth from 12.4.1930 to 12.4.1939. He
has also prayed for a declaration that order dated 6.1.1995
of Senior Superintendent of Post Offices, Sambalpur Division,
rejecting his representation for changing his date of birth is
illegal.

2. The applicant joined Postal Department as E.D.B.P.M.

*Jyomanta Jom
9.5.97*

on 11.7.1963. According to him, at the time of his initial joining, he informed the authorities that his year of birth is 1939. But he was not called upon to produce any school leaving certificate or any other document in support of this and so he was under the impression that in the service record his date of birth has been recorded as 12.4.1939. Only in 1992 it came to his notice that his date of birth has been wrongly recorded as 12.4.1930. This he came to know in 1992 when a list of all E.D.B.P.Ms. was circulated by the departmental authorities. On 1.12.1992 he represented vide Annexure-1 to correct his date of birth to 12.4.1939 from 12.4.1930 and sent a copy of his school leaving certificate issued on 11.4.1951 in which his date of birth has been shown as 12.4.1939, requesting for change of his date of birth. His representation having been rejected, he has approached the Tribunal.

3. The matter was admitted on 7.4.1995 and on the submission of the learned lawyer for the applicant that on the basis of recording of his date of birth as 12.4.1930 the applicant was going to retire on 12.4.1995, ad interim stay was given for one month from 7.4.1995. This stay not having been continued thereafter, the applicant has retired in the meantime. In course of hearing of this application on 1.8.1995 it was ordered that the report of the enquiry conducted by the postal authorities regarding the genuineness of the school leaving certificate should be produced and the present Headmaster of the concerned school should also produce the Admission Register and the connected records leading to issue of the school leaving certificate on 11.4.1951. Accordingly, the Headmaster of the school appeared on 17.8.1995 and his statement was recorded by the Registrar of the Tribunal and this is also on record. The statement of the Headmaster will be referred to while considering the rival submissions of the parties.

*Somu M. Jam
a.s.97*

4. The respondents in their counter have submitted that at the time of initial appointment of the applicant, his date of birth was recorded as 12.4.1930 according to his statement and in support of this the applicant had signed the descriptive roll in which his date of birth was recorded as 12.4.1930. The applicant was medically examined on 28.7.1963 and in the medical report, which is at Annexure-R/5, the doctor has indicated that the applicant's age, according to his own statement, is 30 years and by his appearance also he looks to be of that age. The respondents, therefore, claim that recording of applicant's date of birth as 12.4.1930 has been correctly done and it is within the knowledge of the applicant and on that ground, they have opposed the relief prayed for by the applicant.

5. I have heard the learned lawyer for the applicant as also the learned Senior Counsel appearing on behalf of the respondents. I have also considered the materials on record. It has been submitted by the learned lawyer for the applicant that Annexure-R/3, the descriptive roll and the date of birth mentioned therein as 12.4.1930 cannot be relied upon as the date of birth has not been entered into by the applicant. It has also been submitted by the learned lawyer for the applicant that the fact that his date of birth was recorded as 12.4.1930 in the descriptive roll was not within his knowledge. None of these contentions can be accepted because even if it is assumed that the date of birth written in the descriptive roll was not in the applicant's handwriting, but it is clear that applicant has signed the descriptive roll on 10.7.1963 and therefore, it has to be taken that he was in know of the fact that his date of birth had been recorded in the descriptive roll as 12.4.1930. Similarly, there is no reason why the doctor should wrongly record

16
JMM: 9.5.97

17

in his certificate dated 28.7.1963 that the applicant, while being examined ^{by} him, stated his age as 30 years. Had his date of birth been 12.4.1930, then on the date of medical examination he would have been 24 years of age and there was no reason why the applicant would have stated that his age was 30 years. From the statement of the Headmaster, it appears that in the Admission Register of the School for the years 1948 to 1982, the name of Laxmidhar Patel, the present applicant, does not appear and therefore, the present Headmaster indicated in his statement that it is not possible for him to say when the applicant took admission in the school and what was his date of birth. The Headmaster also stated that some postal authorities had earlier verified this Register and looked into serial No. 56 of the Register, but the name of the present applicant was not found there as the upper portion of the page was found to have been torn. On these grounds, the present Headmaster took the stand that he cannot say anything about the authenticity of the transfer certificate granted by the then Headmaster of the school. It has also been submitted by the learned lawyer for the applicant that while the postal authorities made enquiry about his date of birth and about the genuineness of the school leaving certificate, no notice was given to him. As such, prejudice has been caused to him. I am not inclined to accept this stand because, as earlier mentioned, the original entry recording the date of birth in his descriptive roll opened at the time of his initial appointment has been within the knowledge of the applicant all these years and therefore, no prejudice can be said to have been caused to him when the departmental authorities have checked up the genuineness of the school leaving certificate. In any case, the present Headmaster of the school in his statement has stated that he is not in a position

*Somnath Jan
9.5.97*

to say about the genuineness of the school leaving certificate showing his date of birth as 12.4.1939. Taking the above facts into consideration, it is clear that the applicant has not been able to make out a case that his date of birth has been wrongly recorded in the service record as 12.4.1930. By his signature in the descriptive roll, it is clear that he knew that his date of birth has been recorded as 12.4.1930. There is no reason why he waited till 1992 when the gradation list was circulated in which his date of birth was shown as 12.4.1930. According to the relevant instructions, a person can move for correction of his date of birth on genuine grounds within five years from the date of his entry in Government service or from the date the concerned rule came into force, i.e., on 15.12.1979, whichever is later. But the applicant has not taken any step in that regard earlier. Hon'ble Supreme Court have also held that applications by Government servants at the fag end of their service career for changing their dates of birth should not ordinarily be entertained.

6. In consideration of the above, I hold that the application is without any merit and the same is rejected, but under the circumstances without any order as to costs.

Somnath Som
(S.SOM)
VICE-CHAIRMAN
9.5.97