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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.414 OF 1995
Cuttack, this the 30th day of June, 1997

Shri Sanyasi Charan 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



CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.414 OF 1995
Cuttack, this the 30th day of June, 1997

C O R A M:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

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Shri Sanyasi Charan Parida,
aged about 60 years,
son of late Bhagaban Parida,
at present working as E.D.B.P. M.,
Karanapokhari B.O. under Motto
Sub-Office, District-Bhadrak

....

Applicant.

Vrs.

1. Union of India, represented through its Secretary, Department of Posts, Dak Bhawan, New Delhi-1.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist. Khurda
3. Superintendent of Post Offices, Bhadrak Division, District-Bhadrak ... Respondents.

Advocates for applicant - M/s R.N.Naik, P.Panda,
B.S.Tripathy, R.Rath & M.P.J.Roy.

Advocate for respondents - Mr.Ashok Mishra.

SOMNATH SOM, VICE-CHAIRMAN

ORDER

*Somnath Som
30.6.97*

In this application under Section 19 of Administrative Tribunals Act, 1985, the petitioner has prayed for quashing the order dated 30.11.1994 at Annexure-1 retiring him from the post of E.D.B.P.M, Karanapokhari, on superannuation with effect from 1.8.1995 afternoon. There is also a prayer to allow the applicant to continue as E.D.B.P.M. till final disposal of the Original Application. At the time of admission of the Original Application on 27.7.1995, no order was passed on this prayer and the

applicant having already retired on 1.8.1995, this prayer has become infructuous.

2. The case of the applicant is that he joined the Postal Department as E.D.B.P.M., Karanpokhari B.O., on 27.2.1962 and had all along been working satisfactorily. Suddenly, in the impugned order dated 30.11.1994, notice was given to him for his retirement with effect from 1.8.1995, taking his date of birth as 2.8.1930. According to the applicant, his date of birth is 27.2.1935 (wrongly mentioned as 27.2.1925 in paragraph 4(v) of the application) as per the school leaving certificate dated 25.4.1994 which is at Annexure-2. It is the case of the applicant that according to this school leaving certificate where his date of birth is 27.2.1935, he is due to retire on 26.2.2000 on completion of 65 years of age. After receiving the notice at Annexure-1, the applicant filed a representation dated 2.2.1995 which is at Annexure-3, but no order was passed on this representation.

3. The respondents in their counter have pointed out that at the time of appointment of the applicant as E.D.B.P.M., Karanpokhari B.O. on 28.2.1962, he had submitted an attestation form and a descriptive roll in both of which his date of birth has been mentioned as 2.8.1930. The attestation form is at Annexure-R/2. This appears to have been written by the applicant in his own handwriting and in this, the date of birth has been written as 2.8.1930 and his age on the date of filling up of the attestation form on 30.3.1962 has been shown as 31 years

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7 months and 29 days. The applicant has also given a declaration at the time of filling up of this attestation form that the informations furnished by him are correct and complete.

In the descriptive roll also signed by him, the date of birth has been shown as 2.8.1930. The respondents' case is that as the applicant had given his date of birth as 2.8.1930 at the time of his initial appointment and had never come up for correcting his date of birth, his prayer for changing his date of birth on the basis of the school leaving certificate, which has been obtained only on 25.4.1994, should not be allowed.

4. I have heard Shri B.S.Tripathy, the learned lawyer for the applicant, and Shri Ashok Misra, the learned Senior Panel Counsel appearing on behalf of the respondents, and have also perused the material on record.

5. From a perusal of the attestation form and the descriptive roll referred to earlier, it is clear that the applicant himself has mentioned his date of birth as 2.8.1930 at the time of his initial appointment. The school leaving certificate in which his date of birth has been shown as 27.2.1935 has been obtained only on 25.4.1994, less than one and half years before his retirement. During his long period of service under the respondents, the applicant had never moved for correcting his date of birth according to the school leaving certificate. It has been laid down by the Hon'ble Supreme Court that request for correcting the date of birth at the fag-end of the service career should not ordinarily be allowed. Under the Rules, such prayer for correction of date of birth, if made within five years from the date of

*Submitted on
30.6.97*

initial appointment, can be considered. In this case, such prayer has been made at the fag-end of the service period. Moreover, the date of birth in the service record is on the basis of declaration given by the applicant himself. The applicant has given no explanation as to why in the descriptive roll and the attestation form, he has mentioned his date of birth as 2.8.1930 when according to him his date of birth is 27.2.1935. In consideration of the above, I hold that the applicant has not been able to prove that his actual date of birth is 27.2.1935.

6. In the result, therefore, the Original Application is held to be without any merit and is rejected but, under the circumstances, without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
30.6.97