

7

8

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 282 OF 1995

Cuttack, this the 7<sup>th</sup> day of January, 1998

Ainthe Parida

....

Applicant

Vrs.

Union of India and others

....

Respondents

(FOR INSTRUCTIONS)

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

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN 98

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL,  
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 282 OF 1995

Cuttack, this the 7<sup>th</sup> day of January, 1998

CORAM:

HONOURABLE SHRI SOMNATH SOM, VICE-CHAIRMAN

....

Aintha Parida, son of late Bhabani  
Parida, Extra-Departmental Mail Carrier  
(EDMC) in Kajalaipalli Branch Post Office,  
At/PO-Kajalaipalli, P.S.-Sarenkul,  
District-Nayagarh

....

Applicant

By the Advocates

-

M/s K.K.Kar,  
S.K.Misra, H.K.Mallik  
P.K.Deo & S.Nayak.

Vrs.

1. Union of India, represented through  
Chief Post Master General, Bhubaneswar,  
At/PO/PS-Bhubaneswar, Dist.Khurda.
2. Senior Superintendent of Post Offices,  
Puri Division, Puri,  
At/PO/PS/Dist.Puri.
3. Inspector of Post Offices,  
Nayagarh West Division, Nayagarh,  
At/PO/PS/Dist.Nayagarh

....

Respondents

By the Advocate

-

Mr.Ashok Misra,  
Senior Panel Counsel.

O R D E R

*Somnath Som*  
*7.1.98*

SOMNATH SOM, VICE-CHAIRMAN

In this application under Section 19 of

Administrative Tribunals Act, 1985, the petitioner has prayed  
for quashing the order dated 22.9.1993 (Annexure-1) retiring him  
from 12.10.1993 and also for a direction to reinstate the  
petitioner in his post of E.D.M.C., Kajalaipalli Branch Post Office.

2. According to the applicant, he was appointed as E.D.M.C., Kajalaipalli Branch Post Office on 13.10.1953. On 25.9.1993 he received the impugned order retiring him from 12.10.1993. Applicant's case is that all through his service career in the official records as also in the inspection reports of the Branch Post Office, his date of birth has been noted as 25.5.1935 and therefore, he is due to retire on 24.5.2000. In the year 1980-81 respondent no.3 made enquiry about his date of birth. As the applicant had no educational certificate he produced the horoscope showing his date of birth as 25.5.1935. Respondent no.3 took collateral evidence from the local gentlemen and accepted 25.5.1935 as the applicant's date of birth. After getting the order of retirement, the applicant submitted representation on 15.10.1993 (Annexure-4), but no order was passed on that and he was not reinstated in service. That is how he has come up with the aforesaid prayer.

3. Respondents in their counter have opposed the prayer of the applicant stating that Kajalaipalli Branch Post Office was opened on 12.10.1953. The applicant applied for the post of E.D.M.C. and in his application dated 11.10.1953, stated that he was 25 years old and had passed L.P. Standard. He was appointed as E.D.M.C. and joined on 13.10.1953. At the time of his appointment, the applicant furnished descriptive particulars (Annexure-R/2) in which it has been mentioned that his age is 25 years and his educational qualification is L.P.Pass. These descriptive particulars have been signed by the petitioner and have been attested by <sup>the</sup> then Overseer, Mails, on the date of joining of the petitioner, i.e. 13.10.1953. Respondents have also

9  
7-1-98

submitted at Annexure-R/3, a declaration written and signed by the applicant on 12.6.1993 in which he has stated that he has been working in ~~the~~ Kajalaipalli Branch Post Office for the last 40 years. He has stated that no papers were available with him regarding his date of birth. But he has further stated in this declaration that he remembers that it was on his birth day that he joined Kajalaipalli Post Office. Going by this the respondents have held that his date of birth is 13th October because on that date he joined as E.D.M.C. in Kajalaipalli Post Office and according to his own declaration that was his date of birth. As regards the year of birth, according to his own declaration, he was 25 years of age in 1953 and therefore, the respondents have taken his year of birth as 1928. His date of birth being 13.10.1928, according to the respondents, he has been rightly retired on 12.10.1993 after he attained the age of 65 years.

4. In this case even though copy of the counter was received by the learned lawyer for the petitioner and this was noted in the ordersheet dated 5.8.1997, the learned lawyer for the applicant did not appear on 25.8.1997 and 29.9.1997. In view of this, the matter again came up on 4.11.1997 and the learned lawyer for the applicant was absent on that day and the matter was posted to 11.11.1997. On 11.11.1997, in the absence of the learned lawyer for the applicant, learned Senior Panel Counsel, Shri Ashok Misra appearing on behalf of the respondents, was heard and hearing was concluded. Learned lawyer for the applicant was given leave to file written note of submission by 18.11.1997, but no such written note of submission has been filed.

10  
S. Ananthan  
7.1.98

12

-4-

5. The applicant in this petition has relied on the four inspection reports dated 11.5.1990, 3.4.1991, 3.4.1992 and 19.5.1993 in which his date of birth has been recorded as 25.5.1935. He has also produced some sort of <sup>a</sup>horoscope issued by an Astrology Bureau in which his date of birth has been mentioned as 25.5.1935. The applicant's claim that his date of birth is 25.5.1935 is based on these documents. This horoscope has been issued by the Astrology Bureau on 24.10.1994, i.e. after he has been superannuated. Therefore, no reliance can be placed on this horoscope. The four inspection notes also are not documents which authenticate the date of birth of the applicant for the purpose of determining the date of birth. The descriptive roll submitted by the applicant at the time of his initial appointment must be taken to be a much more reliable document. This descriptive roll is at Annexure-R/2. It is signed by the applicant and has been attested on 12.10.1953, the day before the applicant joined as E.D.M.C. in Kajalaipalli B.O. In this descriptive roll, the applicant has mentioned that he is 25 years of age. In his application for the post of E.D.M.C., which is at Annexure-R/1 and which is dated 11.10.1953, the applicant has mentioned that he is 25 years of age. From this, it is clear that in 1953, the applicant was aged 25 years and therefore, his year of birth is 1928. As regards his month and date of birth, the respondents have gone by the declaration given by the applicant on 12.6.1993 in which he mentions that according to his memory the day he joined the Branch Office as E.D.M.C. was his birth day. On the basis of this, the respondents have taken his month and date of birth as 13th October. In view of

*Journal of  
7.1.98*

the above, it is noted that the respondents have arrived at the date of birth of the applicant as 13.10.1928 going by the descriptive roll and the declaration filed by him and it cannot be said that any illegality has been committed thereby. As earlier noted, the inspection reports, relied on by the applicant, are not records of date of birth of the applicant and therefore, no reliance can be placed on these inspection reports.

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

*Somnath Som*  
(SOMNATH SOM)  
VICE-CHAIRMAN, 198