

5

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O. A. NO. 47 OF 1996

PARAMANANDA BARIK.

...

APPLICANT

Versus

UNION OF INDIA & OTHERS

...

RESPONDENTS

Cuttack this is the 18th day of July, 96.

( FOR INSTRUCTIONS)

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

*Kanasmahasah.*  
( N. SAHU )  
MEMBER (ADMINISTRATIVE)

6

(6)

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK.

O. A. NO. 47 of 1996

Cuttack this is the 18th day of July, 1996.

CORAM:

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE)

....

PARAMANANDA BARIK,  
S/o. Sankarsan Barik,  
Vill. Charitar, PS. Tihidi,  
Dist. Bhadrak.

...

Applicant

By the Applicant : M/s. P.C. Mishra, T. Barik, B. Samantray  
D.K. Ray, Advocates.

versus

1. Union of India represented through the  
Chief Post Master General, Orissa Circle,  
Bhubaneswar, District. Khurda.
2. The Superintendent of post Offices,  
Bhadrak Division, At/Po/Dist. Bhadrak.
3. Sub-Divisional Inspector (Postal),  
Bhadrak East Sub-Division, Bhadrak,  
At/Po/Dist. Bhadrak.

...

Respondents

By the Respondents : Mr. Ashok Mohanty, Senior Standing  
Counsel (Central).

PRONOUNCED IN THE OPEN COURT

---

O R D E R

MR. N. SAHU, MEMBER (ADMINISTRATIVE): In this application filed under  
Section 19 of the Administrative Tribunals Act, 1985

on 9th January, 1996 the applicant seeks a direction to the Respondents to accept his date of birth as '8.12.1944' which he has mentioned at the time of appointment of Postman and which is the date mentioned in the Certificate issued by the Board of Secondary Education Orissa vide Annexure-3.

2. Pleadings in this case are complete. When this case was fixed for hearing on 23-4-1996, an adjournment was sought for as the counsel was not present. On 14.5.1996 when the case was fixed, the counsel for the applicant was not present. Similarly, he was not present on 30.5.96 although the Senior Standing Counsel (Central) was ready for the Respondents. On 4.7.1996, the Senior Standing Counsel (Central) was present and the counsel for the applicant was not present. It has been made clear on 4.7.1996 that on the next date of hearing, if the counsel for the applicant is not present, the Original Application will be disposed of on merits after hearing the counsel for the Respondents. This case is fixed for hearing today and the petitioner's counsel is not present.

3. I have heard learned Senior Standing Counsel Mr. Ashok Mohanty at length and perused the statements made in the counter and the petition.

4. The first submission of the learned Senior Standing Counsel (Central) , Mr. Ashok Mohanty is that this petition is barred by res-judicata. He invited my attention to Annexure-R/8 which is an order passed on the Original Application No. 623 of 1995 in which this Court dealt at length the applicant's claim for correction of date of birth. This court held that this petition can not be admitted as the cause of action arose ten years back and the applicant did not move at the appropriate time. After ten years, there is no case for reviving the cause of action. The delay could not be condoned and the application was dismissed in limine. On the same point when the applicant had moved this petition, very rightly learned Senior Standing Counsel (Central) Mr. Ashok Mohanty, has taken the ground that this matter is covered by resjudicata.

5. On merits, Mr. Mohanty submits that the applicant has also no case. The applicant had first of all claimed his date of birth as ' 8.12.1944 ' in place of ' 19.9.1937 ' noted against him. This date of birth, '19.9.1937', has been mentioned by the applicant himself in Annexure-R/1 dated 26.12.1959 which is the attestation Form filled-up at the time of entry into service. At that time, his age was written as 22 years , 3 months and 7 days against Col (b) in his own handwriting. This is a verified statement.

*Handwritten signature*

9

(9)

-4-

6. Be that as it may, the claim made by the applicant in Annexure-R/3 stating the date of birth as per the admission register in Panchamuka High School Jaleswarpur to be 8-12-1944 was inquired into. The said certificate signed by the Head Master, Shri H.G. Rath was issued on 30.5.1970. In that certificate "date of admission" Col.4 was stated to be 12.7.1958. Enquiries revealed that this High School came into existence in the year 1966. There was no question of admission of the applicant on 12.7.1958 and the TC No.51 dated 30.5.1970 has been stated to be not issued by the High School Authorities. This was the statement given by the Headmaster of the said School on 13.4.1987. He further stated that this certificate is not genuine. The Respondents on the basis of this document should have initiated appropriate action under the Penal Code for submitting before them what ex facie appears to be a fabricated document.

7. The Respondents have found from certain notings on the reverse side of the Attestation Form Annexure-R/1 that the applicant studied in Pirahat H.E. School 1955 9th class (Para-10, Page 11 of Annexure-R/1, to the counter). Accordingly, enquiries were made and the extract of the admission register of Pirahat H.E. School was sent to the Respondents. According to this the date of

-5-

birth was stated to be '5.2.1939'. The Respondents on the basis of the evidence found before them, gave a benefit of nearly two years to the applicant by substituting his date of birth as '5.2.1939'. Not satisfied with this, the applicant claims on the basis of Annexures-1, 2 and 3 that his date of birth is 8.12.1944. These annexures apparently support the claim that during his M.E. career, the applicant was a student of P.R.M.E. School, Ghanteswar and that he appeared as a private candidate in R.S. High School, Tihidi. During this period his date of birth is stated to be 8.12.1944 as per school records.

8. There are contradictory submissions on the date of birth. Respondents have taken adequate care to investigate the correct date of birth. On the basis of the evidence on record before them, they accepted the extract of Admission Register of P.S.S. High School wherein the date of birth was '5.2.1939'. The Respondents very judiciously substituted the date of birth as per the certificate given by the Pirahat High School which was what they found out for the benefit of the applicant in an objective manner. On merits also I do not find any case in this application. The application is dismissed. No costs.

*Narasimhaiah*  
( N. SAHU ) 18/7/96  
MEMBER (ADMINISTRATIVE)

KNMohanty.